

YUKON WORKERS' COMPENSATION HEALTH AND SAFETY BOARD

ANNUAL INFORMATION MEETING

HELD OCTOBER 8, 2003 AT 2:30 & 7:00 P.M.
at the Workers' Compensation Health and Safety Board Training Room

WHITEHORSE, YUKON

Summary Notes

PHIL DYKE
BARB EVANS
MICHELLE KOLLA
BARRY ENDERS
DON FRIZZELL
TONY ARMSTRONG

ALTERNATE CHAIR
LABOUR REPRESENTATIVE
LABOUR REPRESENTATIVE
EMPLOYER REPRESENTATIVE
EMPLOYER REPRESENTATIVE
PRESIDENT & C.E.O., W.C.H.S.B.

LIZ McKEE

FACILITATOR

REPORTER:

DOUG AYERS

DOUG AYERS REPORTING
SERVICES

1 **Summary of the Annual Information Meeting Held**
2 **October 8, 2003 at 2:30 p.m. and 7:00 p.m.**

3 The facilitator, Liz McKee,
4 called the meeting to order at 2:30 p.m., and
5 asked those persons present to identify
6 themselves. Following introductions, Ms McKee
7 took care of a few housekeeping matters, and
8 then explained that the topics on the agenda
9 were those items raised by stakeholders in
10 response to the Board's request for input. She
11 then called upon Craig Tuton, Chair of the
12 Workers' Compensation Board, to welcome the
13 participants.

14 Mr. Tuton welcomed everyone
15 to the meeting and then gave an overview of some
16 of the Board's activities undertaken to
17 demonstrate that the Board is operating
18 effectively, efficiently and economically,
19 particularly in relation to the results of the
20 Auditor General's Special Examination. Some
21 examples are as follows:

- 22 • implemented a new contracting policy which took
23 place in March;
- 24 • have been rigorous in monitoring of the
25 Achieving Better Customer Service Project (ABCS)
- 26 • narrowed the focus of ABCS to the most urgent
27 priorities (finances and claims computer

- 1 systems);
- 2 • shared concerns about rising costs in 2002,
3 along with the related impacts on the operating
4 deficit;
 - 5 • stepped up efforts with regard to prevention,
6 focusing on partnerships, education and
7 awareness;
 - 8 • supported the creation of the Yukon Construction
9 Safety Association, to, among other things,
10 increase the number of workers covered by health
11 and safety programs;
 - 12 • increased promotion of the Safety of Young
13 Workers;
 - 14 • expanded the Young Workers Programs;
 - 15 • partnered with the Passport to Safety Program
16 for Young Workers;
 - 17 • embarked on the Focus Firm Project, working with
18 ten large Yukon companies to improve their
19 safety practices.

20 Mr. Tuton pointed out that it
21 is the intent to continue to work with parents,
22 employers, workers and the education system, to
23 provide more workplace safety instruction and
24 awareness to young people.

25 Mr. Tuton also explained
26 that, in response to questions to the Board
27 about their views about secondhand smoke in the

1 workplace, he, as Chair of the Board, has
2 removed himself from any involvement in this
3 issue as pertains to the Board; and that the
4 Board is attending this meeting as a board and,
5 in that respect, it is inappropriate and
6 contrary to their governance to respond to this
7 issue as individuals. Therefore, Mr. Dyke will
8 respond on behalf of the Board.

- 9 • Update on the ABCS Project, and;
- 10 • RESPONSE TO QUESTION: "In its response to the
11 Auditor General's report, the Board indicated
12 that many items would be dealt with thorough the
13 ABCS Project. Now that the ABCS Project has
14 been scaled back, how will the Board deal with
15 those items in the Auditor General's report?"

16 Ms Lilles gave a Power Point
17 Presentation regarding these issues (hard copies
18 were made available to those attending the
19 meeting). She pointed out that the purpose of
20 the presentation is to bring everyone up to date
21 on what has happened with the ABCS Project in
22 2003. She explained that the Board decided to
23 go with a staged approach to the ABCS Project
24 and, in April of 2003, authorized proceeding
25 with Stage 1A with regard to the sub-projects
26 relating to case management and finance. She
27 then explained what Stage 1A entailed. The

1 floor was then opened up for questions.

