

Te Whakaoranga o Karioi Incorporated Society

Further Submission re: Reassessment of SMFA (1080)-HRE05002

Application by: Animal Health Board

& Department of Conservation.

Kia ora to the Committee.

Kia ora to the Chairperson.

1. Introduction.

My name is Malibu Michael Hamilton. I am a Tangata Whenua environmental researcher and have participated in the resource management arena for several years. I undertake resource consent processing for Te Kotuku Whenua (TKW), one of the environmental groups of the Ngati Wairere Hapu and on occasions for Tainui Awhiro Ngunguru Te Po Ngunguru Te Ao Management Committee. TKW has responsibilities also on the monitoring group for AgResearch dealing with the Human to Cow experiments that falls within the jurisdiction of the HSNO Act.

I am the current Chairperson of Te Whakaoranga O Karioi Inc. (TWOK)

We are an organisation primarily set up to address issues of biodiversity of Karioi Maunga in response to blanket 1080 drops; our organisation is situated in Whaingaroa Raglan and is based on Tangata Whenua values.

We appear today to extend our first submission that set out the basic concerns which stated that we are opposed to the use of SMFA(1080) and in particular aerial drops and that we have issues with:

The National pest management Strategy NPMS.) of Doc.

- *The NPMS contains no definitive aims or goals with regard to achieving fixed objectives, such as specified pest free territories or fixed time spans for achieving these goals.*
- *Is one of defensive expenditure of holding the line; we as a country are forced into continuous use for generations to come.*
- *The NPMS is devised according to the categories of control and management only and has no opportunity to diminish the numbers unless within a mainland island status.*
- *The effects to the non target species particularly during aerial dropping.*
- *Maori values and in particular Kaitiakitanga, Mauri, Tino Rangatiratanga and Tikanga Maori*
- *Impacts on taonga species.*
- *Treaty of Waitangi issues.*
- *Research & monitoring*
- *Economic concerns*
- *Effects on health and wellbeing to communities.*

While these are some of the issues which we shall expand upon, we will deal with others further below.

2. Te Tiriti O Waitangi-(TOW) issues.

The Authority has to clearly show how in their decision making they have taken into account the principles of the TOW and within that consideration is the need to assess if the applicants have undertaken their statutory obligations also. It is the submission of TWOK that the Department of Conservation (DOC) is in clear conflict of their obligations under the Conservation Act as they have failed to “give effect” to the principles of TOW.

Our assessment is based on two points, one being the various principles advanced since the inception of the Treaty of Waitangi Act 1975, Court of Appeal (*New Zealand Maori Council v Attorney General* [1987] 1 NZLR 641), *the Waitangi Tribunal* and the other is based on the report by NGĀ KAIHAUTŪ TIKANGA TAIAO.

We do acknowledge that DOC did undertake consultation by having 20 Hui with Maori, but we argue that it was not meaningful or what is expected of having a partnership with Maori. The consultation in our situation consisted of being informed on what they wished to do, the time frame did not allow for dialogue or to articulate our concerns.

The Parliamentary Commissioner for the Environment report in 2002¹ (treaty audits) stated that;

“in relation to agencies’ recognition and respect for mana and rangatiratanga –There was a:

- *lack of recognition of tangata whenua as Treaty partners, rather than as ‘just another interest group in the community’*
- *the tendency for agencies to deal with particular known individuals or groups, often high-profile representatives at the iwi authority or Trust Board level, rather than engage more widely at hapu and whanau levels*
- *misunderstandings about representation and mandating of spokespersons*
- *limited acknowledgement of the validity, usefulness and sensitivity of matauranga or Maori environmental and ecological knowledge*
- *limited recognition of: the spiritual, metaphysical and historical dimensions of environmental management,*
 - *the balancing and inter-connectedness of social, environmental and spiritual realms under kaitiakitanga*
 - *the collective, consensual nature of tikanga and decision-making processes*
 - *the cultural and traditional significance of places, species and resources*

The information above suggests that crown agencies should undertake treaty audits to better understand how they meet their treaty obligations as their research has shown a complete lack of understanding. Environment Waikato has undertaken a treaty audit

¹ Parliamentary Commissioner for the Environment 2002 -Exploring the concept of Treaty based environmental audit framework.

and from that initiative has increased their staff numbers to address Maori issues and the difference is notable.

