

NNTC SPECIFIC CLAIMS PROGRAM

The NNTC Specific Claims Program started in the mid-1980's with evidence compiled for the Twin Tracking Case Pasco et al vs. CNR. During that time, then Minister of Indian and Northern Affairs, David Crombie, visited Nlaka'pamux territory and saw for himself how wrong the situation was. Crombie committed to Chief Bob Pasco that an "expedited grievance procedure" would be developed specifically to fast track the resolution of these claims. Chief Pasco was told to go through either the UBCIC or the Aboriginal Council, but there were so many Nlaka'pamux claims, neither organization could take on the work load. Which is how the NNTC Specific Claims program came to be. Initial funding was for 2 years because it was thought that was how long it would take to resolve these grievances.

In short order, the promised expedited grievance procedure was rolled into the established Specific Claims program at the Department of Indian Affairs. Since then, claims resolution has been slow, despite rigorous research and well substantiated claims -- Reflecting more the politics in Ottawa than the promise that was made in recognition of the unique situation in Nlaka'pamux territory.

Specific Claims Program Staff

Staff: Emily Milliken, Serena Hunsbedt, Jeanie Charlie, Jade Baxter

Legal Counsel: Mandell Pinder LLP

Consultants: Tawnya Collins (forester and mapper), Michael Klassen (archaeologist), Andrea Laforet (anthropologist), Rod Cook (expert land appraiser), Pauline Douglas (consultant/mentor)

Clients: 9 Nlaka'pamux Communities, 6 of which are politically affiliated with Tribal

Workload: Over 187 claims on our books

Funding Source: Indigenous and Northern Affairs Canada specific claims funding.

Approach

As much as possible, Nlaka'pamux specific claims are pursued using a nation-based approach but written, submitted and negotiated on a band basis. One of the strengths of our program is that we use the same legal counsel and same researchers for every claim. As a result, efforts to forward one claim benefit and inform all. It has been the best way to make use of the limited funds provided for this work. And it allows the legal team to strategically pick strong claims to take before the Tribunal to pave the way for neighbouring Nlaka'pamux communities. Individual claims are confidential to the Chief and Council of the community for which they are prepared, but legal arguments are consistent across all.

Services

Primarily focussed on historical research in support of claim submission, researchers work collaboratively with Chief and Council, community members and legal counsel to prepare claim submissions. This stage of the Specific Claims process is funded by the federal government

and does not cost participating communities anything. After claim submission, Research Unit staff work with the Band through the assessment phase, responding to technical questions about the claim and providing analysis of any counter research conducted by INAC. Legal services for claim preparation and submission are covered through INAC contribution funding. Note that negotiation and tribunal funding does not come to the NNTC, but rather is provided to bands directly. Staff are available to inform, advise, and support communities through the subsequent steps of negotiation or taking claims before the Specific Claims tribunal – although our role is limited because this work is not funded. Staff also keep Chiefs informed of any developments in the provincial and national claims scene.

Confidentiality

Claims, and historical materials relating to each community, are contained in electronic and/or paper format and access is strictly limited to the Chiefs and Councils of those communities the materials pertain and those explicitly authorized to access historical materials. Paper records are kept in locked filing cabinets and access is controlled by Research Unit staff. Electronic records are stored on two desktop computers with access limited to Specific Claims Program Staff. Materials are backed up on external hard drives that are securely stored off-site. Cloud-based back up is currently under consideration. There are privacy and security concerns about using the cloud to store sensitive information and as yet there is no agreement on whether to use cloud-based storage or programming.

Accountability

Program – The lead researcher is accountable to the executive director of the NNTC and the Chief's Council of the NNTC for the operation of the specific claims program. Strategic direction of the program is given by the NNTC Chiefs and/or Tribal Chair in consultation with legal counsel. Financial accountability is to INAC for funding received through contribution funding. [Note that the NNTC subsidized this program between 2014 and 2018, when program funding was cut so dramatically that we were in danger of no longer being able to submit any claims.]

Individual claims - The Specific Claims program lead researcher is accountable to the Chief of each community for the work done on their behalf. Claims are confidential to the Chief of the First Nation for which it was prepared and are shared only by direction of Chief and at his/her discretion.

Reporting

Each December, Chiefs of those communities participating in the Specific Claims program receive an annual report including information on work completed on their behalf, the status of their claims, and developments in the NNTC Specific Claims program, as well as across Canada. Throughout the year, Chiefs are contacted with updates on Specific Claims in the system as well as with other information on claims at the provincial and national level as needed. Research Unit Staff are available to answer questions via email or over the phone in the event that an in-person meeting in the community is not possible.

At the end of each fiscal year, the Research Unit reports to Canada on the progress achieved on the work plan submitted in support of our funding application. (Application for coming fiscal year occurs each January.) Financial reporting is completed by Tribal staff.

Program Legal Counsel

Mandell Pinder has worked with NNTC Specific Claims since the program was initiated. They have expertise in Specific Claims across BC and work with NNTC on title and rights. This allows our specific claims program – while not technically connected to title and rights – to use legal arguments which are not counter to the principles of title and right. This is a good fit - keeping information connected and principles consistent.