

**WORKERS' COMPENSATION ACT REVIEW
Stakeholder Advisory Group/Public Consultation**

**Willow Room, Yukon Inn, Whitehorse, Yukon
April 21, 2006**

Appeals Process, Legal and Policy Issues

PANEL:	Patrick Rouble	Chair
	Ivan Dechkoff	Member
	Michael Travill	Member
PRESENT:	Douglas Rody	Yukon Federation of Labour
	Deborah McNevin	Public Service Commission
	Derek Holmes	Public Service Commission
	Kurt Dieckmann	YWCHSB
	Laurie Butterworth	Yukon Employees' Union
	Rick Karp	Whitehorse Chamber of Commerce
	Sandy Babcock	Yukon Chamber of Commerce & Yukon Tourism Association
	Robbie King	Injured Workers' Alliance
	Don Buyck	Na Cho Nyak Dun

(The meeting was called to order at 1:10 p.m.)

Mr. Rouble: Welcome once again to another *Workers' Compensation Act* Review. Today, we are looking at the issues regarding "Appeals Process, Legal and Policy Issues", Issues 25 through 48. As this is our fourth meeting, I think everyone is familiar with who we are, and who everyone else around the table is.

Before I begin, I should note that, at the last meeting, it was requested that there be an extension of the deadline; unfortunately, we can't accommodate the extension of the deadline. So we are going to ask you to try to stay within the timeframe. June 15th is still quite a ways away. We trust that the collaborative exercise that's been going on, so far, can continue, and we urge you to get your comments in to us by the 15th. Unfortunately, in order to meet the timeframe that we have imposed upon us, we aren't able to accommodate the request.

I should add, we have Kurt Dieckmann with us today; Kurt is with the Yukon Worker's Compensation Health and Safety Board.

Once again, we are transcribing the meeting, so, when you make comments, please make them loud enough so they can be heard and recorded. Once the transcript is ready, it is posted on the website. The website currently contains transcripts of all of the meetings to date, except for the one last night.

So, without further ado, shall we start with Issue #25, "Roles and use of indexing of benefits". Are there any comments on this issue?

Mr. Rody: In discussions we've had with the Board and the Chamber, we're leaning to the CPI, but we want to hold off on this, because we want to have some more discussions about it. So we will, later in our written submission, address that, after we've talked more with the Board about some of the issues.

Mr. Rouble: Do others wish to make a comment?

Mr. Karp: Just one, Mr. Chair. In response to Rob's question this morning, about the CPI over the last several years, stats are available, outlining the CPI. From 1992, which is the new base, the current CPI in Yukon, based on 100% in 1992, is \$123.80; and, in the national average, it's \$127.30. We've been running a little lower on the CPI indexing for the last six or seven years.

Also, we base it, right now, on average weekly wage rates. And the wage rate, right now, is \$855.87; in 1992, the average wage rate, on a weekly basis, was \$717.16.

So, if we were using this formula, the employees would have gone up 19.34%; whereas, if we use CPI indexing, we would have gone up 23.8%. So it would have been to the benefit of workers injured to stay on the CPI.

Mr. Rody: Anyway, we'll have more on that later on.

Mr. Rouble: Does anyone else wish to make a comment on Issue #25? Hearing none, we'll move on to Issue #26, "Adequacy of the system for spouses".

Mr. Rody: We're suggesting a change along the lines of option 3, but it would be basically an enabling clause that would allow the Board to provide training to a spouse, where the Board considers it advisable to be able to provide counseling and placement services. Again, this would be at the discretion of the Board, so it's not a mandatory. We're not suggesting a mandatory clause, but an enabling clause.

Ms Babcock: Yukon Chamber supports that, so wording such as "may" provide, as opposed to "shall".

Mr. Karp: And the Whitehorse Chamber agrees with that.

Mr. Dieckmann: The Board agrees with that as well.

