

Submission to the Select Committee hearing on Climate Change

By Morikaunui Incorporation

Good evening Mr Chairman and Committee members. My name is Harvey Bell. I am the Secretary of Morikaunui Incorporation.

(Introduce Chairman and board members.)

We have a near 5000ha sheep and beef farm up the Whanganui River at Ranana that includes two blocks of native bush of over 1,000ha each.

Our submission is supported by Atihau-Whanganui Incorporation and Pipiriki Incorporation both of whom have over 2,000ha of pre-1990 exotic forest.

We wish to thank the Committee for this opportunity to speak to our submission on Climate Change

Other submitters have highlighted the producer cost implications of this Bill, impacting on NZ families, particularly Maori & NZ's competitiveness in the global marketplace. We support all those concerns. The focus of our submission is on the expropriation of value from private assets without compensation, particularly those owned by Maori. There is also a major legal issue.

1. This legal issue is in regards to pre-1990 forested Maori land. Certain provisions of this Bill are inconsistent with Te Ture Whenua Maori Act/Maori Land Act 1993 and as such the inclusion of this land, we submit, is unlawful.

Let me explain.

Under the draft regulations currently being circulated, the status of forested land as either pre-1990, post-1989 or exempt (for blocks under 50 ha) must be noted on land titles when such an order is made by the CEO of the Ministry of Agriculture and Forestry.

This note is effectively a major "red flag" with regards to pre-1990 forested land because of the impact of the deforestation liability on future land-use options and therefore land value. That liability for a 20 year old forest in the southern North Island, for example, would be \$22,600 (at \$40/tonne of CO₂). At 30 years old, this liability would be \$34,300. Either sum clearly makes a land use change impossible without major advances in the revenue opportunities from land. There is no evidence that this is likely in the foreseeable future.

The note on the title affecting land values is therefore an encumbrance and by definition under the Act alienation. Except in some special cases (not this), alienation must be approved by 75% of owners and then endorsed the Maori Land Court before it can occur.

Our submission is that Te Ture Whenua Maori Act renders it unlawful for pre-1990 Maori forested land to be included in the ETS. It therefore should be excluded for the Bill. Any attempt to legitimise the inclusion of this land would cut across the fundamental principles of the Act as outlined in the Preamble to the Act and of the Treaty of Waitangi and would inevitably lead to grounds for a new class of grievance.

2. Post-1989 forests

Voluntary entry into the ETS for post-1989 forested land has even greater obligations for the land owners than those for pre-1990 land. While the latter can reforest or allow regeneration to avoid the deforestation liability, an international purchaser of NZ carbon credits must expect that the amount of sequestered carbon purchased is sequestered "in perpetuity". If the expectation is anything less, this whole exercise is one of futility and the ETS has no basis.

The obligations of entering the ETS for post-1989 forests therefore goes way beyond 40 years, hence this too is alienation and requires 75% of owners to agree.

The practical problem here is that most major Maori land owning entities do not have the addresses for 75% of their owners. It is therefore unlikely that approval could ever be gained to enter the ETS, even if it was a sensible commercial move.

One possible solution that would simplify the decision making processes for Maori land is to create a special single rotation carbon credit and introduce a mechanism by which Maori owned native forest can be substituted at the end of that rotation to honour the carbon sink commitment. (Please note that this idea has not been put forward previously.) Obviously a commercial model would need to be developed around such a proposal.

This would make entry into the scheme possible for Maori land and allow owners at the end of each rotation to make a decision about further participation. In the meantime native forest is sequestering carbon, albeit at about a third of the rate of *Pinus radiata* but this could be valuable as a potential permanent sink if the rules allowed for it.

3. Are the obligations of the Bill equitable?

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The biggest issue with the Bill is its inequity in general with regards to the 1990 starting point but more specifically the proportion Maori land owners are having to contribute by way of liability and/or lost revenue opportunities.

We have calculated that @ \$40/tonne for CO₂, the Bill expropriates \$53.2 billion of value from forested land owners, with over a quarter of this or \$14.5 billion relating to Maori land. This is after the proposed allocation of 55 million tonnes of carbon credits to pre-1990 forest owners.