2 The following questions were
3 asked:

- 4 • whether the project was still on budget with
5 respect to the first two phases.

6 Ms Lilles confirmed that it
7 was.

- 8 • whether any items of the project, as had been
9 previously described, were being dropped; or
10 whether it is the same package, only being
11 spread over a longer period of time.

12 Mr. Armstrong explained that
13 the project is being done step by step.
14 Initially, there was a comprehensive approach to
15 the project, but it has since been refocused
16 with the case management and financial pieces
17 being identified as highest priority. A
18 continual evaluation of progress will take
19 place, with a view to determining what piece
20 will be next. There is no schedule of what
21 component will be done next, but it is the
22 intention of looking at all the other aspects as
23 the project proceeds.

- 24 • whether by extending the time frame, there would
25 be a significant savings of money.

26 Mr. Armstrong indicated that
27 it is dependent on what decisions the Board

1 makes as to what to do or not to do. At the
2 initial stages, it would appear that there have
3 been some savings realized by pursuing the first
4 two components as individual items. To proceed
5 with both items simultaneously would have
6 required more staff and more access to resources
7 outside the organization. In order to keep
8 costs down, case management was given first
9 priority, to make recommendations to the Board
10 in 2003; however, when time permits, work would
11 take place on the financial aspects. This has
12 led to some savings.

13 • what are the time lines for making
14 recommendations to the Board with respect to
15 case management?

16 Ms Lilles indicated that they
17 expect to finish this element of the project by
18 the end of October, so recommendations should be
19 made to the Board in early November.

20 • given that a significant portion of the ABCS has
21 been delayed; and given that the Board's
22 response to the Auditor General was that the
23 ABCS Project would deal with a large number of
24 items in her report; how will the Auditor
25 General's report be dealt with in order to
26 satisfy her that her recommendations are being
27 dealt with?

1 Ms McNevin responded to the
2 question by explaining that, there were five key
3 recommendations in the Auditor General's report
4 that affected the Board, which included quality
5 assurance, which involves the review of higher
6 risk claims prior to final decision, as well as
7 a random review of claims. While work on the
8 case management system is continuing, as an
9 interim step, some manual processes have been
10 set up so that the managers of claims are
11 reviewing decisions that are made to deny
12 entitlement; regular audits of decision letters
13 are being done.

14 Another recommendation
15 related to evaluation of rehabilitation
16 services. In this regard, targets and
17 indicators are being worked on, that can be done
18 without the system in place. Evaluations are
19 being done, and money has been put in the
20 budget, and they are expecting to proceed this
21 year in terms of rehabilitation services.

22 The third area of
23 recommendation had to do with risk assessment,
24 regarding prevention, particularly in regard to
25 performance, effort and targets. This item was
26 linked to ABCS because it was hoped that, when
27 there was better data, there will be a better

1 ability to target where prevention efforts need
2 to be made. As an example, the Focus Firm Pilot
3 Project is being done manually, and the
4 evaluation of that project could lead to
5 valuable insights for future systems
6 determination.

7 The fourth area was to
8 demonstrate that the Board is managing
9 economically, efficiently and effectively. This
10 recommendation is linked to the fifth
11 recommendation, which is to develop measurable
12 goals and targets and report on the achievement
13 of results.

14 The work on Phase 1A of ABCS
15 had useful insights in terms of the balanced
16 scorecard, with efforts being made to
17 incorporate them into what will be done next
18 year. Focusing of the ABCS has meant that some
19 work is going to be a bit more limited, but it
20 will still proceed. However, the review of the
21 performance indicators will be done when the big
22 review of the strategic plan is done in 2005,
23 where this will be looked at in a much deeper
24 fashion.

25 • when will the case management sub-project be
26 completed and fully functional?

27 Ms Lilles indicated it would

1 be completed by the end of October; which will
2 take the Board to the point where it has enough
3 information to make a decision whether to go
4 ahead with one of the systems that has been
5 evaluated. It is not possible to buy a system
6 out of a box and just plug it in; any system
7 adopted will have to be customized to suit Yukon
8 requirements. Customization requires the
9 assistance of analysts, developers, etc., and
10 ultimately to a larger cost.

