First Nations Land Management Act

Exploring Rural Land Use Conference
University of Guelph
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Chief Robert Louie

Chairman of the First Nations Land Advisory Board of Canada

and

Chief of Westbank First Nation
PRESENTATION

My presentation will touch upon:

a. Briefly, the background behind this land management initiative;

b. The purpose and what it means to implement land governance jurisdiction over First Nation Reserve lands and resources;

c. An update on where we are today; and

d. Some of the First Nation success stories.
First Nation Land Governance and Land Tenure

Basic Principles

• First Nations have a responsibility entrusted to them by their ancestors to protect reserve lands and resources for their children and future generations.

• Canada has existing fiduciary and trust obligations to First Nation people that must be fulfilled.

• The culture, identity, and collective well-being of First Nation is dependent upon our lands and resources.
First Nation Land Governance and Land Tenure

Basic Principles - continued

• First Nations have not surrendered or relinquished title to their lands and continue to assert their interests, as well as exercise aboriginal rights, over their traditional lands.

• First Nation Lands are reserved for Indians within the meaning of s. 91(24) of the Constitution Act.

• Section 91(24) Lands are under federal jurisdiction and this provides protection against provincial laws relating to the use and possession of lands.
First Nations wishing to exercise control and decision-making over their reserve lands and resources have the option of signing the FA; currently several First Nations are on the “waiting list”.

Under the FA, which is a government-to-government arrangement, First Nations have all the rights, powers and privileges of an owner in relation to their reserve lands and resources.

Through the development of their Land Codes, these First Nations assume jurisdiction to make, administer, and enforce their laws.

This recognizes the First Nation as the legitimate Government over their lands and resources with total self-government power.
Framework Agreement on First Nation Land Management continued

• Title to the First Nation’s land does not change and continues to be lands reserved for Indians within the meaning of s. 91(24) of the Constitution Act, 1867.

• All existing member interests, as well as third-party interests are protected.

• Once the FNLM Land Codes are ratified by the community, the 32 restrictive land administration provisions of the Indian Act, which impose the Minister and his bureaucracy on our peoples, no longer apply to the FNLM signatory First Nations.
## Operational First Nations

### BC First Nations

<table>
<thead>
<tr>
<th>Band Name</th>
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<tbody>
<tr>
<td>Beecher Bay</td>
<td>Kitselas</td>
</tr>
<tr>
<td>Leq' a: mel</td>
<td>Matsqui</td>
</tr>
<tr>
<td>Lheidli T’enneh</td>
<td>Musqueum</td>
</tr>
<tr>
<td>Shx’wha;y Village</td>
<td>Seabird Island</td>
</tr>
<tr>
<td>Skawahlook</td>
<td>Sliammon</td>
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<tr>
<td>Snaw Naw As (Nanoose)</td>
<td>Sumas</td>
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<tr>
<td>Songhees</td>
<td>Tsawwassen</td>
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<tr>
<td>Tsekani (Mcleod Lake)</td>
<td>Squiala</td>
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<tr>
<td>Tsekani (Mcleod Lake)</td>
<td>Tsawout</td>
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<td>Ts’kw’aylaxw (Pavilion)</td>
<td>Tzeachten</td>
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<tr>
<td>T’sou-ke</td>
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<td>Tsleil-Waututh</td>
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<tr>
<td>Westbank</td>
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<tr>
<td>We Wai Kai (Cape Mudge)</td>
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<tr>
<td>We Wai Kum (Campbell River)</td>
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### Prairies First Nations

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<thead>
<tr>
<th>Band Name</th>
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<tbody>
<tr>
<td>Muskoday</td>
<td>Whitecap Dakota</td>
</tr>
<tr>
<td>Kinistin</td>
<td>Muskeg Lake</td>
</tr>
<tr>
<td>Kahkewistahaw</td>
<td>Opaswayak Cree</td>
</tr>
<tr>
<td>Chemawawin</td>
<td>Swan Lake</td>
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### Eastern First Nations

<table>
<thead>
<tr>
<th>Band Name</th>
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<tbody>
<tr>
<td>Georgina Island</td>
<td>Scugog Island</td>
</tr>
<tr>
<td>Nipissing</td>
<td>Whitefish Lake</td>
</tr>
<tr>
<td>Henvey Inlet</td>
<td>Mississauga</td>
</tr>
<tr>
<td>Anishinaabeg of Naongashing</td>
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</tbody>
</table>
Developmental First Nations