Mr. Rouble: Are there any other comments?
Hearing none, we'll move on to Issue #27, "Limitation of legal rights as they relate to vehicles"; and Issue #28, "Definition of a vehicle".

Mr. Rody: For the first one, "Limitation of legal rights...", we'd like to see a change, to state that the workers will receive 100% of the subrogated balance after the administration and claims costs have been recovered, if there's a legal action.

Ms Babcock: Yukon Chamber supports that.

Mr. Karp: As do we.

Mr. Dieckmann: So does the Board.

Mr. Rouble: And on the definition of "vehicle"....

Mr. Rody: We would not like to see the legislation changed. I know we're maybe not in step with other jurisdictions, but our legislation actually gives the Board more options, i.e., any vehicle that is covered by liability insurance, if it's involved in a workplace accident, it gives the Board more discretion to file suit to recover costs, and that, in the long run, we believe is to the benefit of the worker and the system. So we're saying no change.

Ms Babcock: Yukon Chamber supports that.

Mr. Karp: As do we. Anything that can recover costs, and give it back to the system, is a good thing.

Mr. Dieckmann: The Board supports that as well.

Mr. Rouble: Mr. King.

Mr. King: With regards to section (3) of 56.1, "Money recovered in an action or settlement of an action pursuant to this section shall be paid to the board...", I believe I read a court decision which allowed a worker to pursue an action against a person who he or she was involved with in a motor vehicle accident. And the court said that this person was in his rights to pursue legal action. So I just want to mention that to the Panel, that that was brought up and ruled, I believe, in favour of the worker.

I'm sorry I didn't prepare for this section very well, this Issue #27/28, but, as we talked more, I'm sure I read that. I'm quite positive I read that.

Mr. Rouble: We certainly appreciate that these discussions twig more opinions, and more people do more research... I just remind folks that June 15th is the deadline for written submissions and, in those submissions, if there are past court cases, or other jurisdictions who do things differently, please, by all means, include those notations in your submissions, they will really help the Panel out a lot.

Any other comments on these issues? Hearing none... Issue #29, "Division/control of subrogated claims".

Mr. Rody: This is directly related to 27, and our comments would be the same; that we clarify the legislation to state that workers receive 100% of the subrogated balance, after administration and claims costs have been taken care of or deducted.

Ms Babcock: Yukon Chamber supports that.

Mr. Karp: As do we.

Mr. Dieckmann: The Board does as well.

Mr. Dechkoff: Could I just get a clarification, Doug? When you're talking about that, are you talking 100% of the balance... after what costs?

Mr. Rody: The cost of pursuing the issue; the claims costs and the legal costs.

Mr. Dechkoff: So claims costs would include the rehab costs and everything else?

Mr. Rody: Yes. And that the worker then gets – like, right now, as I read it, it's a proportion. And we're saying that the worker should get 100% of the balance.

Mr. Dechkoff: Yes, I just wanted to make sure that it was clear as to whether it was including all the costs, for the future costs of the worker, are deducted first.

Mr. Rody: Yes.

Mr. Rouble: Any other comments? Moving on, Issue #30, "Compensation Fund within the Yukon Consolidated Revenue Fund"; Issue #31, "Financial Administration Act... and independence of the Board"; and Issue #32, "Authority over the Fund".

Mr. Rody: We don't see any need to change the legislation at all. I think it's important to recognize that, although the money is in the Consolidated Revenue Fund, we have to remember that the legislation basically says that YTG backstops the whole thing. If the Fund goes broke, YTG picks up the tab.

Mr. Karp: I think what we're trying to say is they should still have control, so we don't want any change to the legislation.

Mr. Rody: In terms of the Financial Administration Act, and authority over the Fund, and their investment policy, lately, the Board has been working fairly closely with YTG to resolve any differences. The Financial Administration Act may be a problem, and that's something for the Board and YTG to sort out, I think.

Ms Babcock: Yukon Chamber supports no change.

Mr. Dieckmann: The Board supports no change.