NGĀ KAIHAUTŪ TIKANGA TAIAO report (pg 2) states:

- *Ngā Kaihautū consider that pre-application consultation and Treaty of Waitangi disparities are the key issues pertaining to the reassessment of 1080.*
- *Inadequacies in the pre-application consultation approach and Māori dissatisfaction with the consultation process appeared to reduce the efficacy of the consultation to provide necessary cultural information to the decision making committee.*

We do support the report put forward by NGĀ KAIHAUTŪ in their views on controls and overall conclusions, and we recognise that the Authority does have to consider cultural considerations; **but we state that the process is fatally flawed.**

The process has not allowed Maori to assess appropriately the information to allow them to arrive at an informed decision; the controls have only been supplied recently. The controls are the rules of engagement and it is totally unfair and a breach of natural justice for information of that magnitude and volume to be supplied just prior to the hearing. It has placed Maori and others in a disadvantaged position

Maori have rights accorded to them of citizenship and have views that extend into more than cultural concerns. Maori are concerned as to how the rule of engagement take place, how they interrelate with Regional plans and yet not once have Maori been given the opportunity apart from the information supplied recently. The applicants have liaised with the Agency since 2004 and therefore we state that *there was* sufficient time to roll out proposed controls for discussion.

Clearly the Agency and the Applicants have deemed that the partnership principle is satisfactory, but TWOK argues that it is one sided and without foundation and is not balanced and falls woefully short of what is required by the Acts.

“We are living through one of the most fundamental shifts in history – a change in the actual belief structure of Western society. No economic, political, or military power can compare with the power of a change of mind. By deliberately changing their images of reality, people are changing the world.” Willis Harman

Should the question be asked that?

“the Authority recommend an adjournment of proceedings till Maori have had time to respond to the controls by the Agency and the applicant, in a more meaningful manner to allow the Authority to consider all of the Maori views including cultural”.

3. Impacts on taonga species.

Maori are inextricably bound by whakapapa. The Te Ao Maori world view is based upon that whakapapa, it stretches back eons, from the time of Io Matua Kore, Te Ao Marama and the primal parents of Ranginui and Papatuanuku. Atua such as Tane Mahuta, Tawhiri-matea, Tangaroa and Tu-mata-uenga (Male lines) and Hine-nui Te Po and others(female lines) have sprung from the union of Ranginui and

Papatuanuku. The Te Ao Maori world view is based on ethics, values, morals and balance and is a holistic approach, one that is all encompassing. While the ability to segment out sections of values and ethics such as Kaitiakitanga, Manaakitanga, Wairuatanga and Aroha, each cannot exist on its own.

TWOK contend that the use of 1080 extinguishes the rights of Maori by severing the ties of whakapapa. Maori have an inherent obligation to protect Nga Taonga Tuku Iho. (treasures handed down by ancestors) All tribal groups have units or teams who practice kaitiakitanga, those *tangata tiaki* respond to issues such as 1080 and the various legislative requirements dealing with the environment and are obliged to come from the Te Ao Maori worldview. Those teams can be identified on the Te Kahui Mangai website from TPK ²

The ecotoxic behavior of 1080 is indiscriminate, is highly effective as an insecticide, non target species are highly vulnerable and displaced from the biological communities creating an ecological imbalance and altering the mauri of life supporting ecosystems. A scientific study undertaken by John Hutcheson (1989) found that weta are seriously at risk³

See appendix 1.

TWOK do not wish to extend this line as many other submitters have stated similar concerns and just wish to provide evidence of our claim that taonga species such as weta, snails, tuna, rongoaa and rakau of Maori are being affected by the use of 1080. Sec. 6 (d) is quite specific in that it relates to the relationship of Maori to Nga Taonga Tuku Iho and the Authority has a clear obligation to take into account that relationship and should clearly state how they have in their decisions.

TWOK states that allowing for consultation and making submissions is not addressing the issue and we wish to see mechanisms that embrace avoidance or prevention of the severance of the whakapapa links. Sec 6 (b) also specifies that intrinsic values of ecosystems are to be taken into account and with the ecotoxic behavior of 1080 we would question the resilience of biological communities to be maintained. While we recognise the issue is problematic to the Authority we state that the potential to create a total collapse of some parts of the ecosystem is there with the continuous use of 1080 nationally.

“A zero sum game is a game in which the only acceptable outcome is for one side to win at the expense of the other”

As submitters TWOK are in a zero sum game, but still expect that Maori rights are accorded in relation to the legislative requirements and that due diligence is given in the decision making by the Authority on those rights.

² <http://www.tekahuimangai.govt.nz/>

³ (Hutcheson. J. 1 1989- Impact of 1080 on Weta populations- Forest Health Group Forest Research Institute.

