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# **Standing Committee on Aboriginal Affairs and Northern Development**

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**EVIDENCE**

**Thursday, February 10, 2011**

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**Chair**

**Mr. Bruce Stanton**



## Standing Committee on Aboriginal Affairs and Northern Development

Thursday, February 10, 2011

• (0850)

[English]

**The Chair (Mr. Bruce Stanton (Simcoe North, CPC)):** I call the meeting to order.

Welcome to the 47th meeting of the Standing Committee on Aboriginal Affairs and Northern Development. We have a busy two-hour meeting in front of us today.

I would like to begin by welcoming *Kha Shade Héni* Mark Wedge, from the Carcross/Tagish First Nation in Yukon. Welcome, and I appreciate your early arrival this morning. I appreciate your three hours' difference from us. It's just shortly before 6:00 a.m., and we appreciate your commitment to meeting with our committee this morning.

We have one hour set aside for this morning's discussion on two topics. The first is on the issue of child and family services, and the second will in fact be our first meeting on specific claims.

If it's okay with you, Mr. Wedge, we will take the first hour and split it in two. If you have an opening statement on the issue of child and family services, we'll do that first, and then we'll go to questions from members on that subject. Once we wrap that questioning up, we'll move into the specific claims topic, and that should take us to the end of the hour.

If you'd like, please go ahead with the opening statement on the child and family services issue.

Thank you.

**Chief Mark Wedge (Chief, Carcross/Tagish First Nation, Council of Yukon First Nations):** Thank you. Can you hear me all right?

I have a bit of a presentation. We can send it in to you a little bit later.

We've been now working on developing our Family Act, and it's taken over 10 years. We started developing our Family Act before our final agreements and self-government agreements came into full effect. We basically started engaging a full-time panel for five years and a full-time team of over six lawyers, policy workers, and experts for eight years. All this, and the Family Act has still not been proclaimed. In the meanwhile, the Yukon has gone through and changed their act, and there have been very few changes structure-wise to their act. However, we are experiencing some difficulties that I'll get into a little bit later.

At best, we look at the Yukon territorial government's act as a modified British Columbia act. I'll describe our act a little bit first. The Carcross/Tagish First Nation Family Act, as we refer to it, which is our family law, covers the same basic provisions of the Yukon territorial government's act relating to protection of children, but it does not have the same palette of legislation to refer to—for example, the Summary Convictions Act, Access to Information and Protection of Privacy Act, the Territorial Court Act, and the Interpretation Act. The first five parts of our act are fundamentally pioneering new approaches to children and families at risk. Part of the reason that we've done this is that existing legislation in the Yukon act has not addressed our needs as a first nation, as an aboriginal community.

The process we used to develop our act was actually something that the Law Commission of Canada came up and reviewed. Even though they're not in existence today, they looked at traditional law and how it might be incorporated into and work with contemporary law. The way we started our act was by collecting traditional stories and identifying the Carcross/Tagish First Nation values and virtues. We transcribed over 300 traditional stories, and from those stories that related to the family, we pulled out the virtues, and it's around those virtues that we began developing our law and legislation.

We didn't start from the point in the bureaucracy. We started from the point in the community, the family, the citizens, and the children. Basically what we've done is that the five parts focus on the family, clan, community, and family council, and are based on responses of the children in need. We did a fairly significant review of those who had been adopted out and those who were in care. We started looking at how we could best address their needs. The first five parts enabled CTFN to deal with cases without Yukon territorial government cooperation. For example, if CTFN members voluntarily submit to the family council jurisdiction, this could be done today. We have the legislation in place—not that it's binding, because Canada has not yet agreed to it. It's on a voluntary basis, and we can use our family council and begin to implement the framework of it.

The holdup we're experiencing is under part 6, which is protective intervention provisions. These provisions are reliant upon the court and were not drafted until recently, because in the new Yukon territorial government act we expected the mandatory intervention provisions to be significantly changed and made fluently appropriate to the first nation cultures and traditions. We looked at them adopting some of those cultural values within their act. Unfortunately, they did not, so we had to work to redraft our act, our law, on mandatory provisions in ways that would not contravene the principles and values of the Carcross/Tagish First Nation law so that it could stand alone without the Yukon territorial government coordination of services and would not create confusion for social workers, judges, justices of the peace, and families through the development of two very different legal regimes.

● (0855)

So our intent was to develop law that would work with both Canada's and the Yukon's existing legislation.