To get these figures in perspective, the GDP to 31 March 2007 was approximately \$65 billion and the total Treaty settlement cap for Maori grievances is around \$1.5 billion.

The components of this figure are shown in the Addendum page 4 of 7. We would however just like to highlight the deforestation liability.

If the average age of these forests is 20 years (the youngest it can be is 18, by definition), the deforestation liability is \$22.3 billion at 1 January 2008 of which \$9.6 billion relates to Maori land.

However given that deforestation is unlikely to be considered until after harvest at approximately 28 years old, the total deforestation liability then would be \$35 billion of which \$15 billion relates to Maori land.

The bottom section of Page 4 of 7 shows the annual revenue that the Bill prevents owners from accessing. We'd just like to highlight the final conclusion of this section: after accounting for the theoretical opportunities for post-1989 forests in the ETS, the net value expropriated under the Bill is \$1.14 billion per year. A totally inequitable 56.6% of this relates to Maori owned land.

We therefore respectfully submit that the situation is incapable for remedy and this is yet another reason that pre-1990 Maori owned forested land should be excluded from the ETS.

4. Technical insolvency

There are undoubtedly some totally unexpected consequences of the ETS framework as designed and we flagged one of these in our submission. We suggested that upon enactment of the Bill, there are going to be some pre-1990 forested land owners whose liabilities would exceed their assets, rendering them technically insolvent. In the addendum to our submission, (see page 2 of 7) we have shown how this can occur.

The rules for pre-1990 forests are the main reason that this scenario is possible. In addition there are rising fuel costs that will potentially make forestry, particularly in remote areas, uneconomic. The low cost option for a pre-1990 forest owner is to do nothing. While this inaction will avoid triggering the deforestation liability there will be ongoing holdings costs such as rates, fence maintenance, etc.

If the land is held in a formal entity, there will be administration, audit and owner meeting costs as well. If a pre-1990 forest is the only asset, this entity is technically insolvent the day the Bill is enacted potentially putting the land at risk. It is however difficult to see what remedial action could be taken if the final position is that pre-1990 forested Maori land is included in the ETS.

5. The final point I would like to bring to the Committee's attention is the economics of carbon farming under the ETS for post-1989 forests.

It has been hailed as a great opportunity but we have our reservations.

As I have already said, the sale of a carbon credit requires the vendor to maintain that amount of sequestered carbon or an equivalent *in perpetuity*. That means that if a forest becomes diseased, is storm damaged or destroyed by fire, the vendor has to make good that loss of carbon by purchasing sufficient carbon credits to cover the commitment amount. If the price is increasing, the average price received for carbon credits is always going to be less than the liability. Once taxation is taken into account this gap widens further.

In the NZ context there are two factors that are going to impact on the price of CO₂; the international market-place, primarily Europe and therefore priced in Euros and the NZ exchange rate.

Looking at an increase in the price of CO₂ from €25 to €35, exchange rate movement over an 8 year period (2001 to 2008 - see page 3 of 7 in the addendum), it can be seen that the \$NZ price range would be a low of \$41.30 to a high of \$87.50/tonne, a difference of 112%. The Euro price increase is only 40%.

Compounding the uncertainties is the fact that in order to harvest a post-1989 forest with sequestered carbon commitments the owner is going to have to purchase carbon credits to cover the volumes harvested. [It is hoped that from 2013 there will be recognition that 100% of harvested logs do not end up back in the atmosphere.]

While the purchased carbon credits can be sold again over the following rotation period, market fluctuations are a huge commercial risk. Another is the possible abandonment of the global emissions trading framework when it is seen not to be working but causing huge disruption to the global economy.

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In summary, we believe that cost to pre-1990 forested land owners is a value grab on an unprecedented scale and needs to be reconsidered. A \$53.2 billion value grab from a small group of private landowners is unconscionable. The proportion of this for Maori owners is totally inequitable.

This alone, we submit, gives the Select Committee grounds for recommending to Parliament that a complete re-think is required. If this is not possible, our contention that the inclusion of pre-1990 forested Maori land is unlawful, coupled with the disproportionate contribution being sought from Maori land owners should result in the Committee recommending that pre-1990 forested Maori land is excluded from the ETS.

Presented by:

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Secretary

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