Mr. Rouble: Any other comments? Hearing none, we'll move on to Issue #33, "Access to employer's safety and claims cost information".

Ms Babcock: Yukon Chamber supports no change. WBC currently has a privacy policy that mirrors ATIPP with YTG, and we're comfortable with that.

Mr. Karp: We agree with that... the Whitehorse Chamber of Commerce.

Mr. Rody: And the Federation of Labour agrees with that; no change to the legislation.

Mr. Dieckmann: As does the Board.

Mr. Rouble: Any other comments? Okay, hearing none, we'll move on to Issue #34, "Incentive programs". Oh, I'm sorry –

Mr. King: It's my fault, I'm sorry. I would support option number 2.

Mr. Rouble: Okay.

Mr. Travill: I'm sorry, Robbie, that was on number 33?

Mr. King: Yes.

Mr. Travill: You were supporting option number 2?

Mr. King: Yes.

Mr. Travill: And is that still just the health and safety records, like when we were talking this morning?

Mr. King: The safety records, yes. I think there are workers' rights in the Act, and there's workers' rights... a worker can refuse work, etc. So I think he should have a right to choose or refuse to work for an employer who he feels is unsafe.

Mr. Rouble: Mr. Rody, and then Mr. Karp.

Mr. Rody: On that issue, we recognize that the flip side of that coin is that an employer would then demand to know whether or not a prospective employee has had any claims with the Workers' Compensation System (what's fair for one side is fair for the other), and we don't support that, which is why we don't want to see any change to the legislation.

Mr. Karp: And we agree with that. If, all of a sudden, the employer's history, with problems in the workplace, becomes open to all employees, then, if there is an employee who has had a number of problems in other workplaces, then that information should be made available, too, and we don't agree with that at all.

Ms Babcock: Another part of our rationale is, we do not consider the Workers' Compensation system to be a public body, and we would not want to see it become one, which is also part of option number 2.

Mr. Rouble: Okay, are there any other comments? Hearing none, we'll move on to Issue #34, "Incentive Programs".

Mr. Rody: We want option 5. If I'm not mistaken, these numbers are from the old Act, which I'm pretty sure it's section 71, now, that talks about --

Ms Babcock: Yes, they are the old Act numbers.

Mr. Rody: Yes. So we're suggesting that section 71 be amended to indicate that the Board may, by order, adopt a system of incentives, period.

Ms Babcock: Yukon Chamber supports that 100%.

Mr. Karp: And the Whitehorse Chamber of Commerce supports that.

Mr. Dieckmann: The Board supports that.

Mr. Travill: And did you mean by “order” or by “policy”?

Mr. Dieckmann: It would be by policy, I guess.

Mr. Rody: Well, that would actually be by policy. I guess the simplest thing is that the Board may adopt a system of incentives.

Mr. Dieckmann: We just want an enabling clause in there to allow the Board to determine, one way or another, how they’re going to do it, in consultation with stakeholders.

Mr. Travill: It’s just that there is a difference between an “order” and a “policy”, and the policies are more public, and generated through a more consultative process.

Mr. Rody: As you know, we’re not terribly enthusiastic about merit rebates, but I think there is a lot to be said for incentives. In discussions we’ve had with the Board, there are a lot of things that can be accomplished through incentives.

Mr. Rouble: If I could ask a question of clarification, was there any discussion about phrasing that as the Board “shall”?

Mr. Dieckmann: The Board “may”.

Mr. Rody: We prefer “may”, because, when you’re prescriptive like that, I think it may force the Board to move before they’re ready. I mean, from what I understand of discussions that we’ve had with the Board at the Prevention Committee, they’re very enthusiastic about looking at various incentives. So adding “shall” I don’t think will change anything. The Board will look at, with the stakeholders, policies for various incentives. So I think it should be just the Board “may”.

Mr. Karp: On the other hand, because an incentive is a generalization, it doesn’t really state “merit rate”, or “experience ratings”, we’re not opposed to having something a little stronger, as you’re suggesting.