Again, to reiterate, when the Yukon Territory recently amended their act, we expected they would work with our treaties and with our law-making capabilities. Unfortunately, they did not. I just want to point out that we did submit quite a lengthy submission to the Yukon government when they were reviewing it to look at how to incorporate traditional values and the fundamentals of our act. Unfortunately, the legislation did not reflect that. Currently—and I'll get into it a little bit later—we find ourselves in the position of maybe going to court on this.

We finished the final part of our act for consideration by the executive council, which is our first nation council, and for the approval of the final act that we took to the community. In accordance with the general council motion of August 28, 2008, the delegates passed it, and the executive council now is in the process of raising it to law. Unfortunately, right now we don't have the agreements with Canada and the Yukon to bring it into effect.

The creation of legislation takes time, as you recognize. We've been at this for 10 years, and very actively for eight years. We spent significant amounts of money to develop this law to work with the other ones. As the Law Commission of Canada pointed out, this is groundbreaking legislation. It was what the treaties were intended to do when we negotiated them for over 30 years. Our final self-government agreements were intended to provide law-making abilities to the first nations so that the laws would reflect the cultural values and extend them.

I'll give you a bit of a timeline. We started in 1997 with the state of the nation, and one of the first things our community said is that family is important. In 2001, we implemented a clan governance system. This was before our effective date. In 2002, we began to work more efficiently, drafting and bringing the stories into effect. In 2003, we finalized those stories. In April 2005, we had the first review by our community of our act, our legislation. In January of 2006, after we reviewed it, our general council approved it. In October of 2007, we made some amendments to try to fit in with the existing legislation of the Yukon government. In early spring of 2008, the Yukon government informed us there would be no cooperative approach to child welfare, and we were very disappointed with that. In April 2008, the consultation with the

Yukon territorial government was suspended. In April we again revised our family act to represent some of the changes we had to make to accommodate the Yukon legislation. Again, in August of 2008, the general council passed the amendments we needed to make so that it would reflect and work with the existing legislation. In July of 2009, we completed the government intervention—part 6—in the components of our act; that was in terms of our legislation working together. In September of 2008, the Carcross/Tagish First Nation initiated our self-government agreement. Section 17 is on negotiations regarding the assumption of authority for child welfare. In December of 2008, we went to Ottawa to lobby on child welfare with INAC and with various government departments.

● (0900)

The deadline of March 31, 2009, for negotiation with Canada passed, and Canada was unwilling to meaningfully participate in negotiations, which it is bound to do under the treaties.

In April of 2009 the chief again travelled to Ottawa to raise the issue of the stalled negotiations.

In May 2009 the chief again travelled to Ottawa and attended the land claims agreement coalition to look at how other first nations and self-governing first nations around Canada were experiencing similar issues and also to talk about child welfare.

In June 2009 the Yukon chiefs attended the western premiers' conference to again bring forth this issue of child welfare and child protection.

Between December 2009 and May 2010, we consulted on the final draft of the legislation. Canada was invited to participate in the consultation but failed to send a representative. These are modern-day treaties that Canada, Yukon, and the first nations entered.

In March 2010 the general council passed a resolution urging a conclusion to this process and the end of child apprehension on the Carcross/Tagish first nation traditional territory.

In November 2010 the Yukon government and the Carcross/Tagish first nation agreed to send a joint letter urging Canada to return to the PSTA table—the programs and services transfer agreement table—to meaningfully discuss child welfare and the Carcross/Tagish first nation family law. We had started the programs and services transfer agreement, which had to do with the funds required. Both Yukon and the Carcross/Tagish first nation identified what it would cost the Carcross/Tagish first nation.

That's the background history.

I have one other point. About a week and a half ago we went to court. The children of one of our citizens had been apprehended. The judges are currently trying to figure out what to do. The grandmother who started their healing process about three years ago when the case started has gone through a healing process and is now ready to take the child, but Yukon law doesn't allow the grandmother to take responsibility for the child. Now the judges have to start figuring out how this works between our law and the Yukon law.

**The Chair:** *Kha Shade Héni*, in the interest of time, we're going to go to questions from members at this point.

Members, we're going to keep this to five minutes, and that will allow us to get through one round. Then we'll see where we are at that point and then maybe move into the specific-claims issue, which was somewhat touched on in any case in your opening comments.

Let's begin. This will be a five-minute round.

Mr. Bagnell, go ahead. You have five minutes.

**Hon. Larry Bagnell (Yukon, Lib.):** Hello, Mark. It's great to hear you. I have only five minutes, so I want to get to some important points quickly.

