WAITUTU

OUR JOURNEY

Prior to 1906, the Government of the day required land for allocation to the large numbers of settlers arriving in Canterbury. It made land available by extinguishing the Titles in existence, and issuing new Titles in the name of the new arrivals. We had no knowledge of this and this concept of land ownership was foreign to us. We were prevented from entering upon our lands.

An approach was made to the Privy Council. We were to be compensated for our loss.

The compensation took the form of the 1906 Landless Natives Act, which allocated the "Silna" (South Island Landless Natives Act) lands at Rakiura (Stewart Island), Catlins, Gore, Rowallan and Waitutu.

In 1972 the owners of all but two sections in the Waitutu area made application to the Maori Land Court to form an Incorporation, and the Proprietors of Waitutu Incorporated, known as the Waitutu Incorporation, was formed.

The forest in Waitutu is 75% virgin rimu, and was regarded as of no value in the past, because of it's remoteness. To arrive there, you travel from Invercargill, 90km to Tuatapere, then to Bluecliffs, and from there proceed on foot around the beach at low tide, on through Conservation Forest to Port Craig. The next day, you walk on over the three viaducts to the Wairaurahiri River, and when you cross that, you step on to the Waitutu.

Eventually, with rimu being in short supply, the economics began to change. A contract to cut was entered into with Feltex, who in 1974, were the owners of the Lindsay and Dixon mill at Tuatapere. The contract did not last long. The "green" movement got into gear, and frightened them off.

John Southerwood was elected onto the Committee of Management in 1986. In 1988 the Chairman resigned, and John Southerwood was appointed as Chairman.

In 1991/92, Phillip Woolaston was the Minister of Forestry in the then Labour government, and John approached him and set up negotiations with a view to exchange our forest for an area of radiata pine. He rejected our proposal, told us that the pine was to be sold to Rayonier (an overseas buyer), and suggested a cash settlement.

The Waitutu had to be valued before we could proceed further. The next stage required our agreement on costs and discounting, and we were told that $2 million was the bottom line figure. This was less than 20% of the amount we would have received from Feltex had that deal gone ahead. He was asked when and how the money would be paid out, and he stated that it would have to go to Cabinet for a decision, then put into the Budget. It would take about two years. We left the negotiations, and did not return.

Our next move was to work out a long-term strategy. This began with entering into a contract to cut, with Paynter Timber, who were now the current owners of the Lindsay and Dixon mill. We followed this up with a press release in December 1994, to the effect that we were on the move and about to commence cutting timber. We were under the impression that Ministers of the Crown had taken their Christmas break, but to our surprise, this was not the case.

Our press release in the Southland Times had alarmed Forest and Bird to such an extent that their efforts to control us had the result of tying up John's phone for some time, as the Departments of Mr Falloon – Minister of Forestry, and Mr Marshall – Minister of Conservation, tried to persuade him that it would be to our advantage if we came to Wellington immediately. We complied with their request.

Negotiations began between the Incorporation, represented by John Southerwood and Leonie Gale, and the Ministers of the Crown. We were asked "What did we want?" Our reply was that we wanted nothing. We only wanted to be left alone. We did not want to be controlled by the Crown or anyone else. We had had enough of being treated like children, and were not of a mind to put up with any more nonsense. Mr Falloon then spoke to Mr Marshall, and told him to instruct the Southland District Council not to issue a Consent to cut, that he had the authority to do that, and then they did not have to compensate us, as we would not be in a position to do anything about it.

He did not evoke a reply. He then turned to us and said he would legislate to stop us from cutting. He was told that if he did that, our people will go in with chainsaws, cut down all the native timer, and replant in exotic species. Then he would leave us alone. He replied that that would be very irresponsible. It was suggested to him that if this was upsetting to him, he could follow us around with a can of glue, and stick the trees back up again.

We had no further meetings with Mr Falloon. Mr Marshall was then appointed by Caucus to continue the negotiations.

