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Info

Responses to Federation concerns expressed during the  
1999 AGM over continued access to recreational fishing water, from:

- \* Sir Douglas Graham
- \* Jenny Shipley
- \* Nick Smith

The Federation's letter

63 Maxwells Line  
Palmerston North  
Friday, 9 April 1999

The Rt Hon. Sir Douglas Graham  
Minister in Charge of Treaty of Waitangi Negotiations  
Parliament Buildings  
Wellington

Dear Sir Douglas,

I am writing on behalf of the Federation of Freshwater Anglers, Inc. We are a federation of some 53 angling clubs, and 63 individual members from throughout New Zealand. On behalf of these members, may I express our appreciation and support for your governments reported policy, that the ownership of water and rivers will remain vested in the Crown, to be accessible and enjoyed equally by all citizens.

At it's recent AGM, the Federations delegates and executive wished to reiterate their abhorrence and opposition to any impediment to the free and unrestricted access of such public natural resources for recreational purposes. The Federation supports the implementation and use of marginal strips and the Queens Chain along all waterways to facilitate this. It would also like to express its strong opposition to any form of privatisation or commercialisation that seeks to prevent, profit by, or charge for providing, access to such public resources. The Federation also strongly opposes any management regime for such resources that seeks to vest control with any single or non-governmental user group, or any group not openly elected. We are hearted by an apparent harmony between Government's and the Federation's policies regarding the use of waterways for recreational purposes.

The Federation is however mindful, and increasingly concerned, over the pressures being bought to bear to erode such policies, and the rights of ordinary citizens to manage and participate in freshwater fishing. One such pressure involves treaty claims. The Federation is deeply concerned over the number of such claims (such as the current Te Runanganui O te Ika Whenua claim) which seek not only ownership of riverbeds, but control over the access to and use of the water within them, including:

- \* the right to use such water to generate hydro electric power
- \* the right to control use of the river for fishing

New Zealand's valuable world-renowned freshwater fishery is funded and managed solely by licence holders, and is a highly valued recreational activity for hundreds of thousands of New Zealanders. The Federation seeks assurances from you and your party, that access to or the use of this recreational resource, and its current or future management structure, will not be compromised by the abilities of any secular group within our society to deny others the use of this public resource, either for commercial reasons, privilege, or through the imposition of cultural values.

Yours sincerely,

Ken Sims  
Secretary  
New Zealand Federation of Freshwater Anglers, Inc.

Phone: (06) 356 9402 Fax: (06) 356 9404  
E-Mail: KiwiKen@bigfoot.com

CC. The Rt Hon. Jenny Shipley  
CC. The Hon. Nick Smith

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Sir Graham's response

Office of the  
Minister in Charge of Treaty of Waitangi Negotiations

Te Tari o Te  
Minita N -ona te Mana Whakarite Take e pa ana ki Te Tiriti o Waitangi

13 MAY 1999

Ken Sims  
Secretary  
New Zealand Federation of Freshwater Anglers (Inc)  
63 Maxwells Line  
PALMERSTON NORTH

Dear Mr Sims

Thank you for your letter of 9 April 1999 about impact of Treaty claims relating to rivers and lakes on other users of these resources.

Firstly, I should comment on your statement that the Government's reported policy is that "the ownership of water and rivers will remain vested in the Crown." Although under New Zealand law the banks and bed of a river or lake can be legally owned, the water cannot. Therefore, while the Crown owns the beds and banks of some (but not all) rivers and lakes, it does not own the water. This is one reason why the Crown cannot and has not offered Treaty claimants the ownership of a river or lake - including the water - in the settlement of their claims.

However, in particular cases where the Crown has sought to recognise significant and valid Maori grievances concerning a river or lake, it has been willing to consider transferring the ownership of all or part of the bed in a Treaty settlement.

Nevertheless, being willing to provide specific redress for valid grievances relating to rivers and lakes is not the same as paying claimants compensation for the generation of hydro electricity or for other established uses of rivers and lakes. I have already stated that Maori will not be given the right to charge anglers or power companies for using rivers.

The Government acknowledges that it is important that the public retain their existing ability to access our rivers and lakes and use them for recreational purposes without charge. We are aware that these activities are regarded by many New Zealanders, both Maori and Pakeha, as their birthright.

Yours sincerely

Sir Douglas Graham KNZM  
Minister in Charge of Treaty of Waitangi Negotiations

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Jenny Shipley's response

PRIME MINISTER

17 May 1999

Mr Ken Sims  
Secretary  
NZ Federation of Freshwater Anglers Inc  
63 Maxwells Line  
PALMERSTON NORTH

Dear Mr Sims

Thank you for your letter of 9 April 1999, on concerns which your members have about public access to fishing opportunities in rivers and lakes. I have been advised by the Hon Dr Nick Smith that he is replying to you in some detail and I am happy for him to address the issues on behalf of the Government.