Basically, just to reiterate the fact, you have a land claim and a modern treaty with Canada and the Yukon government that allows you to take down and deliver child and family services.

**Chief Mark Wedge:** That's correct.

**Hon. Larry Bagnell:** So you have the total authority that the federal government has signed off on, and it's your legal right to take down and deliver these programs. Is that correct?

**Chief Mark Wedge:** That is correct.

**Hon. Larry Bagnell:** Quickly, without getting into the technical details, are you seeing roadblocks to the process of being able to take down a service that you're rightfully allowed to do by law?

**Chief Mark Wedge:** Yes. We've negotiated for 30 years. We finally got to final agreements. Our effective date was five years ago. We started working on our law, as I pointed out. We've negotiated and done all the things we needed to do under the final and the self-government agreements, and what we're finding is an unwillingness on the part of Canada to negotiate on the programs and services transfer agreement, which is the funding required to take down the law, and also to participate in making sure that our law conforms and works with their law.

• (0905)

**Hon. Larry Bagnell:** Is the Yukon government being cooperative regarding the costs they would have to provide for as well?

**Chief Mark Wedge:** Yes, the Yukon government has been cooperative in the programs and services transfer agreements, but when we actually requested them to make sure that our law and their law would work together, there was an unwillingness to look at amendments to their law to incorporate traditional values and cultures, which, as the Auditor General pointed out, is the spirit and intent of the agreements.

**Hon. Larry Bagnell:** We do reports with recommendations. What would you like to see as a recommendation from this committee that would help you advance child and family services in your first nation?

**Chief Mark Wedge:** I think one of the things that has to occur is that the Department of Finance needs to take a much more important role and come to the table for the programs and services transfer agreements. The other thing we need to do is make sure that the laws work together. It's really about putting adequate resources towards the implementation of these modern-day treaties. We see that there's not enough commitment by Canada to look at the implementation of these treaties.

**Hon. Larry Bagnell:** You could do some of this stuff voluntarily, but if you were to go ahead and do that and serve your constituents well, you'd actually be using your own money, which is supposed to be used for other things, because Canada and the Yukon have not contributed money yet to enable you to deliver that service.

**Chief Mark Wedge:** That's correct. We had requested that Canada and the Yukon work through section 18 of the self-government agreement. We find ourselves in a catch-22. Canada says they provide the money to the Yukon government; the Yukon government, under section 18, says that there should be no net loss to the government, so we're stuck in this area. Canada believes it's already paying for these services, yet we can't get the funds that are routed through the Yukon government, so it's very difficult for us.

**Hon. Larry Bagnell:** That's a major issue. It involves not just this aspect, but the entire land claim.

This is my last point, because we only have a minute left. Could you briefly describe how your new laws and visions are different generally from family acts in the provincial and territorial governments across Canada? I know you have some very innovative things that are culturally sensitive. If you could outline a couple of points for the committee in the last minute of my time slot, that would be great.

**Chief Mark Wedge:** One of the key points is that our intervention models kick in with the community. The first thing we try to do is reconnect the parents with the children. If that's not always available, we look at the extended family—aunts, uncles, grandparents—to look at intervention. If that's not possible, we go to the clan. As a last resort, our government will intervene. We tried to set up those processes so that the intervention would work with existing legislation. The intervention processes are very important.

The other thing we've done relates to a cultural context. Oftentimes grandparents hold as much weight and authority as parents, but current legislation under the western model focuses very much directly on parents. We know that a lot of times the parents are under stress, but usually as they grow older, they sort themselves out; then a reunification with the family occurs, but it is not in the timelines that the existing laws provide.

**The Chair:** Thank you, *Kha Shade Héni*.

[*Translation*]

I will now give the floor to the member for Manicouagan, Mr. Asselin.

**Mr. Gérard Asselin (Manicouagan, BQ):** Thank you, Mr. Chair.

You mentioned a child who wanted to live with his grandmother. You said there was a problem because the judge did not understand the law. I would like to have more details about this. That will get me to my next question.

[*English*]

**Chief Mark Wedge:** Thank you.

It's not that the judge doesn't understand the law. He understands the law very well, but the law is designed in such a way that it does not permit the grandparents to take the child. Under our traditional culture, the grandparents have a lot of weight in the raising of children, but the current Yukon law says that the child can only be returned to the parents. Unfortunately, the parents are not yet healthy; the grandmother wants to intervene and wants to take the child, but the current law does not provide for that. Under our law, Carcross/Tagish First Nation law, it provides for the grandparents—and aunts and uncles—to take the child.