Mr. Dieckmann: The thing with the word “shall”, that’s no longer an enabling clause. “May” is an enabling clause, “shall” is very prescriptive. And when you get really prescriptive on that, it starts to limit the ability of the Board to make decisions through policy and through consultation.

Mr. Rouble: I just want to point out one comment, that I wasn’t suggesting a course of action there; I was just looking at an alternative one, of wanting to get some debate and feedback. The Panel has not reached any conclusions on these issues, and we’re not trying to put one over another, or promote one. But there was an option here, of “may” and “shall”, and I wanted to hear some feedback on that.

Ms Babcock: For the Yukon Chamber, if it’s stated the Board “shall”, well, then they have to, whether there’s support from their stakeholders or not. So we prefer the wording “may”. It’s a better option. If stakeholders don’t support what options they’re looking at, then they don’t have to do it.

Mr. Dechkoff: However, it’s not stopping the Board from doing it.

Ms Babcock: Exactly. No, it’s not. But “shall” sure is very prescriptive. They have to do something, regardless of whether it’s supported or not.

Mr. Rouble: Any other comments?

Mr. Karp: Yes, just one. 55(1), “Employer’s Experience Accounts”, states: “The Board shall maintain experience accounts for each employer, indicating the assessments levied and the cost of all claims chargeable in respect of the employer.” Is this being done?

Mr. Travill: Yes.

Mr. Karp: So a small business owner could do what; how do they get hold of that information?

Mr. Dieckmann: You’d have to put in a request in order to get the information. It is attainable. With the current system, it’s tough to get out, but they can get it, it is there, yes.

Mr. Karp: Thank you.

Mr. Rouble: Any other comments? Hearing none, move on to Issue #35, “Process for collection of assessment and penalties for late or non-reporting”.

Ms Babcock: Yukon Chamber doesn't want to see any change. We view this as a policy issue.

Mr. Karp: We agree with that... from Whitehorse Chamber.

Mr. Dieckmann: The Board agrees.

Mr. Rody: And we agree with no change to the legislation, because there's already a process.

Mr. Rouble: Any other comments? Hearing none, we'll move on to Issue #36, "Processes for dealing with fraud".

Mr. Rody: We don't see a need for any change to the legislation. Particularly, we would not be enthusiastic about number 2, compelling the Board to investigate "any" allegation of fraud.

Ms Babcock: Yukon Chamber feels the same.

Mr. Karp: As does the Whitehorse Chamber.

Mr. Dieckmann: And the Board supports that.

Mr. Rody: I think it's important to note that there's already a process in there, that the Board has the right to investigate fraud.

Mr. Rouble: Mr. King.

Mr. King: I've got a question with regards to 91(a). It talks about convictions, and the fine. Where does this fine go to? If someone is convicted and they pay a fine of \$5,000, who gets the \$5,000? Where does it go?

Mr. Dechkoff: If it's through the courts, I would expect that the courts receive it and the Board does not.

Mr. Rouble: Any other comments?

Mr. Travill: Well, actually, would the stakeholders like to see the Act be amended, that fines be turned over to the Board?

Mr. Rody: I don't think you can do that.

Ms Babcock: I think it's the court system jurisdiction.

Mr. Dieckmann: There are two ways to do it. There are administrative penalties that can be issued by the Board; they go into the Board's fund. If it's a prosecution through the courts, the courts decide on where it's going. They can assign it. If the court desires, they could assign it, too. But, generally, it goes into the general revenue fund.

Mr. Rouble: Any other discussion? Hearing none, move on to Issue #37, "Access to Information and Privacy Protection".

Mr. Rody: We don't see a need to change the legislation; and in particular, as Sandy said, we are not at all enthusiastic about the Workers' Compensation Board being called a public body. From our perspective, there are two main stakeholders, employers and workers. Not to put too fine a point on it, calling it a public body, from our perspective, is the thin edge of the wedge to get a public interest representative on the Board, which we absolutely do not support.

