



Should you wish to mine pounamu following the expiry of your (still valid) mining licence, you will need to apply to Te Runanga O Ngai Tahu for that right.

***Prospecting Licence Application 31-2583***

Applications under the Mining Act 1971 that were pending at the time of the enactment of the Crown Minerals Act 1991, may only be processed under the transitional provisions of the Crown Minerals Act 1991, specifically section 112.

It is the Ministry's position that section 5(b) of the Ngai Tahu (Pounamu Vesting) Act 1997 prohibits the Minister of Energy from granting your prospecting licence application in respect of pounamu. (not so)

***Mining Permit Application 41-452***

This application concerns several minerals including pounamu. We are still awaiting your decision as to whether you wish to proceed with the application in respect of the minerals other than pounamu.

It is the Ministry's position that section 5 of the Ngai Tahu (Pounamu Vesting) Act 1997 prohibits the Minister of Energy from granting an application for a mining permit in respect of pounamu.

***Decisions on Applications***

Please note that this letter should not be treated as formal advice that your outstanding applications have been declined. The formal decisions on those applications have yet to be taken.

***Your Compensation Claim***

We understand that you are seeking compensation of \$3 million. We further understand this sum primarily is calculated by reference to a perceived economic loss following the transfer of ownership of pounamu from the Crown to Te Runanga O Ngai Tahu. \$500,000 appears to be in respect of written statements by the Minister of Energy which you consider to be defamatory.

In terms of claim for economic loss, the Crown does not accept your claim. This has been consistently the Ministry's position for a considerable period of time. The Ministry has considered the points you have made in your correspondence but has been unable to identify any material fact that would cause the Ministry to advise the government that your claim should be accepted. In other words, the Ministry sees nothing in the points made by you to date that would lead the Crown to reconsider its position on your compensation claim.

Whilst the Crown recognises that you and other applicants may have suffered costs associated with the processing of applications that cannot now be granted (costs which the Crown is prepared to compensate, see below), the Crown does not accept that it is liable for presumed

loss arising from the failure of mining privileges to have been granted to you. No person ever has a right to the grant of a mining privilege.

Your allegation of defamation is noted. The Ministry does not consider the statements made by the Minister in his letter to the Hon. Richard Prebble to be defamatory. Consequently, your request for additional compensation of \$500,000 is rejected.

#### ***The Crown's Compensation Offer***

As you know, and as indicated above, the Crown is willing to reimburse eligible applicants for the costs of meeting statutory requirements. To be eligible for this compensation offer, applicants have to meet the following criteria:

- (a) Pounamu (greenstone) must have been the primary mineral of the application;
- (b) The application must have been lodged by 1 August 1996; and
- (c) The application must be undetermined.

This compensation offer has been outlined to you several times. The parameters of the offer have not changed, neither has the offer been withdrawn. Please let the Ministry know if you would like to take up this offer.

#### ***Future Action***

In your most recent letter you seem to consider that the Minister of Energy's letter to you of 17 February 1998 is supportive of your view of the law. With respect, the Ministry considers your interpretation of the Minister's letter to be a strained interpretation. Consequently, the Ministry does not agree with your comment on our 17 February letter. The Ministry considers that the Minister's letter clearly set out the position that is also covered in this letter.

In your most recent letter, you have indicated that you will be initiating legal action shortly. Although it is not entirely clear to the Ministry from your letter what exactly is required to avoid litigation, I have assumed that you believe that litigation can only be avoided if the Crown agrees to meet your compensation claims.

As stated above, the Crown does not believe that your claims are valid.

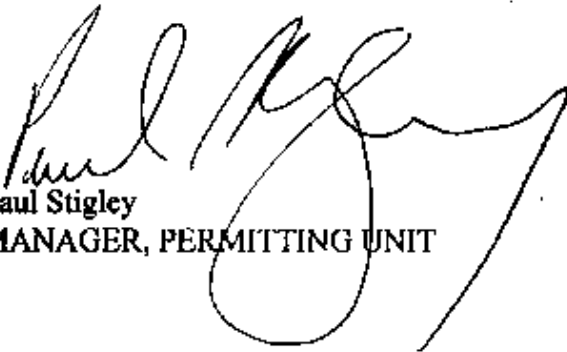
Should you elect to commence proceedings, the necessary papers can be filed either at the Ministry's premises or at the Crown Law Office. Any such proceedings will be defended and, if successfully defended, the Ministry is likely to seek costs.

Given the extensive correspondence on this matter, the resources that are required to be devoted to answering your many letters, the basic unchanging nature of your queries, and your threat of imminent litigation, the Ministry sees little point in continuing this correspondence.

We are willing to reconsider our position if you are able to bring new information to light, or if you are willing to accept the Crown's compensation offer. Additionally, we would welcome your advice as to the status of Mining Permit Application 41-452.

I hope that the foregoing is a sufficiently clear statement of the Ministry's position.

Yours sincerely



Paul Stigley  
MANAGER, PERMITTING UNIT