We have a fundamental conflict in the approaches, so the judge is going to have to rule. He understands the law; it's just that the law doesn't provide for the cultural context that's required.

• (0910)

[*Translation*]

**Mr. Gérard Asselin:** On page 5 of her report, the Auditor General says that First Nations children are overrepresented in youth protection institutions. According to the report:

At the end of March 2007, about 8,300 First Nations children ordinarily resident on reserves were in care. This represents a little over 5 percent of all children residing on reserves (almost eight times the proportion of children residing off reserves).

In your experience, what are the factors that contribute to the high number of First Nations children in care?

[*English*]

**Chief Mark Wedge:** One of the very fundamental things is that with the whole residential school process that we're going through—and it's intergenerational—there was a lot of dysfunction in our communities. What happened early on was that a lot of the children were taken to residential school and separated from the families. In 1962, when the residential school process began to wind down, you'll remember that Canada began a child sweep—it's referred to as a “child sweep”—whereby they began to adopt out a lot of the aboriginal children, because the perception was that the parents couldn't take care of them. There was a large child sweep in which Canada adopted out children: our citizens went overseas. They're in Switzerland. They're in the United States and various parts of Canada, as with all first nations. That's a fundamental component.

The next thing is that how we approach our cultural values. We're starting our healing process. That's why we negotiated self-government in our agreements: to say that we believe there needs to be a different approach to the well-being of children and to the reunification of the families. That's why our family law is based on rebuilding the strength of the family.

A lot of this is the residential school process, which caused a large dysfunction. The next thing is the child sweep in the early 1960s. There's been a huge impact on our families, and a huge crisis.

[*Translation*]

**The Chair:** Thank you, Mr. Asselin.

We will now go to Ms. Crowder.

You have five minutes.

[*English*]

**Ms. Jean Crowder (Nanaimo—Cowichan, NDP):** Thank you, Mr. Chair.

Thank you as well, Chief Wedge, for joining us. I know this is sometimes an awkward forum in which to carry on what is a very important conversation.

I appreciated your outlining the timeline, because I think it's important for people to understand that this is a long-standing negotiation and to be reminded that the Auditor General and others have talked about the necessity for the crown to honour not only the spirit but the intent of the treaties. What I'm hearing in your case is that it seems that the crown is honouring neither the spirit nor the intent. I know it's very difficult to speak on behalf of others, but do you have any sense of why the crown is not coming to the table in good faith to implement that treaty that it signed, I presume in good faith?

**Chief Mark Wedge:** We've struggled with it. Obviously I can't speak for the crown, but some of our perceptions are that the current policy—and it's policy, not negotiations—is to look at delegated models as opposed to legislated models. What that means is that I think the current government in Canada wants to see the first nations fall under provincial and territorial legislation rather than develop and integrate self-government legislation.

It's not a slight against Canada or Yukon, but because of cultural values and because of all this background, we come from the point that the fundamental approach from the western law model is what's causing a lot of this dysfunction and this intervention in the child's needs.

When the Law Commission of Canada came up and looked at our family law, they saw it as an innovative approach. We've always maintained that we want our legislation to dance together with Canada's and Yukon's legislation. That's the work that needs to be done, but what I see is a fear or an unwillingness. What I think the deputy minister told us when we were looking at our PSTA is that Canada doesn't want 600 different models of family law.

We developed our law so that it would provide a framework or model that other first nations that are ready to take on legislative authority could adopt and adjust for their community. We've got that in the background. We've tried to work with Canada to make sure it wouldn't make it very complex for Canada. We believe that we have a framework of a model, which is again part of the intent of the modern-day treaties, to begin to look at how our traditional laws work with contemporary laws. It is a model other than a provincial-federal or territorial model that could be looked at.

We believe it will save Canada a lot of money by taking children out of care.

• (0915)

**Ms. Jean Crowder:** Mr. Wedge, that's a fairly fundamental starting place: if there is such a difference in approach—delegated versus legislated—it's very difficult to see how common ground would be reached. It sounds to me as though people need to get back to basics.

My time is probably very close to being up, but I was interested in a comment you made about comparable services. Did I understand you to say that Yukon and your government have agreed on what comparable services would look like?

**Chief Mark Wedge:** Yes. Under the programs and services transfer agreements, which are the agreements that would transfer the resources that would be required to bring our law to life and to implement our law, we've looked at all of our Carcross/Tagish First Nation children in care with the Yukon government. We've looked at the services they're providing. The agreement says that Canada would provide a programs and services transfer agreement with comparable services. That means the same services and the same resources they're providing to the Yukon government would be provided to Carcross/Tagish First Nation.