11 • when researching what systems to implement, and
12 when looking at other jurisdictions, did you
13 look at any private sector companies; and when
14 selecting the AccPac approach, what made it
15 stand out over a different program; will it have
16 the long-term flexibility to fit with the case
17 management piece?

18 Ms Lilles responded that,
19 particularly with regard to the case management
20 system, the whole universe of case management
21 systems were looked at. Requests for
22 information were sent to 25 vendors of systems
23 that looked as though they might meet the
24 requirements. Out of about 120 systems, five
25 systems were short-listed. Out of those, not
26 one system was a perfect fit. However, one
27 system that has recently been evaluated is a

1 system that was built for a New Brunswick board.
2 • are the case management and financial pieces
3 discrete?

4 Mr. Armstrong indicated that
5 they are discrete items, but they have to be
6 able to communicate effectively with each other.
7 For every piece, it is a requirement that there
8 is the ability for full integration.

9 • given that the original project, in relation to
10 the Auditor General's recommendations, was going
11 to cost between four to six million dollars; and
12 given that the indication is that it is now
13 going to cost two million dollars; how can it be
14 done without dropping something?

15 Mr. Armstrong responded that
16 there needs to be a distinction made between the
17 Auditor General's recommendations, and the
18 responses made back by the Board, with regard to
19 ABCS. ABCS is not proceeding on all fronts
20 right now; all it is proceeding with is the case
21 management and financial pieces, and the
22 integration of those. As the Board moves
23 through this ABCS process, at regular intervals,
24 it will make decisions as to how much further it
25 will go, and at how much more cost.

26 In regard to the response to
27 the Auditor General of Canada, the Board

1 understood the question to be, since it was
2 indicated that all the recommendations were
3 going to be accomplished through the ABCS, and
4 since ABCS has been changed, how are you going
5 to accomplish them? In answer to that, the
6 Board is trying to move forward on all fronts.
7 However, those items that can be linked in a
8 timely fashion to ABCS (case management and
9 financials) are continuing in insuring that
10 those are part of the specifications needed for
11 those systems.

12 Had the project moved forward
13 quickly on an occupational health and safety
14 system, the occupational health and safety
15 information system could have been utilized to
16 help target risk. However, as it was not being
17 proceeded with from a systems perspective, and
18 identifying risk and targeting resources still
19 needs to be proceeded with, a manual approach
20 had to be taken.

21 • if there is no systems backup for
22 rehabilitation, will that not be more costly and
23 less efficient?

24 Ms McNevin responded that,
25 for rehabilitation, until the new case
26 management system is in place, some manual work
27 will be done as part of revising the performance

1 indicators and doing an update. It is expected
2 that data capture will be part of the
3 requirement for the case management system, so
4 that will cover rehabilitation. Some of the
5 evaluation is being done manually this year,
6 rather than wait until the final system is
7 operational.

8 **Breakdown on findings as to the substantial increase**
9 **in claims costs**

10 Ms Lilles gave a Power Point
11 presentation in regard to this item (hard copies
12 were handed out to those in attendance). She
13 explained that, in the spring of 2003, the Board
14 instructed administration to undertake an
15 analysis of claims costs, with particular
16 concern regarding an increase that had been
17 experienced in 2002. She went on to describe
18 the increases that occurred in different areas,
19 and then opened the floor for questions.

20 The following questions were
21 asked:

- 22 • in reference to the increase in costs associated
23 with post 1992 claims, does that include the
24 costs actually paid by YTG for the pre 1992
25 claims?

26 Ms Lilles responded that it
27 does.

- 1 • if an award is made for a 1993 claim, why would
2 that not be categorized under 1993 forward?

3 Ms Lilles answered that, if a
4 claim is established in 1993, all the costs
5 during 1993 are current year costs; in 1994,
6 1995 and 1996, it is still charged to 1993, but
7 it becomes a prior year cost, even though it is
8 paid out in 1994, 1995, 1996. In response to
9 the comment expressed that that would not
10 reflect where the money is going, as to what
11 year the claim was established, and how much was
12 paid in precise years, Ms Lilles explained that
13 that has all been detailed by year, and it has
14 been looked at.