Ms Babcock: Yukon Chamber supports no change.

Mr. Karp: As does the Whitehorse Chamber of Commerce.

Mr. Dieckmann: The Board concurs.

Mr. Rouble: Any other comments on Issue #37?

Mr. King: I think it should be recognized as a public body, because if a person makes a request for information under GC-13, it's the Board dealing with their own information, and we don't really get a separate individual to make a ruling on the information as to whether it should be allowed. If a person makes a request, it just seems to me like it's the Board making a decision on their own information, what they want to hand out or what they want to disclose. I think there needs to be some room for the Ombudsman to have the ability to look at the information, and for him to be involved in this issue, the Access to Information and Privacy Protection.

Mr. Rouble: Thank you. Any other comments?

Ms Babcock: Yukon Chamber would not support that. Sometimes there is very good reason that the board does not disclose all information, be it an injured worker's or an employer's file, that that should not be available. An outside person may not necessarily know the rationale in withholding some information which the Board has the option to do.

Mr. Rody: I think it's important to note that the Board has a policy that, even though they're not subject to the Act, they carry on as though they will deal with any investigation from the Privacy Commissioner as

though they were subject to the Act, so people can still file complaints through the Ombudsman.

Mr. Rouble: Any other comments? If the record could reflect that Mr. Dechkoff and Mr. Travill have left the room.

Okay, folks, Issue #38, "Employer education and representation". Also involved with this is the Employer's Advocate or Consultant positions. Related to this is Issue #39, "Worker education and representation/Worker's Advocate".

Mr. Rody: We support no change to the legislation on both issues.

Ms Babcock: Yukon Chamber supports no change; however, it should be acknowledged that we do recognize the need for education for employers, and more advocacy work on their behalf. However, at this point in time, we cannot see what that would look like. If this type of position were drafted into legislation, it would become a must do, and we're not prepared to do that.

Mr. Karp: On the other hand, the Whitehorse Chamber of Commerce, in consultation with the large employer group, feels that the position of Employers' Advocate/Consultant should be in the legislation, as it is for the Workers' Advocate. And we feel that this would provide some symmetry, especially for small employers.

There are a number of small employers out there that, now that the rates are climbing, now that WCB are getting into safety and prevention, there are a lot of issues out there that they will need to consult on. So we feel very strongly that there needs to be a position, either reinstated at the WCB offices administration, clearly defined as to the roles, as is the definition of the Workers' Advocate clearly defined, and that it should be put into place to assist these small employers, because they really do need some assistance here.

Mr. Rouble: Any other comments?

Mr. Dieckmann: The Board supports no change to the legislation. The Board feels that the position, as described, can be implemented internally, and we have a position there now, and efforts that have been made with the employer groups to address the needs have been very effective to date, and having it written into the legislation would tie the hands of the Board, going forward.

Mr. Rouble: Any other comments?

Mr. Rody: Just that we recognize the need for employer education. We're very enthusiastic about the work that the Northern

Safety Network Yukon is doing, and that's the sort of thing that, if it required further funding to them, we would probably support that.

Mr. Rouble: Any other comments? Mr. Buyck.

Mr. Buyck: Yes, I'm looking at number 3 on the options. And the reason is that – and I've raised the issue before – it says, on page 143, that second paragraph, where it says “Most workers or dependents will not have the experience or knowledge, on their own...”, and that is true in the case of the First Nations. I indicated that, before I became involved with WCB, that it wasn't until I helped a fellow worker deal with his disability, and I can tell you that – if you go down three paragraphs more, where it says that “If the system is not user friendly and understandable...”, that was the case with myself and the worker.

So I don't see any of this lay services. You know, where it refers to providing lay services. And I really don't see that happening, at least in First Nation governments. And I certainly haven't seen anything coming out of the person that's retained by WCB, that sits on the Board in dealing with employees. I haven't seen anything from that person. So I do think we need to amend that.

