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To First Nations across Canada:

Re: Reject "Fee Simple" Title

I am a member of the McLeod Lake Band and elected to the First Nations Lands Advisory Board (LAB) representing British Columbia First Nation signatories to the *Framework Agreement on First Nation Land Management (Framework Agreement)*. I wish to express to you my strong concerns about a central thesis of a book entitled "Beyond the Indian Act: Restoring Aboriginal Property Rights" by Tom Flanagan, Christopher Alcantara and Andre Le Dressay.

These three authors endorse the idea of federal legislation that would establish individual property ownership "fee simple" on reserves and provide First Nations, not Canada, with the underlying title. They refer to this proposed federal legislation as the First Nations Property Ownership Act. The notion also is being strongly advocated across the country by Manny Jules, Chair of the First Nations Tax Commission.

The Government of Canada is seriously considering this "fee simple" idea and substantially funding the Tax Commission to advocate across Canada. However, this concept of "fee simple" title could adversely affect First Nations' reserve lands in Canada and potentially lead to the ultimate extinction of reserve lands. A change in title to "fee simple" raises a serious risk that section 91.24 of the *Constitution Act, 1867* will no longer apply to reserve lands. This serious risk has been ignored by the four proponents.

Changing the status of Indian reserve lands to "fee simple" is wrong. The change would undermine signed Treaties across Canada; undermine our political autonomy; restrict our creativity and innovation; and place us in a dangerous position where any short-term financial difficulty may result in the wholesale liquidation of our reserve lands, or the creation of a patchwork quilt of reserve lands like Oka.

"Fee simple" title would mean that any First Nations in a tight spot financially will be pressured to sell land to big developers who would be excited with the prospect of grabbing our lands at a discount price. We've seen this result before in Canada. We have also seen this result in the United States, where unscrupulous developers preyed upon Tribes, leaving reservations with huge holes cut out of them, or entirely extinguished. Furthermore, here in British Columbia, this proposed change to "fee simple" title would also work against us by supporting the Province's determination to negotiate only "fee simple" lands as part of the treaty settlement process.

As a member of the Lands Advisory Board, I know firsthand how to assist First Nations to gain direct control over their reserve lands and resources while maintaining the underlying title with Canada. The *Framework Agreement* accomplished this in 1996 and Parliament ratified the

July 16, 2010

Page 2

government-to-government contract between a group of First Nations and Canada in 1999 by passing the *First Nation Land Management Act*.

Land governance control and decision-making now is in the hands of our 60 signatory communities. The Minister, his officials and the land sections of the archaic and paternalistic *Indian Act* have been removed. As a result, the benefits of the *Framework Agreement* are determined by the perspectives of our 60 First Nations, not by bureaucrats and not by academics.

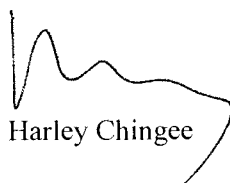
I take issue with the book's negative references to the *Framework Agreement* and intentional omission of the work of the LAB, which actively supports the *Framework Agreement* signatories to develop their land codes, land laws and land systems. They are not left abandoned, as the authors suggest. The situation is exactly the opposite. Our signatory First Nations are fully supported by the LAB at both the political and technical level. The *Framework Agreement* assures them of this support.

The four proponents have made other errors as well. For example, they assert that only by transferring First Nation land to "fee simple" title will First Nations benefit from economic wealth creation. Again this is incorrect. Consider the recent study conducted by KPMG on the effectiveness of the *Framework Agreement*. KPMG determined that the sample of signatory First Nations studied have already experienced in a few short years increased investment in their reserve lands of more than \$100 million. Investing in reserve lands directly managed by First Nations is clearly attractive to both members and third parties. KPMG concluded that the *Framework Agreement* is the most effective and successful First Nation self-government process available in Canada.

All of this economic success is being achieved while leaving title to reserve lands with Canada and constitutionally protected for our future generations. The *Framework Agreement* and the economic development achievements have been the best kept secret since 1996. The signatory First Nations have succeeded in generating revenues and creating employment for members.

In short, we all need to be very wary of others, such as these four proponents, telling us what is good for our communities. We must collectively reject any suggestion that our reserve lands should be turned into "fee simple" title. We do not need academics or other outsiders telling us how to manage our reserve lands.

Sincerely,



Harley Chingee

cc First Nations Lands Advisory Board Members