BC First Nations
Aitchelitz
Haisla Nation
Skowkale
Stz’uminus
Yakweakwioose
Kwantlen
Neskonlith

Cowichan
Shuswap
St. Mary’s
Williams Lake
Shxw’ow’hamel
Lil’Wat

Eastern First Nations
Beausoleil
Bingwi Neyaashi Anishinaabek
Kettle & Stony Point
Dokis
Mnjikaning
Shawanaga
Algonquins of Pikwakanagan
Montagnais de lac St-Jeam (Mashteuiatsh)
Membertou
Miawpukek

Prairie First Nations
Alexis Nakota
One Arrow
George Gordon
Brokenhead

Tsuu T’ina Nation
Flying Dust
Long Plain

2. The Act sets out Canada's responsibilities and obligations.

3. Most important, the wording of this Act must be consistent with the Framework Agreement.
PURPOSE

To enable First Nations to resume and exercise control over their lands and resources for the use and benefit of their members without Government interference by replacing the land provisions of the Indian Act with the First Nation community's own laws through its own Land Code.
Land governance over reserve lands and resources:

- reflects the unique needs and traditions of the membership;
- is based on the First Nation's own laws, priorities, traditions and ways of doing things.
- provides sound environmental protection and monitoring; and
- accelerates progress in many areas, such as economic development.
A Land Code under the *Framework Agreement* provides for very clear rules aimed at ensuring political transparency and accountable governance.
Benefits of Land Codes

• First real recognition of First Nations right to manage their own reserve lands and resources
• Removal of First Nation reserve lands from the management provisions of the Indian Act
• Community control over our Land Management and Development
• More efficient management of First Nation reserve lands
• Protection against arbitrary expropriation of First Nation lands
• Reserve lands and resources governed by First Nation Laws
Benefits of Land Codes

...continued

Economic Development

• Increased number of business on reserve
• Expanding business to new and/or different industry areas
• Attractive to third parties and business interest
• Stimulates entrepreneurial activity
Framework Agreement First Nations embrace the opportunity to create an active, exciting, and more prosperous future for their communities.

First Nations have always known what could be accomplished. Within a short period of just over 13 years, the results are remarkable.
Why is the Framework Agreement successful?
it was developed and led by First Nations, not Canada, and continues to be led by First Nations
2nd maintaining reserve lands is mandatory; they cannot be surrendered and sold; they must be protected for future generations; fee simple title is not allowed
3rd total jurisdiction, decision making, and control are the responsibility of the community, not Canada
PROGRESS REPORT

On April 13, 2012, 18 additional First Nations became new signatories to the Framework Agreement on First Nation Land Management.

On March 25, 2013, 8 new First Nations were added.
TODAY
1 out of 5 First Nations in Canada are either involved or want to be involved in the land management process.
SUCCESS STORIES

There are many success stories and I here just want to share a few, with an emphasis on my own community.

Each project helps further solidify a community's future economic, social, and spiritual health.
Vote Date: May 9, 2003

NIPISSING FIRST NATION

North Bay, Ontario
Vote Date: September 11, 2007

SQUIALA FIRST NATION

Chilliwack, British Columbia
Vote Date: June 3, 2003

WESTBANK FIRST NATION

Kelowna, British Columbia
The inherent right of self-government is an existing aboriginal right within s. 35 of the Constitution Act, 1982.

WFN self-government began under the FNLM in 2003 with its Land Code and then expanded into a fuller self-government, arrangement with Canada with its Self-Government legislation in 2005 just like the FNLM process.

Like the FA and the FNLM legislation, the WFN self-government process is a bilateral agreement with Canada, reflecting a government-to-government relationship between a First Nation and Canada.

WFN Lands remain federal reserve lands under s.91(24) of the Constitution Act.

All interests, both member and non-member, in WFN Lands are protected.
Westbank First Nation (WFN) Self-Government & Economic Development

• Fiduciary relationship between Canada and WFN continues.

• The WFN Constitution was developed by WFN members and sets out WFN governance rules and provisions for membership, land management and financial administration.