- 15 • in reference to the earnings loss claims
16 beginning to increase in 2000, with the total
17 number of claims receiving earnings loss claims
18 going up, and the average cost per claim going
19 up, with the prior year claims driving the
20 trend, is it possible that an increase in the
21 labour force has increased proportionately and
22 there are just more people in the system?

23 Ms Lilles responded that the
24 number of claims isn't going up, it is the cost
25 associated with each claim that has increased.

- 26 • have the different categories been looked at,
27 such as earnings loss, rehabilitation and

1 medical payments, etc., to decide whether it is
2 the average cost, or the total number, that is
3 having the most effect on each one of those
4 areas?

5 Ms Lilles answered that in
6 nearly every category there are more claims than
7 ever before; however, the number of claims does
8 not account for the increase in cost. If the
9 number of claims had remained constant, the
10 increase in costs would still be increasing.

11 • what is used to calculate that the injury
12 frequency has increased?

13 Ms Lilles replied that it is
14 just raw numbers. There is no denominator.
15 However, if consideration is given to the fact
16 that the number of hours worked in Yukon, and
17 the size of the workforce, has declined, it
18 would not be expected to see the number of
19 claims increasing. However, she did agree that
20 the number of hours worked, or the number of
21 workers in the workforce, is not known, and
22 therefore the statement is a little misleading.

23 Mr. Armstrong pointed out
24 that, although he agrees that a standard is
25 required to calculate frequency against,
26 statistically, the information is not available
27 in Yukon. Therefore, a number of other

1 indicators were utilized to make some
2 assumptions, such as: the nature of the work in
3 Yukon has changed from resource based, where
4 people worked eight or twelve hours a day, five
5 days or longer per week, to a service based
6 economy, where people are not necessarily
7 working those kinds of shifts; people are
8 working two or three part-time jobs, etc.

9 Those considerations have
10 been pulled together to provide a surrogate in
11 order to make the frequency measurement.

12 • is there an increase in the number of claims
13 reactivated, from people now living in other
14 jurisdictions; therefore, claims are being paid
15 for people no longer living here?

16 Ms Lilles responded, yes, but
17 that cohorts of workers are being looked at
18 here. Looking at 1998 to 2002, if a worker was
19 injured in 1998, they would be ticked in 1998;
20 wherever they are in 2002, they are still a tick
21 in the box for 1998.

22 • what is meant by the term "culture in the
23 workplace"?

24 Ms Lilles explained that
25 "culture in the workplace" means the values,
26 beliefs and behaviours exhibited with respect to
27 health and safety in the workplace. She gave

1 the example that, if a workplace has all the
2 information there is to know about health and
3 safety, and has a great safety program in a
4 binder on the shelf, but that information is
5 never referred to and it is not implemented,
6 then it is of no value. This is not an issue
7 related solely to employers, but also to
8 employees.

- 9 • were other jurisdictions consulted as to whether
10 they are experiencing the same sorts of trends?

11 Ms Lilles answered that other
12 jurisdictions were looked at in terms of their
13 claims cost experience over the last couple of
14 years, and some have seen an increase, but none
15 have had as dramatic an increase as Yukon has.

16 Mr. Armstrong added that, in
17 meetings with all chairs and CEOs of boards
18 across the country, this issue has been
19 discussed. Some jurisdictions are experiencing
20 increases in claims, and some are not; however,
21 none have experienced, percentage-wise or ratio-
22 wise, the increases seen in Yukon.

- 23 • how is this problem going to be tackled?

24 Mr. Armstrong cautioned that
25 the question was getting ahead of the process.
26 All that has been done are the high level
27 preliminary results of the analysis; the Board

1 will only get the full analysis in November.
2 Once the full analysis is seen by the Board,
3 they will talk about what sorts of programs and
4 targeting are needed. However, as soon as it
5 was realized that there was this increase taking
6 place, the organization's drive towards
7 prevention, and the programs needed to be put in
8 place to start addressing the problem, were
9 reinforced.

- 10 • when comparing the current durations and costs,
11 what were they compared to; how long ago?