It says, on the third paragraph, where, “For example, an employer who fails to meet its occupational health and safety obligations can be subject...” I mean, in our case, it's the federal Occupational Health and Safety, but what about all the other obligations that the employer has, that WCB is responsible for?

The question I have is, how do you determine if that employer is not meeting their obligations?

So, for those reasons, option number 3.

Mr. Rouble: Okay, part of option number 3 reads “Repeal subsection 108(k) to remove the Board's obligation.” Are you in support of that, as well?

Mr. Buyck: No, I'm not. The first part of number 3, “Amend section 13 to include education and training as a role of the workers' advocate...”, I definitely support that, but not the bottom part of it.

Mr. Rouble: Are there other comments? Could someone please ask Mr. Dechkoff and Mr. Travill to come back in?

(Mr. Travill and Mr. Dechkoff return to the meeting)

Mr. Rouble: Okay, folks, if we could then continue with Issue #40, “Limitation periods for appeals to the Appeal Tribunal and to the Board”.

Mr. Rody: I think on an earlier session, it might have been under Issue #4, we had agreed to a 24-month limitation period.

Mr. Karp: And we agree with that, as we did previously.

Ms Babcock: Yukon Chamber agrees.

Mr. Dieckmann: And the Board agrees with that as well.

Mr. Rouble: Mr. King?

Mr. King: I wish to clarify our position in this. There are eight jurisdictions that have time limits, and there are four jurisdictions that don't have time limits. I didn't realize there were so many that didn't have time limits. I think option 1, no change to legislation, is fine.

Mr. Rouble: Are there additional comments? Hearing none, we'll continue on with Issue #41, "Employee's right to sue the Board for damages caused or exacerbated by the Board's actions."

Mr. Rody: As this strikes at the heart of the Meredith Principles, and we raised the issue, we're quite prepared to drop it. We do not believe there should be any change to the legislation.

Ms Babcock: Yukon Chamber would not like to see any change.

Mr. Karp: No change to the legislation... from Whitehorse Chamber of Commerce.

Mr. Dieckmann: And the Board wouldn't like to see a change.

Mr. Rouble: Any other comments? Hearing none, move on to Issue #42, "Administering prior years' legislation, policy or orders".

Mr. Rody: We would suggest no change to the legislation. I think the transitional clause, which was put in last time, addresses the issue.

Ms Babcock: No change from the Yukon Chamber.

Mr. Karp: And no change from the Whitehorse Chamber.

Mr. Dieckmann: And the Board doesn't want to see a change.

Mr. Rouble: Any other comments? Hearing none, we'll move on to Issue #43, "Access to the Board's independent legal opinions".

Mr. Rody: We believe that if a legal opinion is used to make a decision on a worker's claim, that it should be on the file and available to the worker. It is our understanding that the Board does, in fact, if they use a legal opinion to make a decision on the worker's claim, that it goes on the file. So we are okay with no change to the legislation.

Ms Babcock: Yukon Chamber supports no change.

Mr. Karp: As does the Whitehorse Chamber of Commerce.

Mr. Dieckmann: And the Board agrees. In fact, the Board does put the legal opinion on file if it is used in making a decision on a claim.

Mr. Rouble: Any other comments?

Mr. Buyck: More of a question of clarification, before a comment. If the Board has a legal opinion done on a worker, in a worker's case, that worker is entitled to that, right?

Mr. Dieckmann: If it is used in making the decision, it goes on the file and the worker has a right to it. If the Board doesn't use that legal opinion in any way in making a decision, it is not put on the file and it's not available, and we consider that client privilege.

Mr. Rouble: Any other comments? Hearing none, move on to Issue #44, "Definition of disability: including chronic pain and chronic stress". Included in this section is Issue #45, "Disability vs. impairment".

Mr. Rody: We support no change to the legislation.

Ms Babcock: Yukon Chamber supports no change.