4. Tensions for and against.

While there is evidence through the Hui and submission process that some Maori support the use, it must *be taken in context* of that support, it must be remembered that most are undertaking the use of 1080 as a suite of tools and are doing so on Maori land.

There are those Maori who are actively engaged in a meaningful relationship and partnership with DOC and Regional Councils and do undertake those operations by members of their Hapu or Iwi, or are actively engaged in the forestry industry and see a clear responsibility to protect their financial interests for their shareholders and then while in a minority, there are some who have created Mainland Island status by ring fencing their land and will only do one or two operations in the hope that they will never ever use it again.

Maori organisations are just like Pakeha organisations, within them are different responsibilities and personal are delegated different tasks. Those that undertake *tangata tiaki* duties in the environment start from a set of different principles.

5. Research.

To our knowledge while some research has taken place there has not been a substantial amount. Research has shown that tuna uptake 1080 for several days (DOC) and so far we are not aware of any follow up on how it is affecting our taonga species in numbers or their migrating habits. Piharau (Lamprey) are also a taonga species and if tuna uptake 1080 then it stands to reason that they do also, again we have not seen any research that is being undertaken on taonga species of that nature. We are aware of research being done on plants and trees that are of concern to Maori and yet to this date the applicant has not supplied any information on research on how many Maori are potentially affected by consuming tuna or the effects to health.

IWOK questions the research that is being done whether it is balanced and that potentially scarce research money will be spent on science projects that do not attempt to address issues pertaining to Maori.

Again questions should be asked “is Maori values and ethics and concern likely to be researched? Is Maori suffering from competing paradigms of world views such as Western ideology and science versus Te Ao Maori world view and traditional Maori knowledge? Is Maori being subjected to environmental racism? The Authority will be able to directly address those issues, it has the responsibility to weigh up the risks and balance out the issues.

The Ministry for the Environment in 1996(MFE) released their report on the state of the environment and came to several conclusions, one was “out of a potential 80.000 multicellular species only 30.000 have been identified. The status of most species and ecosystems is not known”⁴. The blanket permission to aerial drop and scatter the ecotoxins through out the country has the potential to destroy multicellular species.

⁴ MFE –website State of the Environment report(1996).

There has been no discussion on fungi. Maori traditional knowledge is being ignored, traditionally fungi is seen as a lynch pin, one cannot exist without fungi, it holds the key too many of the world issues⁵ and yet we make decisions to destroy or alter the very nature of a hugely important part of matauranga Maori. In light of the failure to acknowledge matauranga Maori, where is the research on affects to fungi?

See: <http://www.fungi.com>

Due to scientific and technical uncertainty TWOK acknowledge that the Authority has to carefully weigh up the issues under sec 7 and that clearly without knowledge of a range of multicellular species and fungi it poses problems.

6. 02-E&R Sec 7-11-PDF - Agency report.

Monitoring

*The overall conclusion by submitters who raised monitoring as an issue was that more was required as a priority to clarify areas of uncertainty (particularly relating to non-target effects), iwi and hapū members needed to be involved in setting up and operating monitoring operations, and formal mechanisms outlining monitoring requirements and outcomes needed to be developed and implemented as a requirement for all aerial operations (eg, **cultural impact assessments and other cultural monitoring tools**).pg 154*

We do agree with the Agency in its summation of Maori concerns regarding monitoring particularly the use of CIA's, but we strongly disagree that a mechanism called Mauri restoration plans are possible.

*Hui participants identified the need for iwi/Māori to work closely with pest management agencies on the development of **Mauri Restoration Plans** to manage the short-, medium- and long-term effects of the implementation of pest management strategies on the mauri of taonga species and ecosystems. pg 151*

At the consultation Hui with Waikato Tainui the idea that the mauri of the ngahere could be restored (proposed by the DOC *Maori* liaison officer) by the use of 1080 received loud opposition. TWOK states that it is nearly technically impossible to restore mauri in the example above and while respect for other hapu or iwi must prevail, TWOK insists that they cannot and will not allow those impositions to apply generically. Mauri is in the domain of the Atua and in most cases connection to the Atua are only done by tohunga that are experts in that field and to put mauri into the category of **Mauri Restoration Plans** is bordering on being culturally offensive. It would be advisable to the Authority to ignore those comments from the Agency and not pursue **Mauri Restoration Plans** and instead concentrate on the development of HSNO plans within the Hapu environmental plans or the development of stand alone HSNO plans.