12 Ms Lilles answered that they
13 were compared right back to 1992.

14 **RESPONSE TO QUESTION: "How do Board members view the**
15 **Employer Consultant's role on the Workers'**
16 **Compensation Act Review Panel in light of clause**
17 **7.1.2 of the contribution agreement? Is the Board**
18 **satisfied that there has been no breach of the**
19 **agreement?"**

20 _____ Mr. Tuton addressed this
21 subject, and explained that the Act Review
22 Panel, and the members of that panel, were
23 struck by the Minister; therefore, it was
24 totally out of the Board's control. However,
25 regardless of whether the person is working in
26 the role of a member of the Act Review Panel or
27 as the Employer Consultant, the Workers'

1 Compensation Board is responsible for any
2 financial commitments, and there is no breach of
3 the agreement.

4 **Projections on the financial standing of the YWCHSB**
5 **as of the end of 2003**

6 Jim Stephens gave a Power
7 Point presentation (hard copies were given to
8 those attending the meeting). He explained that
9 he would be talking about how the financial
10 forecast was developed. The floor was opened up
11 for questions.

12 The following questions were
13 asked:

- 14 • in relation to 2003, and the predicted claims
15 expenses of \$12 million, are the number of
16 claims comparable to the previous year?

17 Mr. Armstrong replied that
18 the number is pretty much similar, between 2002
19 and 2003, in the first half of the year. It
20 must be remembered that this is a projection.
21 In response to the further comment that, with
22 the previous presentation saying that medical
23 and rehabilitation costs are going up, and the
24 statement that the number of claims are about
25 the same as last year, it is hard to understand
26 how claims expenses are going to be way down, he
27 explained that what was being said previously is

1 that the current year claims, in 2001 and 2002,
2 were not the problem, but that it was the prior
3 year claims that were the problem.

4 • are there no more prior year claims of
5 significance coming through that will need to be
6 caught up this year?

7 Mr. Armstrong answered that
8 those prior year claims still exist, but another
9 jump in duration is not anticipated. It is
10 hoped that the duration will decline. The
11 belief is that this was caught in 2002, and it
12 is not going to have to be captured again in
13 2003.

14 Mr. Travill indicated that he
15 is hoping that his system at the Worker Advocate
16 office will be able to deliver information as to
17 how many claims, for what year, were advanced
18 through to appeals. At the present time, he
19 does not have any major claims from the 1990s.
20 Any claim of significance would be from the year
21 2000, and that information wouldn't be available
22 presently, but it would skew the duration
23 numbers.

24 • given that the figure in the government's budget
25 for this year or last year, for the transfer of
26 the mine safety to WCB, was reduced to zero, has
27 the government paid for mine safety yet?

1 Mr. Tuton replied that this
2 matter was negotiated, and a cheque was received
3 from the government recently.

4 • how are the investments structured? The markets
5 are up, but are the investment advisors giving
6 a better picture of what can be used in this
7 level of projection?

8 Mr. Stephens answered that
9 the advisors were spoken to in May and a number
10 of scenarios were provided. The long-term view
11 on investment returns is that it is probably
12 going to be below historical norms, on average,
13 over the next five years; however, this year, to
14 date, the markets are very strong. There is
15 cautious optimism for increased investment
16 revenues. With regard to the portfolio
17 structure, there is a 50/50 split between
18 equities and bonds.

19 • there are other ways of investing, where money
20 can be invested in infrastructure in Yukon, with
21 the WCB carrying a mortgage with a guaranteed
22 return; have these possibilities been looked
23 into?

24 Mr. Armstrong replied that,
25 both historically and fairly recently, these
26 possibilities have been explored. However, the
27 Board does not have authority to approve

1 investment policy. The investment policy is
2 passed by Cabinet. The investment policy spells
3 out what can be invested in and what the ratings
4 should be. The Board does not have the
5 discretion to fund an infrastructure undertaking
6 in Yukon, without hitting specific objectives or
7 specific requirements within the investment
8 policy.

9 • the statement is continually heard, "We have to
10 collect the full amount of today's injuries,
11 today." In the years 2000, 2001 and 2003, the
12 costs have exceeded the assessments. Is there
13 an initiative to address that area, so that the
14 assessments reflect the claims costs in the year
15 for which the assessments are collected?

16 Mr. Armstrong responded that,
17 as a board, there are two streams of revenue
18 that must be taken into account. One stream is
19 assessment revenue, and that must be watched and
20 adjusted accordingly, based on experience and
21 risk and all the things that need to be taken
22 into account. The other stream of revenue is
23 investment revenue, and that is taken into
24 account as well.