Mr. Karp: As does the Whitehorse Chamber.

Mr. Dieckmann: And the Board supports no change.

Mr. Rouble: Any other comments? Hearing none, Issue #46, "Definition of compassion".

Mr. Rody: No change in the legislation.

Ms Babcock: No change.

Mr. Dieckmann: No change.

Mr. Karp: We'll support that.

Mr. Rouble: Any other comments? Hearing none, Issue #47, "Definition of wholistic approach to rehabilitation".

Mr. Rody: We support no change to the legislation.

Ms Babcock: No change.

Mr. Karp: We agree with that.

Mr. Dieckmann: We agree, no change.

Mr. Rouble: Any other comments on Issue #47?

Mr. King: Yes. The Act, as it states now, any alternative treatment has to be okayed by a medical practitioner. Now, we have naturopathic doctors in town who are not medical practitioners, per se, but are recognized as doctors. They've trained for seven years, they're naturopathic doctors. I think that they should be included in this definition of holistic healing. In a roundabout way, they are healing through alternative methods. And that's not necessarily medications, but perhaps natural ingredients.

The difficulty with the present Act is that it has to be okayed by a medical practitioner and, well, holistic healers aren't medical practitioners.

Mr. Travill: Well, actually, it encompasses two things. Section 43, where it outlines the alternative or traditional healing methods, it gives the Board – the Board may permit the use of these. It doesn't direct that the medical practitioners do. The medical practitioner is held in the definitions, where the person has to be a medical practitioner recognized under the Medical Professions Act. But that doesn't impact the Board's ability to authorize the acceptance of an alternative healing.

Mr. King: Fine. But it also allows them to not agree to it. It's the old definition of the word "may", almost; you know, we "may" allow, or we "may" not. So it's a pretty soft definition here.

Mr. Rouble: Any other comments? Issue #48, "Special examinations/reviews".

Ms Babcock: Yukon Chamber supports no change to the existing legislation on this issue.

Mr. Karp: The Whitehorse Chamber agrees with that.

Mr. Rody: We support that. It's occurring to me now, this section, essentially, can be removed, because it's been done. I guess what we're suggesting is that we stay away from something that's prescriptive because, quite frankly, the Board got itself in – not trouble – last time, but, when you call upon the Auditor General to do an examination, the Auditor General noted section 118(7), "The scope of the special examination shall be determined by the minister in conjunction with the Board." The Auditor General made a point of saying no. Once you call the Auditor General, the Auditor General determines what will be done, the scope of the examination, and how it will be done.

Now, this section almost prevented the Auditor General from doing their work. They wanted to make it quite clear that they will determine the scope of the examination.

Mr. Travill: Yes, you're correct. And the reason is that this section has expired, but, in the Auditor General's report, the Auditor General recommended that it be an ongoing rotational review of the Board. So the operational audit continued to rotate through the Board and the different functions, so that it became a constant thing.

Mr. Rody: I'm saying we don't need the same thing in the Act, for that to happen. If you put something like that in the Act, then you're going to be specifying dates and everything else, which they may not be able to accomplish. I don't think the stakeholders, or the Board quite frankly, disagree with the idea of ongoing examinations; it's just how often they happen. And I think it's something that should be left to the stakeholders and the Board to determine when it happens.

Mr. Dieckmann: The Board agrees with that as well.

Mr. Rouble: Any other comments? Folks, that concludes today's agenda. Are there any other statements that people wish to make, or comments people wish to make?

Mr. Karp: Yes, Mr. Chair. I'd like to make a statement. On behalf of the Whitehorse Chamber of Commerce, I would like to thank the Panel for the opportunity to speak to the 88 issues that have been presented to us in trying to improve the WCB Act in the Yukon.

We'd also like to thank the large employer group, and Sandy Babcock of the Yukon Chamber of Commerce, for their contribution in creating our position on a number of issues.