⁵ <http://www.fungi.com>

7. Ethical considerations.

7.1.2 Ethical considerations

Under these general principles is a set of specific principles:

- *concern for co-operation*
- *concern for cultural identity /pluralism*
- *concern for justice and equality*
- *concern for sustainability*

*This is an instance of the complexity of ethical consideration referred to in the submissions where there is a tension between two values; in this case between **objecting to poisons in the environment (respect for the environment) and understanding the usefulness and importance of 1080 for controlling vertebrate pests in New Zealand.***

While it may be correct that there are only two tensions or values above; the Authority will have to consider Maori ethics and values and specific principles of co-operation. Maintenance of cultural identity is being sought with this submission and there are expectations that the Authority will see that justice and equality will be delivered.

8. Economic concerns.

Appendix J Ross. Cullen.

The economic case for use of 1080 is largely based upon the assertion that aerial pest control is lower cost and more effective than is ground pest control and can be used to manage large and rugged areas. Surprisingly, given the importance of these items, no references are cited in support of those assertions.

This is surprising due to the applicants continually rolling out consistent dialogue that aerial pest management is far cheaper and more effective than ground control.

M-A5 Negative impact on domestic and international markets due to market perceptions of the use of toxins.

*The key item in this effect is perception of the use of toxins in the With 1080 scenario versus the Without 1080 scenario. The Application states **it is improbable there will be a negative perception impacting on domestic and international market values of New Zealand produce.***

The likelihood of concern arising may be considerably greater than indicated by 'Improbable.'⁶

⁶ Appendix J Ross Cullen,

The comment by Cullen is not surprising and indicates that the applicants have not taken into consideration the impacts from consumers internationally. Closer to home, the following findings and commentary appeared in a report prepared recently by the Growth & Innovation Advisory Board⁷ 2006.

Recent research has shown that there is 83% of New Zealanders that have an awareness such as global warming, environmental and social issues. They also want to take action to reduce these problems. Again the strongest growth comes from people who are tertiary educated or earning in excess of \$70,000 per annum and are concerned about corporate behaviour.

There is increasing concern amongst consumers both domestically and internationally and we see market backlashes such as food miles to market being discussed by Central Government. NZ may see the loss of markets being directly impacted on by the use of ecotoxins in the environment irrelevant, of whether the meat contains the toxin. Additionally while the area of ngahere in NZ is only a portion of the available landscape that is in question, it is the perception of continuous aerial bombardment of toxins raining down in spurts upon the countryside, rotating to suit the pulsing methodology by the applicants for years to come, that may impact on markets internationally.

9. Effects on health and wellbeing to communities.

Whaingaroa Raglan is a great example to use, when the applicant (DOC) first came to town to announce the use of aerial dropping the town raged for months in opposition with full town hall meetings, articles to the papers and television broadcasting to the nation. Whaingaroa still got bombarded. Opposition has not gone away, as evident in the last drop and this action has been repeated right around the country wherever the use of aerial 1080 was to be undertaken and while there is support by way of submission, it must be tempered by the thousands that oppose 1080 whom have not made submissions.

A stakeholder management mindset pervades most stakeholder processes today, for example, governments and companies involve stakeholders in a discussion about ways to resolve concerns about a specific policy or activities. The stakes, interests and power among players in such situations are not equal, and processes are usually designed and managed by the proponent for instrumental reasons (e.g. to help them reach their own goals).⁸

What is this opposition, lack of being informed, lack of knowledge regarding toxins, lack of faith in science that continually tells us that there are limited affects?(example-breaks down in water to harmless substance-national news- town water shut off due to 1080 in water reservoir.

⁷ Moxie Design Group. 2006

⁸ Ann Svendsen & Myriam Laberge

Perhaps it is just the KNOWING.

- Knowing that historically Maori and the community are of limited ability to challenge the claims made by those who seek to get their way.
- Knowing that fundamentally it is wrong to blanket the country side in toxins of this nature.
- Knowing that matauranga Maori is being ignored.

*Engaging stakeholder networks for learning and innovation represents a new level of human capacity*⁹

10. Legislative tensions between the HSNO & RMA Acts & consents.

The points of difference are substantial; one focus is sustainable management of resources while the other is balancing the risks. The tension lays within the different decision makers in the complex layers of Authority. The decision tree is problematic for most and the conflicting behavior of the different Authorities leaves much to be desired. Some have “**discretionary activity requiring resource consent**” and others have for “both aerial and ground-based application of substances containing 1080 **being permitted activities** where the baits applied may directly and indirectly enter water”¹⁰

The issue that TWOK has, is resource consents. When viewing the consent from Environment Waikato it is plain to see that Maori are not included and that the hurdles are weighted beyond what should be expected such as:

Condition 9 -*For the purposes of condition 8 of this consent, a significant accidental discharge of 1080 baits into water shall be considered to have occurred if the Operational Controller determines that baits containing 1080 poison entered water at a rate GREATER than the Sowing Rate for the operation as recorded in the Operational Plan, or volumes of stock solution are spilt during transit or bait treatment.*

See Appendix Two.