• WFN has full jurisdiction over our Lands and resources.

• Lands are governed under a modern comprehensive set of community laws that ensure a fair, stable legal framework for generations to come.
Westbank First Nation (WFN) Self-Government & Economic Development

continued

• Stable government, legal structure and a strong foundation of laws is the driver for economic development on reserve lands.

• Self-government has been a huge part of this. The lands system with clearly defined Land Rules; a Registry Regulation; a Land Use Laws; and comprehensive Subdivision and Development Law --- all combine to give developers confidence in our system.

• WFN Reserve land property assessments are now valued at over $1.3 billion (an increase of $47 million from 2012).

• Consistently since 2003 the growth of annual assessed value has outpaced the province and other municipalities in the region.
WFN PROPERTY ASSESSMENTS BY CLASS ($000'S)

2000 - 2013

14% Annualized Growth Rate

Residential
Commercial
Light Industry
Utilities
Recreational
• There are over 9,000 non-member residents living on WFN Lands, and over 400 businesses (many national chains).

• There are currently 3,910 residences on WFN lands (up from 3,840 in 2012 and 3,505 in 2011) and over 1.3 million sq. ft in retail commercial

• Taxation on new development has more than doubled over the last few years. Property taxation revenues for 2013 are projected at $12.05 million which will net $10.6 million after the WFN Homeowner Grant of $1.45 million is rebated to the residential taxpayers.

• Commercial developments on WFN lands grew at an overall rate of 13.5% last year allowing residential taxpayers to pay a continually lower share of total property taxes. The residential burden will be 53% in 2013, down from 55% last year.
Westbank First Nation (WFN) Self-Government & Economic Development

continued

• Improvements are continually being made to community infrastructure.

• 2013 WFN Capital Planning projects total $6.5 million, including additional sidewalks, infrastructure, and improved water quality and roads.
  
  • Eg: Sidewalks & Streetlights – WFN invested $0.5M each year from 2007-2011, over $1M in 2012, and plans to spend $1.5M in 2013.

  • Eg: Construction - $300 M has been invested in the last six years, not including two major highway improvements to the Hwy 97 corridor which have contributed over $60 M into the Okanagan economy (WFN was project administrator).

• There will continue to be an aggressive capital program as WFN moves toward a consistent urban standard.

• Investments into Westbank First Nation have been calculated to have generated about 3,300 Full time equivalent employment opportunities.

• WFN has been a major contributor to the economic health of the Okanagan during a time of economic strain in the world.
Westbank First Nation (WFN) Self-Government & Economic Development

continued

• WFN Lands were the first Reserve lands in Canada supported by Land Title Insurance. This means that our land tenure system is guaranteed and that developers, financiers and investors have additional comfort and security when investing on WFN Lands.

• This is an additional reason why economic development has sky rocketed and developers continue to line up to do business on WFN Lands.
conclusion

• As I mentioned earlier, WFN is not alone in achieving successful economic development. There are many other similar First Nations under the FNLM.

• The message is very clear ---- First Nations do not need to convert their land status from federal protection under s. 91(24) to “fee simple” lands in order for individual members and the community as a whole to benefit from economic development.

• Sectoral self-government under the FNLM, or ultimately WFN self-government, provide all the necessary tools and jurisdiction not only to assume control of First Nation reserve lands and resources, but also to protect our culture, our identity and our collective well-being as First Nations.

• WFN is a prime example of economic development success, and there are many First Nations under the FNLM thriving, or on the verge of thriving, both economically and socially.
Interest in the *Framework Agreement* continues to grow. Currently, there are an additional 70 First Nations interested in becoming signatories to the *Framework Agreement* and thereby assume direct control over their lands and resources.
On March 25 Minister Valcourt confirmed that Canada wished to further open the Framework Agreement to additional First Nations. And with the new 8 First Nations Canada continues to demonstrate their commitment. Canada’s 2013 Economic Action Plan commits $9 million to expansion of the First Nations Land Management Regime. An additional 25 First Nations could be added this year.
Canada's Investment

Federal funding is not a hand-out to the Framework Agreement First Nations. The funding is an investment which provides a significant return (estimated to be ten-fold) for the Canadian economy.
THANK YOU