Also, we'd like to thank the Yukon Federation of Labour, specifically Doug Rody, and Laurie Butterworth of the Yukon Employees Union, for their valuable insights and comments on many of the issues. We can all be proud of the way we worked together in the last few weeks to come up with some mutually agreeable positions on a number of these issues.

As well, the senior administration of the WCB in Yukon have been very helpful to all of us, and we thank them as well.

Finally, we feel it is important to note that, as Yukon heads towards a potential economic resurgence, with several potential large-scale projects looming, with considerable increases in exploration and mining activity, and increases in tourism, conventions, meetings and incentive travel, not to mention the 2007 Canada Winter Games and all of the sporting events we're attracting, it will become increasingly important for Yukon to have a competitive regulatory regime in place to attract businesses to support this economic growth and prosperity.

WCB assessments represent more than a required insurance policy. If we don't get control of the costs of our WCB, these assessments, as part of the larger cost analysis, this expense can influence decision-makers to set up shop in Yukon, or go somewhere else.

At this time, our WCB is an outlier, in many respects, to the rest of the country. If our rates continue to rise, it will become much more important in the decision-making to come to the Yukon or not. If it is difficult from a regulatory perspective, and expensive in other areas, such as wages and WCB assessments, then, given a choice of locations, businesses may well decide to settle somewhere else.

Finally, if our WCB costs continue to rise in Yukon, small businesses will be threatened. We cannot continue to say that this is a cost of doing business.

Businesses create jobs. Many businesses employ students and, therefore, spend a lot of money training and developing their skills. We need you to look carefully (the Panel) at all of the recommendations presented to you, and to consider, very carefully, how you recommend to the minister responsible where Yukon should be positioned in relation to the rest of the country in terms of our WCB.

Thank you.

Mr. Rouble:
Rody.

Thank you. Any other comments? Mr.

Mr. Rody:

I would just like to thank the Panel and the two Chambers of Commerce, and the Board, for hearing our concerns and discussing the issues. If I can put one last plug in, I recognize that the June 15th date stays; however, there is one other item that we had asked for at that same time, and I'll just reiterate our request, that you bring forward to the minister our desire to be part of the drafting of the legislation. There are several things, particularly the return to work, that really have to be done with the cooperation of the stakeholders.

Mr. Buyck: Mr. Chair, just on that last Issue #48, I have raised it, right at the start, that, given the fact that 11 First Nations and CYFN hadn't responded to the Review, I believe that there is a serious lack of a good strong relationship between the WCB and the First Nations. I don't know if it demands a special examination or review of that relationship, but I do believe that the relationship needs to be looked at, and the three parties, the workers, the employers and the Workers' Advocate office, need to figure out a way, as I've said earlier, how our workers are properly represented.

Now, that relationship between Occupational Health and Safety, between WCB and the federal government... I was informed by the president of WCB that they could take on that responsibility, of the federal Occupational Health and Safety, and I think that's a valid move, worthwhile to do, given the fact that they're in Vancouver and they're not much use to us out there.

So, I'd like to thank you for the opportunity to put our comments forward. As a worker, given what I've found here with WCB, I definitely know that the First Nation employer and WCB need to examine their relationship on all those points.

Mr. Rouble: Thank you. Are there any other comments? Folks, on behalf of the Panel, I'd like to thank you very much for your participation, your dedication, and your hard work. From what we've seen, there seems to be a very strong desire to work together.

The whole point of the Act Review is looking at ways of improving the Act so that it better serves the needs of all stakeholders. The information that you've given to us will be invaluable in the Panel coming up with the recommendations for changes to the minister.

A reminder that we will be going out to the Yukon communities, consulting with other Yukoners about their thoughts and comments on these issues. June 15th is our deadline for written submissions. When the submissions come in, we plan to make those public, and we will continue our work in developing recommendations.

So, thank you very much for your attendance and your participation and your hard work. The meeting is adjourned.

(The meeting adjourned at 2:05 p.m.)