We have worked with the Yukon government. The Yukon government and Carcross/Tagish First Nation have said what the comparable services are. We've sent that to Canada. Unfortunately, the Minister of Finance wrote back saying that it's not the approach they want to take at this point in time.

**The Chair:** Okay. Thank you, Ms. Crowder, and thank you, Chief.

We're going to move on to the final question for this round.

I will remind members that if they want to address Chief Wedge, it's a bit of a different orientation, but we can address him directly through the camera at the back of the room.

Let's go to Mr. Rickford for five minutes.

**Mr. Greg Rickford (Kenora, CPC):** Thank you, Mr. Chair, and thank you, Chief Wedge. I understand it's quite early in the morning for you, and you would have had to travel to be where you are, so thank you for being there today.

I can appreciate and understand some of the frustrations of the nation with respect to some difficult jurisdictional issues. I'm not going to attempt to be an expositor for those things today. What I would rather do is gather a bit of information because, unfortunately, I don't know that we got a chance to look at the statutes of your government. We have a copy here, but I didn't get a chance to appreciate it in a manner that I might have liked in order to talk to you.

I'm going to ask some informational questions. To be clear, who provides the child and family services in your community?

• (0920)

**Chief Mark Wedge:** Currently our first nation is involved with it, but we have no legislative authority. The legislative authority really falls under the laws of general application to the Yukon government, so any of the judicial and legal work is really through the Yukon

government. They have the legal grounds for intervention, so they would override any of the work we do in our community.

**Mr. Greg Rickford:** When you say “involved”, to what extent do you have an impact on any intervention or prevention, which is a model that obviously the federal government's looking at more aggressively with off-reserve and on-reserve models? What's your assessment of how you can or do impact that?

**Chief Mark Wedge:** Let me start with two examples.

One example occurred when a nurse was attending a family with a newborn. The father was very tired, and the nurse and the father didn't get along too well, so the nurse reported the father to child services. The child services of the Yukon government went to the hospital and began to inquire in terms of looking at the care of the child.

Our staff became very concerned. I was informed that child services was considering taking the child from the hospital, so we began to intervene. We had to go to a political area, because the law said if that child's family worker wanted to take the child, it would have occurred. That just recently occurred with Kwanlin Dün.

In a second instance—

**Mr. Greg Rickford:** Excuse me for a second, Chief; I've only got five minutes and I have a couple more questions I want to get to. I may not need the other example to get at the answer here.

Do you currently have some sort of handbook or manual, if you will, that's been developed by the nation for sensitivity purposes that the agency has to be aware of or sensitive to or respect in any interventions that occur?

**Chief Mark Wedge:** That's correct. It's part of our law. We've begun to use some policies and procedures and we try to follow a lot of them to make sure they fit with the Yukon government. There's a coordination there. We do have those policies.

However, one of the things we look at—

**Mr. Greg Rickford:** So the workers themselves use it.

I've appreciated today that you've talked a lot about the constitutions and law. I'm a lawyer, but I'm not always sure that translates into effective intervention. I'm just wondering whether some of the things in your statutes, the ones I read very briefly, are not so much about law but about the quality of your community's traditions to be involved in any given situation.

**Chief Mark Wedge:** In section 6, which we referred to, is where it gets into the procedures. Within the procedures we have a family council that acts as the judiciary, if you wish. It reviews the situation with the family so that those processes take place. The families are drawn into it through our family council, which is really the adjudication process.

We start with the soft and then lead toward the harder adjudication, working with the existing law. That's how we move from traditional governance in those policies and practices to contemporary legislation.

The policies are there. The family council gives direction—

**Mr. Greg Rickford:** How many kids are we talking about in care in your communities?

**Chief Mark Wedge:** How many are in care? Right now, when you say “in care”, some of them are in the welfare system. That means they have foster parents. We have about two or three in foster situations. We have another two or three for whom the Yukon government is looking for permanent custody in adopting out. Those are the kinds of numbers we're beginning to look at. It might sound small, but it's big for us.

**Mr. Greg Rickford:** Yes. Okay.

**The Chair:** Thank you, Mr. Rickford and Chief Wedge.

We have a little over 20 minutes left in this hour to address ourselves to the question of specific claims. Members were circulated a very good brief on this in advance of the meeting.

