

## FTISS / NNTC Specific Claims Program

### Background

Specific claims refer to claims made by a band against the Crown regarding the administration of land and other band assets. Compensation is usually monetary. Specific claims are band based and include wrongs such as failure to confirm reserves, failure to provide adequate compensation, fraud, and breach of obligations. Specific claims for Nlaka'pamux communities deal with matters such as railway takings, road takings (reflecting the Nlaka'pamux homeland is a transportation/communications corridor), failure to confirm reserves, inadequate compensation and illegal pre-emptions. Pre-emption claims are based on authorities allowing the taking of Nlaka'pamux village lands by settlers in spite of laws expressly forbidding this. Specific claims are NOT based on Nlaka'pamux title and rights.

Over 200 Nlaka'pamux specific claims have been researched and developed by the NNTC Research Unit. Each claim goes through a number of stages including research, development of legal argument, writing of claim, review of claim by band, submission, assessment, resolution and possibly an appeal. Research involves historical archival research, speaking with Elders, knowledge keepers and community members, mapping, as well as field research on the ground.

The resolution of specific claims is typically through negotiation. The Specific Claims Tribunal was established in 2008 to provide a means to appeal decisions of the federal government as previously, the federal government was the wrong-doer as well as the "judge and jury" of the matter deciding whether or not to accept a specific claim and what compensation, if any, would be payable. Appeals to the Tribunal can be brought in relation to acceptance of a claim or compensation.

The NNTC Specific Claims Program started in the mid-1980's with evidence compiled for the Twin Tracking Case (*Pasco et al vs. CNR*)- a case brought to stop CN Rail from double tracking in a manner harmful to the salmon. In the research process, a large number of damages and illegal takings of land were noted in the process of settlers arriving and the establishment of the transportation corridor through Nlaka'pamux homeland. 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. The expedited grievance procedure morphed into the specific claims program at the then Department of Indian Affairs. Since then, claims resolution has been slow, despite rigorous research and well substantiated claims on the part of NNTC/FTISS - reflecting more the politics in Ottawa than the promise that was made in recognition of the unique situation in Nlaka'pamux territory. There are claims that, thirty years ago, the government thought it would deal with in two years which remain outstanding.

The Specific Claims Program is now housed with the Fraser Thompson Indian Services Society ("FTISS") as a requirement of funding from Indigenous Services Canada ("ISC") is that the funding be received by a "legal entity" - either a registered society or corporate entity which NNTC is not.

**Future**

There have been many enquiries into the specific claims process over the years as the system has been plagued by conflict of interest, lack of independence and very substantial backlogs. NNTC has been active for many years in national and province wide efforts to change the specific claims program to make it fair. Currently, there is a proposal to establish an Independent Centre for the Resolution of Specific Claims (ICRSC). The ICRSC would incorporate the adjudicative function of the existing Specific Claims Tribunal. The Centre would also facilitate negotiations, support claims development and provide funding. We will keep you posted on developments.