We rejected a number of proposals, one of which was to receive land by Lake Wanaka in part payment. We asked, what would we do with it. We were told that it would grow good pine. We asked, how would we finance the planting and were told that we could borrow the money. Who would lend money to a Maori Incorporation to plant a forest, lend more money to enable us to pay the interest on the full amount for about 30 years, then pay to harvest the trees,

transport the logs by barge to Queenstown, and on to the port at Dunedin, at a cost which would be greater than the amount received in payment?? So why should we be interested in such a proposal? We kept in mind the fact that this was high country land that was scheduled to be retired from production by legislation, thus making a harvesting operation highly unlikely to ever happen.

Caucus then decided to appoint a Negotiator to represent them at the table, and brought George McMillan, a former Commissioner of Lands, to represent them.

At this point we asked for beech forest to be made available. The beech was in the Rowallan, Woodlaw and Longwood forests. There was a problem with this request, as the Crown was unable or unwilling to grant virgin forest. They left only cut-over forest on the table, and said that the difference in value would have to be made up in cash to enable us to purchase additional forest to make up the shortfall.

We were then advised that the Crown did not need to talk any more, as they had been advised that as we did not have a consent from the District Council as required under the Resource Management Act, we could not start logging our forest. We applied for consent, and our application was rejected. The District Plan said that forestry was not a permitted activity in any forest, unless it was a “plantation” forest. Our Committee saw this as the end of the road.

We took the matter to Court and the Judge ruled against us.

The Crown was no longer under pressure to settle.

John Southerwood gave extensive consideration to the situation, and came up with an idea. He set off to Invercargill. He went to the District Council and asked to speak to someone about Grazing Permits. He explained to them that we had 32 deer pens in the Waitutu and when the weather turned against us, we had to graze deer there, until we could take them out. Was it true that this operation required a consent or a permit under the new act? It was true. He was advised of the fee required to obtain a consent.

Our lawyers obtained the consent, and the Council were then told – “We are cutting”. They said that we could not. We went back to Court, and this time the Judge ruled that the trees could be cut to establish pasture for grazing, but not as a forestry operation – we were not permitted to sell the trees. We stated that were would be clearfelling the area.

The Crown wanted to talk to us again.

The Ngai Tahu Trust Board had a Waitangi claim in for the beech forest. John spoke with the Board, and was assured that they would not stand in our way. The Crown stated that this was not what they had been told. John went back to Ngai Tahu for another meeting. At the end of this, he was able to go

back to the Crown with Ngai Tahu's position clearly spelt out in writing, and signed. The forest was available, but not the land.

The Crown then continued negotiations, and made another offer, which we accepted. We received cutting rights in perpetuity, in the Rowallan, Woodlaw and Longwood forests, to the value of $5.5 million. We also received $13 million in cash, over a 5-year period.

We gave an assurance that we would not cut the Waitutu forest commercially, and that the Waitutu forest would be administered jointly by the Waitutu Incorporation and the Conservation Department, as part of the Fiordland National Park. The ownership of the land in the Waitutu remained with it's shareholders.

The settlement with the Crown was agreed in March 1996, and included in legislation in the Waitutu Settlement Act.

Attempts to obtain an income from our land had lasted a total of 22 years.

We were now ready to cut the beech forest, but could not finalise the Lindsay and Dixon contract until after the cutting rights were recorded in the Deeds. They completed the transfer under the Land Transfer Act and we rejected this, as it did not comply with the Settlement. Under the Land Transfer Act, the Crown had the authority to cancel the cutting rights at any time in the future, without being liable to pay compensation. - This was not "in perpetuity" as required in the Settlement. A different method of transfer was required to give effect to the Settlement. After a prolonged period, Cecil Hood, of Land Transfer, came up with a "profit a prendre" as being an acceptable process. This was attached to the land titles in October 1997, and the bush crews began work.

We have travelled a long way on our journey, and there is still a way to go, but we have achieved some benefit for all our people.

TO BE CONTINUED.