Chief, if it's okay with you, I would like to start right into questions on this issue. You did touch on some of those issues in your opening comments and if members are in agreement, I think we'll proceed in that fashion. That will give each member at least five minutes to get a question in on the specific claims issue. We note that the Carcross/Tagish First Nation has three in that process at the moment.

If that's okay, I think we'll proceed.

We'll lead off with Mr. Bagnell for five minutes.

Thank you, Chief.

• (0925)

**Hon. Larry Bagnell:** Thank you, Mark.

Now we're studying specific claims, particularly claims that are over \$150 million.

As you know, there are two processes. The claims that are under that number now go to the new tribunal, while the ones that are over don't. Without getting into the details of your specific claim, can you tell us the experience you've had with specific claims, and, once more, if you have any recommendations?

By the way, you said you were putting in a submission on family and child services. When you put that in to us, could you make sure you put in the recommendations that you would like this committee to make related to the federal government?

Now, could you tell us about any problems or good aspects related to the specific claims process, especially for claims over \$150 million, and give us recommendations on how we could improve that specific claims process?

**Chief Mark Wedge:** As you know, we don't have a specific claim over \$150 million. Our three specific claims are under \$150 million.

It's been a very slow process. We appreciate that Canada is going through and looking at a more appropriate or more efficient way to deal with the claims; however, they have been outstanding since our effective date, and we started this prior to that. Our effective date is now five years.

Just recently we did get some responses in relation to looking at whether it qualifies or not. Oftentimes we don't feel there's

interaction. Different agencies begin to start looking at whether it qualifies or not, and this leaves us in a dark area. I don't know if that answer addresses some of that.

One of our concerns is that I don't feel we're well enough informed as to what's happening with it and what the thinking is around it. Oftentimes in a court process you begin to have the pros and cons and you have dialogue, and it goes to court. On the specific claims so far, we've had very little dialogue and very little input in terms of what's happening. As I say, I appreciate that it's a process Canada has been implementing; however, it's been long and it's been slow.

**Hon. Larry Bagnell:** Before the new process came into effect, I assume it was long and slow and wasn't very effective, which is one of the reasons the new process is in effect. Now this independent tribunal is available to you. What you're saying is that the department is slow in making the decisions as to whether or not they're going to negotiate, meaning whether or not you can then go to the tribunal. They have to make that decision first—within three years—but then you could go directly to the tribunal.

Do you at least think the objective tribunal would offer you some more hope than the process that hasn't been working?

**Chief Mark Wedge:** We recently got our effective date, but I know a number of the other first nations have outstanding claims, and it's been very long now. I understand that the court process was also very long because of the number of them. I think we've held out a lot of hope that the new tribunal would act quicker and more efficiently. Unfortunately, “quicker and more efficiently” doesn't mean not hearing them. If the response back is that they're not sure of where the specific claim falls or how it falls, that's where that dialogue becomes important in terms of where they're at.

I apologize for not answering your question more clearly.

**Hon. Larry Bagnell:** Perhaps one of your recommendations is that the specific claims process should have more resources, more officials, and more people, so that they can work with these claims and work faster with you and other people, as well as explain where they're at in order to expedite the process.

**Chief Mark Wedge:** That's correct. That's the intent of it, but the difficulty is that the expediting is to say, “No, we don't want to take this into account, or these claims. We'll drop them off the table without giving them due process”. That's not quicker and more efficient for us.

**Hon. Larry Bagnell:** Maybe the criteria for going to the specific claims tribunal are too narrow.

• (0930)

**Chief Mark Wedge:** I believe so, yes.

[Translation]

**The Chair:** Mr. Asselin, any questions or comments?

**Mr. Gérard Asselin:** I have to say that I was late because of transportation problems. As I do not normally work on this file, I am not very familiar with the subject. Unfortunately, Mr. Lévesque who normally sits on the committee was not able to attend. I will therefore let my colleagues use my time since they have a better knowledge of these issues and regularly work on this committee.



Thank you, Mr. Chair.

[English]

**The Chair:** Go ahead, Madam Crowder. *Vous disposez de cinq minutes.*

**Ms. Jean Crowder:** Thank you again, Chief Wedge.

If I'm understanding the briefing notes that were provided for us, two of your claims have actually been rejected from negotiation. If I'm understanding this, it says that the Choutla I.R. #9 claim was deemed to have been filed with the minister on October 16, 2008; a legal opinion was signed by the Department of Justice on September 16, 2010, and the claim was rejected for negotiation on December 24, 2010.