25 Historically, investment
26 income was sufficient to build up a surplus in
27 the compensation fund. The Auditor General

1 indicated that there were more funds than were
2 required, so it was necessary for the Board to
3 address that. The intent was to operate at a
4 planned deficit for a number of years, to draw
5 the reserves down to a level that was
6 comfortable to the Auditor General and to the
7 Board. The experience in 2002 was a significant
8 drawdown, and not the planned operating deficit.

9 With regard to whether there
10 is a plan to address the under-funding of
11 claims, Mr. Armstrong expressed, personally,
12 that he would not suggest that the Board ever
13 get to the point of not taking investment
14 revenue into consideration.

15 He indicated that the Board
16 has said quite clearly where assessment rates
17 are in 2003; and what the provisional assessment
18 rates are in 2004. In 2004, the Board will have
19 to determine whether to continue with the 2004
20 assessment rate, and what will be done in 2005
21 and 2006.

22 • is the Board going to be looking at assessments
23 moving more in line with the costs?

24 Mr. Armstrong answered that
25 the Board did start looking at the assessment
26 premiums in 2002, which brought about the
27 reduction in subsidies in 2003 and 2004; which

1 means that assessments are going to be higher.
2 This has not yet been dealt with for 2004 and on
3 into future years.

4 **RESPONSE TO QUESTION: "What progress has been made on**
5 **the establishment of a Construction Safety**
6 **Association and how do Board members see a role for**
7 **employee organizations?"**

8 _____ Mr. Tuton explained that Kurt
9 Dieckmann is now the Manager/Coordinator of the
10 Yukon Construction Safety Association.

11 With regard to what role
12 labour would have in the Yukon Construction
13 Safety Association, Mr. Tuton indicated that the
14 Board would urge anyone involved in the building
15 trades, or any other unions or groups that are
16 not encompassed by the Yukon Contractors'
17 Association, to contact Kurt and to get involved
18 to the extent they wish. It has always been the
19 expectation that this association would develop
20 into a much wider umbrella organization, so the
21 more groups, more people, more companies and
22 more workers that get involved, the better it
23 will be, and the further ahead the promotion of
24 safety in the workplace will be. The floor was
25 then open for questions.

26 The following questions were
27 asked:

1 • why was this not handled internally, within the
2 Occupational Health and Safety Department?

3 Mr. Tuton responded that the
4 Board felt that the association would be a
5 better way to approach the matter.

6 • when the discussion of the association first
7 came up, the model that was in mind was from
8 Nova Scotia. Has an audit program or a model
9 been decided upon; and is it still the Nova
10 Scotia model?

11 Mr. Tuton answered that, yes,
12 it is still the model to be used.

13 Mr. Tuton restated that it is
14 the intention of the Board to have the
15 organization deal with more than just the
16 Contractors Association; if that is not
17 happening, those people who feel they are
18 affected should contact Mr. Tuton, and he will
19 take steps to insure the situation is rectified.

20 Mr. Dieckmann indicated that
21 his office hours are 8:00 a.m. to 5:30 p.m.,
22 five days a week. He pointed out that part of
23 his mandate is to partner with organizations,
24 and he has every intention of contacting a
25 number of organizations. However, his first
26 priority is to contact the different
27 jurisdictions to find out what they have in the

1 way of programming, so that he can establish
2 good core programming that reflects the reality
3 of the Yukon Territory.

4 **Update on the offer to stakeholders to become**
5 **involved in the reorganization of the reserves**

6 Mr. Tuton indicated that, at
7 present, they are working with the actuaries on
8 the funding policy, and that will address the
9 reserves. He explained that there were
10 commitments made to have stakeholders' advisors
11 groups have a role in the reorganization of the
12 reserves and, once information is received back
13 from the actuaries, they will be kept advised
14 and there will be discussion about policy and
15 their involvement at that stage.