Maori have significant concerns relating to toxins in water and the above demonstrates that the words **significant** and the **rate GREATER than the Sowing Rate** leaves no doubt that concerns by Maori and the community are minimised or totally ignored. Therefore, how does the Authority make decisions and controls that do get reflected in resource consents or are not nullified by Regulatory Authorities making decisions?

Maori view the legislative requirements from the various Acts as a series of gateways, gateways designed for applicants, gateways designed for participation. Certainly the gateways for applicants have methods that allow easy openings and are much wider than those who may wish to oppose or participate. The Authority has the ability to change that process or make substantial differences.

⁹ Ann Svendsen & Myriam Laberge⁹

¹⁰ The information presented in Table L5, Appendix L

During the 1994 drop in Whaingaroa, while the community was raging in their opposition, EW & Doc went about gaining resource consent quietly (consent term 10yrs) that was never in consultation with Maori or the community and the recent information supplied by the Agency has once again raised the issue of EW going to the Environment Court seeking to correct an *oversight* in their regional plan and seek permitted activities status for aerial 1080 drops, this was never in consultation with Maori and the communities.

11. Controls proposed.

Clause 6 Requirements for aircraft carrying out aerial application

(1) An aircraft that is carrying out an aerial application must not, when flying to or from the area where this substance is applied, fly over a

- (b) public drinking water supply; or*
- (c) waterway that is less than 100 metres upstream of a point of extraction from a water source for a drinking water supply (not being a water supply exclusively for stock).*

TWOK submits that 100 metres proximity to water ways is unreasonable given the concerns by Maori and other submitters and state the bare minimum should be 250 metres due to the continuous proven mistakes made by GPS systems. One local farmer lost three cows in the last operation in Whaingaroa and got paid out for the loss and 1080 does end up in the waterways.

12. Summary.

TWOKS submission has highlighted that there are concerns relating to the TOW principles, that impacts on taonga species is significant to Maori and that the ethics, matauranga Maori and traditional knowledge has the been ignored. That there are concerns relating to research and what type of research.

Legislative requirements are a series of gateways that have permitted pathways for applicants and restricted openings for others.

In addition while some Maori are supportive because of their different obligations, most tangata tiaki are opposed and the control for aerial application regarding waterways is a significant issue. While the Agency has done a difficult task well, TWOK opposes some of the issues above that have been stated by the Agency. That resource consents has the potential to nullify controls.

13. Conclusion.

While some hapu and iwi do have robust relations with the applicant (DOC) it has not been without the struggle to achieve that, and all the way along agencies that do have a stake in decision making (ie. AHB, MOH) are notably absent and do not attempt to form relationships. We do support the issue of participation of Maori from the outset including monitoring and that Memorandum of Understanding for participation take place.

Maori has seen a demise of one-way 'public relations' campaigns and the rise of consultation and more recently multi-stakeholder dialogue. On the horizon is a new form of interaction whereby networks of stakeholders come together to learn and innovate at a systems level. We must **learn how to learn & innovate – together**, to use our co creative collective power, to change the paradigms to one of co creative mindsets. Te Ao Maori while being holistic is also a whole systems approach and an approach that is based on whole system management structures. Certainly there is the need for ERMA and other crown agencies to create interagency approaches and to act collectively with Maori.

TWOK contends that it is within the Authorities power to strongly recommend the development of HSNO plans as above, and that funds be set aside to assist Hapu and Iwi from the ERMA budget to develop the plans. Resource consents are the direct link to community risks.

14. Recommendations

That the Authority set controls that:

- address issues above.
- directs research towards Maori issues.
- directs effective partnerships to be developed with Hapu and not just iwi, or trust boards.
- directs that Regulatory Authorities informs Hapu and Iwi of changes to plans.
- directs that the use of CIA's be used by applicants to determine Hapu and Iwi concerns.
- ignores advice for mauri restoration plans.
- set controls that avoid omission by decision makers in resource consents.
- direct that Maori are involved with the drafting of resource consent conditions.
- directs that all resource consents are discretionary and notified for consistency and Maori and community input...
- consider adjourning the hearing due to conflicts with Te Tiriti O Waitangi principles...

TWOK wish to thank the Authority for allowing us to present in person our concerns and will welcome any questions.