The Surrender of I.R. #4 Land claim is the same thing. The claim was rejected for negotiation on December 21, 2009.

Were you given any reasons for the rejection of the negotiations?

**Chief Mark Wedge:** Well, this is where I say that if the efficiency is to drop these options or reject them, it's not more efficient for us. I'd rather have more time than just drop them off.

I don't believe that we had enough grounds. There was other information; oftentimes the court process would be more thorough in that, and we would have that opportunity in a court. I do not believe that there was enough dialogue and consultation on it. Coming down, it was reviewed, and I know our legal counsel had put information in. They had requested for some, but really, the dialogue....

It comes down and says they're rejected, so where does that leave us? We believed that there was a foundation, and when we were negotiating, we believed that there was one. You know, the negotiators for Canada and the Yukon agreed that there was a basis for a claim that would go forward, some sort of a basis. It's this different perception, right?

**Ms. Jean Crowder:** I was part of this committee when the specific claims legislation was being studied. My understanding of the process was that as of the coming into effect of the legislation, claims that were in the lineup would be reviewed, and there were going to be some funds to allow you to submit additional information on that date.

Did you have any opportunity to submit new information or to review your claim back in 2007, or whatever it was?

**Chief Mark Wedge:** We did do on one of them. I think there was more information that we had looked at. We had requested some funding and we got some research, because some of this research is obviously in Ottawa and some in the areas.

I believe that for one of them we did. For the other one, I don't recall our having that further input. That just came down recently, I believe.

**Ms. Jean Crowder:** These claims were accepted, and then two of them were rejected. In that interim period from the time that they were accepted in 2008 to the time they were rejected in 2009 and 2010, there was no negotiation or involvement.

**Chief Mark Wedge:** No.

**Ms. Jean Crowder:** You basically got a letter saying it's rejected.

**Chief Mark Wedge:** That's correct.

**Ms. Jean Crowder:** Have you now had any information about taking those rejected claims to the tribunal?

**Chief Mark Wedge:** Not yet, no.

I will follow up. We've been focusing on some other areas, but I know we'll follow up with their legal counsel, because obviously these are important areas to us. Unfortunately, there are a whole bunch of things that we have to address as a first nation.

**Ms. Jean Crowder:** That's part of the challenge. This is just one more thing on your plate, and then you have to try to find both the time and the money to take on these other important issues.

If one of these claims was rejected in 2009, I'm surprised that you've had no information about the tribunal process. There should be a responsibility, as well, on the government's part to provide you with information—

**Chief Mark Wedge:** Yes.

**Ms. Jean Crowder:** —and that hasn't happened.

•(0935)

**Chief Mark Wedge:** I haven't been made aware of it, so as far as I know, it hasn't.

**Ms. Jean Crowder:** I know Larry suggested that when you were sending in additional information, you could make some clear recommendations—do I have any time left, Mr. Chair?

**The Chair:** You have about 20 seconds.

**Ms. Jean Crowder:** Okay, I don't have time to get recommendations from you, but if you've got specific recommendations about the specific claims process and the tribunal, it would be very helpful for us. When we end up doing the final report for the specific claims process, we can look at the recommendations that you made.

Once again, thank you for your time today.

**Chief Mark Wedge:** Thank you.

**The Chair:** Thank you, Ms. Crowder.

We'll go to the member for Desnethé—Mississippi—Churchill River. Mr. Clarke, you have five minutes.

**Mr. Rob Clarke (Desnethé—Mississippi—Churchill River, CPC):** Thank you very much, Mr. Chair. I'd like to thank the witness for coming in this morning, especially at this hour. Hopefully, he's had enough coffee for the morning.

Chief, I know we've got to be cautious about what is being discussed here today because you are in negotiations. I'll try not to interfere or make any inappropriate or misleading comments or try to guide you down the garden path.

I have a couple of questions.

In regard to negotiations, I'm wondering if a federal negotiator has been appointed to do the negotiations for you, with you and the first nations, in the land claim.

**Chief Mark Wedge:** Do you mean on the specific claims? Is that correct? Are you referring to a negotiator for the specific claims? That's a specific claim process.

Sorry, I didn't hear your comment.

**The Chair:** I think the response was yes, referring to the specific claims.

**Chief Mark Wedge:** No, one wasn't appointed, because it's been a tribunal. We have some legal counsel monitoring it, but there is no negotiation on it. It's a specific claim. That's a dialogue we need, right?

We're not quite sure of what's happening or some of the reasons it's been rejected and whatnot.

