

10 June 2004

Kenneth J Landaus
R D 2, Tukurua
Takaka
GOLDEN BAY

Dear Mr Landaus

MINING LICENCE 32 3021 – K J LANDAUS & S MCKAY

I refer to your letter of 20 May 2004 in which you have asked a series of questions relating to your mining licence 32 3021 which expired on 21 December 1999. You have asked many of these questions in one form or another in previous correspondence between yourself and the Ministry, however, I will respond to your questions in the order set out in your letter.

1 The records show that on 7 October 1997 Mr Stigley responded to your letter of 14 August 1997 advising you that section 77(2) only gives licence holders a right of priority to apply for new licence ahead of other people. He went on to explain that section 77 of the Mining Act 1971 is unchanged by the Ngai Tahu (Pounamu Vesting) Act except that those with existing licences with respect to pounamu in the takiwa of Ngai Tahu will in future have to apply to Te Runanga O Ngai Tahu for a new licence rather than to the Crown. There is no record on file as to why an application form was not forwarded to you. I must assume that this was not actioned as the Pounamu Vesting Act was passed in the interim, on 25 September 1997, and that licence applications could no longer be accepted in respect of pounamu.

2 Section 77(2) of Mining Act 1971 can no longer be applicable to your licence. The enactment of the Ngai Tahu (Pounamu Vesting) Act 1997 vests ownership of pounamu in Te Runanga O Ngai Tahu. In other words, the Crown no longer owns pounamu and it cannot therefore grant you a mining right over that resource.

3 Section 43 of the Mining Act 1971 relates to existing mining privileges. As mining licence 32 3021 expired on 21 December 1999, the section is no longer applicable.

4 Section 4 of the Ngai Tahu (Pounamu Vesting) Act 1997 protects the rights of existing privilege holders while the privileges remain current. In your case, mining licence 32 3021 was unaffected by the passing of the Act and continued to have effect until it expired in December 1999. Thereafter, if you wished to continue mining pounamu, you were required to apply to Ngai Tahu as the new owner of the resource.

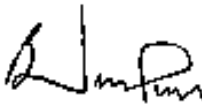
5 A mining licence confers an exclusive right on a licensee to occupy land for mining purposes and to mine for the minerals specified in the licence subject to certain conditions. While minerals remain in-situ they are still the property of the Crown as the

minerals only become the property of the licensee after they have been mined. That is why royalties are only paid to the Crown on minerals mined and sold. You are therefore incorrect to say that the minerals belonged to you at the time you enquired about applying for a new licence to replace mining licence 32 3021.

6 Section 43 of the Mining Act 1971 relates to protecting existing mining privileges. Your rights under the terms and conditions of mining licence 32 3021 remained unaffected, through the provisions of both section 43 of Mining Act 1971 and section 4 of the Ngai Tahu (Pounamu Vesting) Act 1997, up to its expiry in December 1999. As you are aware, from October 1997 the Crown could no longer issue a new licence as it was not the owner of the pounamu resource.

7 Other mining privilege applications that were granted around this period were either much further advanced in the processing cycle or involved minerals other than pounamu.

Yours sincerely



Barry Winfield
Senior Advisor, Petroleum & Minerals Policy