16 **RESPONSE TO QUESTION: "A significant amount of time**
17 **went into the new safety regulations. What is the**
18 **Board doing to persuade the Minister to get cabinet**
19 **approval of the regulations?"**

20 _____ Mr. Tuton indicated that he
21 received a letter from the Minister the day
22 previous to this meeting, and he read an excerpt
23 from it, in which the Minister indicated it had
24 been decided not to proceed with implementing
25 any changes to the Occupational Health and
26 Safety regulations until the review of the
27 *Workers' Compensation Act* is complete.

1 addressed either later this year, or next year,
2 along with indoor air quality, violence in the
3 workplace and infectious diseases.

4 • Will the issue of secondhand smoke in the
5 workplace be dealt separately from the issue of
6 the regulations?

7 Mr. Armstrong answered that
8 an appropriate response to the issue of
9 secondhand smoke would be developed, and
10 recommendations would be moved forward through
11 due process.

12 Mr. Tuton indicated that the
13 Board shares the concerns that have been
14 expressed surrounding the delay with respect to
15 the regulations, and they will not stop actively
16 lobbying the Minister to deal with the
17 occupational health and safety changes.

18 • The comment was expressed that, in order to
19 prevent having a bulge in past year claims, once
20 the Board is aware of a potential liability, the
21 Board must move expeditiously to eliminate that
22 potential.

23 • Given that secondhand smoke in the workplace is
24 an issue in Yukon, why must the Board wait to
25 consider this issue and make recommendations?

26 Mr. Armstrong responded that
27 the Board recognizes that this is an important

1 issue, and that the Board must deal with the
2 issue. However, it is important that the matter
3 be dealt with in the right fashion. There have
4 been discussions, informally, related to
5 secondhand smoke, as to whether this is
6 something that is suitable for a regulatory
7 regime, or are there other ways of approaching
8 it; are there partnerships that should be looked
9 into? There is a model in the Northwest
10 Territories that is moving forward, and it may
11 be the Board would choose that type of
12 regulatory approach; or there may be another
13 approach to this through partnerships with the
14 Department of Health or with municipalities.

15 The Board wants to be able to
16 say, at the end of the process, that they have
17 done something that effectively safeguards
18 safety and health for workers in the workplace.

19 **RESPONSE TO QUESTION: "What are Board members' views**
20 **on implementing the position of an Employee**
21 **Consultant to mirror the Employer Consultant?"**

22 Mr. Tuton responded that the
23 Board has asked Administration to do some
24 research on this subject, and it is presently
25 being done. It is hoped that recommendations
26 will be back to the Board by the end of the
27 year, at which time stakeholders will be advised

1 of the status.

- 2 • The concern was expressed that there is no
3 person to facilitate the involvement of
4 employees with respect to the Act Review
5 process. The Act Review is a huge undertaking,
6 it is too much to expect employees to get
7 involved on their own time, without pay. The
8 concern was expressed that, by the time the
9 matter of having an Employees' Consultant is
10 decided, the Act Review will almost be over.

11 **Stress Related Injuries**

- 12 • What research is the Board or staff doing in the
13 area of stress related injuries?

14 Mr. Tuton indicated that this
15 issue is in front of the Act Review Panel, and
16 the Board would not make any comment at this
17 time.

- 18 • Is Administration providing the information for
19 the Act Review process in this regard?

20 Mr. Armstrong answered that
21 Administration has done research through inter-
22 jurisdictional contacts and through the
23 Association of Workers' Compensation Boards of
24 Canada, with respect to the status of stress
25 claims and what approaches are being taken
26 across the country, and that information has
27 been provided to the Board. This has not been

1 done on behalf of the Act Review Panel, as the
2 Panel is independent of the Workers'
3 Compensation Board, but the information has been
4 provided to the panel. This information will
5 also be placed on the website.

6 • Reference was made that the Supreme Court of
7 Canada, in a decision dated October 3rd, 2003, in
8 the matter of *Nova Scotia WCB v. Martin*, made a
9 ruling with regard to chronic pain. Another
10 citation was given: *WCB v. Laseur*.

11 (There being no further business, the meeting
12 was adjourned at 4:40 p.m.)

13 (The meeting was called back to order at 7:00
14 p.m.)

15 As there were only three
16 members of the general public in attendance, and
17 they had attended the afternoon's session, the
18 floor was opened for questions.