**Mr. Rob Clarke:** One claim is still going forward, correct?

**Chief Mark Wedge:** We've not heard back on it, so I'm hoping it's going forward.

**Mr. Rob Clarke:** Does the Carcross/Tagish First Nation specific claim have a value of over \$150 million?

**Chief Mark Wedge:** No, it doesn't. None of our claims has a value of over \$150 million. They're all under \$150 million. In terms of the specific claims process, under \$150 million is what we're discussing.

**Mr. Rob Clarke:** What would you achieve by appearing before this committee today to discuss claims under \$150 million?

**Chief Mark Wedge:** Sorry, I didn't catch all of your question.

**Mr. Rob Clarke:** What would you like to achieve or bring forward here in regard to your testimony in regard to your claims under \$150 million?

**Chief Mark Wedge:** As has been pointed out, two of them have been rejected. If the specific claims process has been set up to make things more efficient, and if the efficiency is to reject the claims, it's not efficient for us. We need to have more dialogue and more input as to why they've been rejected. We believe there's foundation for these claims.

When we were in our negotiating process for the final and the self-government agreements, Canada, Yukon and the first nation agreed that there was a basis to move these claims forward. I find it quite disconcerting that two of them have been rejected when initially we looked at it and said that there was foundation for it. That's why we put them into the treaty.

The problem is that we're getting boxed in. Once we agree to the treaty, we can't take Canada to court for other things, other than those three specific ones.

**Mr. Rob Clarke:** I have no further questions.

**The Chair:** Are there any other remaining questions on this subject?

Go ahead, Mr. Bagnell, briefly.

• (0940)

**Hon. Larry Bagnell:** Briefly, Mark, as Jean said, perhaps you could give us some specific recommendations in writing when you write to the committee.

I just want to be clear: your first two were rejected by Canada, by the Department of Justice, and therefore you have the right to go to the tribunal. It's not the tribunal that has rejected them. Is that correct?

**Chief Mark Wedge:** I presume so. I will have to follow up. As I said, this is not one of the things currently on my file.

**Hon. Larry Bagnell:** The information we have is that the minister has rejected them. That, therefore, gives you the right to go to the claims tribunal.

On the third claim, a legal opinion was signed by the Department of Justice on September 21. I'm not sure what that legal opinion was, but once again, if it was a rejection, you would have the ability to go to the claims tribunal. In theory, there's still good hope for you. In my understanding, you should proceed that way.

Once you research it and put in your submission to the clerk of the committee, it would be very helpful to have your specific recommendations on information and communications and all the things related to specific claims.

Thank you.

**The Chair:** Thank you, Mr. Bagnell.

*Kha Shade Héni*, it's been great to have you join us this morning. We want to wish you well for the remainder of your day, which it appears is going to be a long one.

Is there anything you would like to say to finish? Do you have any final comment for our members this morning?

**Chief Mark Wedge:** Yes, there are some final comments.

When we started this process, Prime Minister Harper came to the Yukon very soon after he was elected, and he said to the Yukon and to these areas that these modern-day treaties were an opportunity for Canada and for the first nations to really advance relationships and creativity. Unfortunately, that's not how it's playing out.

I believe he was sincere when he said that things like our Family Act could be creative and were different ways to look at more efficiency between our governments. Unfortunately, that's not being accomplished.

**The Chair:** Thank you again. As I say, we wish you well for the rest of your day.

Members, we're going to suspend our meeting momentarily, and then we're going to continue with the Nutrition North report—oh, pardon me; go ahead, Mr. Russell.

**Mr. Todd Russell (Labrador, Lib.):** Thank you, Chair.

I have just a very quick point. With regard to the specific claims study or the large claim study, could I ask our analysts to do a little rundown on the process? If a claim goes in, what happens if it's rejected, and so on? They could list a few scenarios so we could understand more clearly what the legislation allows for in terms of the process. I think that would be helpful.

**The Chair:** Okay, I understand. You're requesting a backgrounder on that.

**Mr. Todd Russell:** Yes. It would be like a flow chart.

**The Chair:** This study is generally on those that are over the threshold, but I think you're correct: we should have at least a grounding in the understanding of the specific claims policy as it pertains to all claims, even though those we're focused on are in the higher category.

Members, we'll suspend momentarily. We'll be going in camera, and I would urge you to be cooperative with my colleague, Mr. Russell, who is the vice-chair. I won't be able to join you for this next

hour. I wish you well in your deliberations on the Nutrition North report. Take care.

The meeting is suspended.

*[Proceedings continue in camera]*

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