It is my view that fishing and game hunting are very important parts of the New Zealand social fabric and it is the Government's view that the current system of self-management - Fish and Game New Zealand - is proving effective in managing the resource.

I would also add my reassurances to those you will be receiving from Dr Smith, about the importance to the Government of preserving existing public access opportunities, and improving them when the opportunity to do so arises.

Yours sincerely

Rt Hon Jenny Shipley  
Prime Minister

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Nick Smith's response

Hon. Dr Nick Smith

MP for Nelson

Minister of  
Education  
Minister of Conservation

7 JUN 1999

Mr Ken Sims  
Secretary  
NZ Federation of Freshwater Anglers Inc  
63 Maxwells Line  
PALMERSTON NORTH

Dear Mr Sims

Thank you for your letter of 9 April 1999, concerning access to freshwater fishing places. On behalf of your members you have asked for assurances that the ability to access the recreational resource will not be compromised by various means. I am aware that you have written in similar terms to the Prime Minister. Please accept my reply as being the substantive reply on her behalf as well.

Since becoming Minister of Conservation I have come to realise that the question of public access "rights" has never been as straightforward as many have tended to believe. To lots of people a 'Queen's chain' has been in place beside all waterways ever since Queen Victoria issued instructions to Governor Hobson. The instruction did not, however, propose a continuous public strip along waterways, and instead proposed retaining specific blocks of land for a range of public purposes. Some surveyors subsequently developed a general approach of retaining strips along waterways, but this was not universal.

This means that the Queen's chain has never existed in law as such but is simply the popular name for the various land types which together make up what, for convenience, we all refer to by that name. On some waterways there are public riparian lands, on others there are a few pieces of public land which don't provide practical access, and on others there are no public riparian lands at all. The same applies to rivers, where sometimes the bed is owned by the Crown, and often the bed is private land. The status of land is often not clear.

During the evolution of the Conservation Amendment Bill, the Government concluded that this issue needed to be tackled in two ways. It is essential to clarify and publicise public access rights. This will not only allow people to use those access rights with confidence, but also enable significant access problems to be identified. Where there are access problems, these need to be addressed by encouraging landowners to gift or sell the land or to agree to an easement over it. The Government is committed to contributing to both the identification of and purchase of access rights, but is also looking for a real contribution from public interest groups (including fishing groups) and local authorities.

Where access is provided voluntarily, or through agreement to an access easement, it is important that the users of that access do not abuse the privilege. Some farmers have closed access routes because of problems with stock disturbance, litter, and other damage. Farmers have also expressed concerns about people assuming they can cross land which is private, and about having people whom they do not know on their land. The possible implications of the Health and Safety in Employment legislation have increased these concerns. I am sure the Federation could play a role in promoting appropriate behaviour by users of access ways across private land.

Where the land is private, farmers do have the right to prohibit access, or to allow access where certain conditions (including, potentially, payment of a fee) are met. There have been requests in the past from fishing groups for some or all of these private property rights to be changed. The Government does not consider this would be appropriate in the absence of evidence of a widespread access problem and given the traditional attitudes to private ownership of land.

In terms of the management of the sports fishery itself, the Government considers that the fish and game council model is working well, and sees no fisheries management reason to change that.

Turning now to the Treaty claims issue. Many iwi have serious and legitimate grievances in relation to the way their interests in water-bodies was acquired by the Crown, and the way the water-bodies have been managed. These grievances are being addressed through the Treaty claim process. As you have noted, the Government has made clear to iwi that no one, including the Crown, can own water, and that therefore the return of ownership to water is not an option. Nevertheless, the Government will need to develop redress and ongoing management arrangements which recognise the very real cultural interest of iwi in waterbodies. In doing so, the Government is committed to recognising and protecting the interests of all New Zealanders, including recreational fishers, and protecting the environment.

There is a parallel here with the Ngai Tahu settlement which involved much of the South Island. While the legislation was being developed and considered the Government received a number of representations similar to those you have made, relating to access to both land and water. There were fears that existing rights would be lost. This did not occur. In fact there were many gains in terms of formalising public access arrangements. A similar process could be said to be occurring with the Crown pastoral land in the South Island high country.

I quote the above examples as being indicative of the Government's recognition of the concerns which you and others have expressed and I hope I have reassured you that when dealing with any sort of relevant legislative business, this Government will be looking at maintaining and enhancing access to recreational resources.

Yours sincerely

Nick Smith  
Minister of Conservation

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NZFFA. Page dated: June 1999  
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