19 **RESPONSE TO QUESTION: "How do Board members view the**
20 **Employer Consultant's role on the Worker's**
21 **Compensation Act Review Panel in light of clause**
22 **7.1.2 of the contribution agreement? Is the Board**
23 **satisfied that there has been no breach of the**
24 **agreement?"**

25 • Given that it has been indicated previously that
26 the Board is satisfied that there had been no
27 breach of the contract, does that mean that the

1 Board specifically inquired of the Panel or the
2 Chamber to determine whether the Employer
3 Consultant is sitting as an individual, or as
4 the Employer Consultant?

5 Mr. Armstrong responded that
6 general counsel was asked to look at the clauses
7 within the contribution agreement. There were
8 areas in the agreement that could be read to
9 indicate that participation was within the
10 contribution agreement and, therefore it was all
11 right; or it could be read that the
12 participation was not within the contribution
13 agreement. Given the ambiguity, the Board
14 accepted the participation as being within the
15 contribution agreement. Since the full costs of
16 the Act Review are being borne by the Board in
17 any event, this did not seem to be a pressing
18 issue.

19 • When a submission is made to the Panel by the
20 Chamber of Commerce, how does the Employers'
21 Consultant critique it, since the Chamber is his
22 employer? As well, Section 7.1.2 is clear that
23 the money is not to be used for direct
24 lobbying, on behalf of the employers, for
25 changes to the Act, and there cannot be much
26 more direct lobbying than to be sitting on the
27 panel.

1 Mr. Dyke responded that that
2 was a valid point, but since the Minister
3 appointed the Employers' Consultant to the
4 panel, there wasn't anything the Board could do
5 about it.

- 6 • A comment was made that it had been hoped that
7 individual Board members would be heard from
8 particularly with respect to the employee
9 consultant and secondhand smoke in the
10 workplace. As no decision has been reached on
11 these items, it would be helpful to hear
12 directly from the individual Board members on
13 these issues.

14 Ms Evans replied that, with
15 regard to the employee consultant, the Board
16 made a commitment to the Advisory Committees to
17 proceed and do further investigation. Some
18 delays have put the Board a little behind
19 schedule. However, the point with regard to
20 levelling the playing field by having an
21 employee consultant involved in the Act Review
22 process may have some validity. Beyond that,
23 the role is being investigated, the
24 opportunities are being looked at, and it will
25 be brought back to the Advisory Committees.

26 Breakdown of findings as to the substantial increase
27 in claims costs

1 • On page 5, the cost of the Appeal Tribunal
2 decisions is given. This statement is somewhat
3 misleading, because it makes the assumption that
4 these costs are related to decisions of the
5 Appeal Tribunal; whereas the decisions are those
6 of the Appeal Panel, which is the final appeal
7 body. Appeal Panel decisions have never been
8 tracked prior to Bill 83. Has the cost of the
9 Hearing Officer decisions been tracked over that
10 same period of time?

11 Mr. Armstrong answered that
12 one of the things that was desired was to take
13 a look at the impact the Appeal Panels have had
14 on the Board, prior to the Appeal Tribunal.
15 That data is not available at this time, but it
16 will go into the final report.

17 • With regard to claims costs for spousal
18 compensation, are these the final numbers?

19 Ms Lilles replied that there
20 was only one claim, and the \$720,000 was the
21 actual dollar value. Mr. Armstrong qualified
22 that by saying that it is possible that there
23 may be somebody, unknown at this time, who may
24 come forward in the future, and the matter would
25 have to be addressed at that time.

26 • Is there any idea how soon after the end of the
27 year the final figure for claims expenses for

1 2003 will be known?

2 Mr. Armstrong indicated that
3 the actuaries would run another projection at
4 the end of the third quarter, and again at the
5 end of the fourth quarter. All claims are
6 frozen as of March 31st, so the actual final
7 dollar value will be at March 31, and it will
8 take a couple of weeks to actually close the
9 books. When the figures are known for March
10 31st, they will either reinforce what was
11 suspected for 2002, or may call some areas into
12 question in 2002.

13 • Will the analysis of those figures go to the
14 Stakeholder Advisory Committees?

15 Mr. Armstrong answered that
16 at least an executive summary would go to the
17 Advisory Committees.

18 (There being no further business, the meeting
19 was adjourned at 7:20 p.m.)