

## **Whispering Pines/Clinton Indian Band Pre-Budget Submission 2015 – House of Commons Standing Committee on Finance**

### **Executive Summary**

In November 2013, Whispering Pines/Clinton Indian Band Chief Michael Lebourdais made a presentation to the House of Commons Standing Committee on Finance during the 2013 Pre-Budget Consultations. He outlined the proposed First Nation Property Ownership (FNPO) legislation and conveyed Whispering Pines/Clinton Indian Band's support for this concept. Chief Lebourdais urged the government to act on its Economic Action Plan 2012 commitment to introduce and pass legislation that would make this option available to individual First Nations. The presentation was well received and subsequently supported by the Standing Committee. Additionally, First Nation property rights and ownership has been supported by two federal budgets and, earlier this year, by the House of Commons Standing Committee on Aboriginal Affairs.

This submission addresses two of the themes stated in the request for submissions: 1) ensuring prosperous and secure communities; and 2) maximizing job opportunities for Canadians. The Whispering Pines/Clinton Indian Band is seeking the support of the Standing Committee on Finance for two proposals to further the agenda of allowing the market to work on First Nation lands:

1. Continue to recommend the development and passage of First Nation Property Ownership legislation by the federal government; and
2. Support the consideration of specific fiscal arrangements for First Nations to receive benefits from resource development projects in Canada.

### **1. Prosperous and Secure Communities**

Private investment is the engine of economic growth. Investment creates jobs and business opportunities. It builds homes, creates new businesses and expands existing ones. It stores and generates wealth for individuals. It implements technological and business innovations and unleashes creative, artistic and scientific potential. In short, it creates wealth and determines incomes and ultimately determines how much public revenues will be available for public institutions, infrastructure and services. In Canada, private sector investment outweighs public sector investment by five to one.<sup>1</sup> Three times as many jobs are created in the private sector as in the public sector.<sup>2</sup> Attracting private investment is thus the key to economic growth. Every Canadian community and the values and ideals they encompass are in large part a result of successful private investments.

First Nations do not receive their share of private investment. There are very few privately held businesses and there is little retail presence. Many of the existing on-reserve businesses required

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<sup>1</sup> Statistics Canada. (2011). *Table 032-0001 Public and private investment, summary by sector, annual (dollars x 1,000,000)*. Data from 2000 to 2009. Online at <http://estat.statcan.gc.ca/>.

<sup>2</sup> Statistics Canada. (2011) *Table 282-0012 Labour force survey estimates (LFS), employment by class of worker, North American Industry Classification System (NAICS) and sex, annual (persons x 1,000)*. Data from 2000 to 2010. Online at <http://estat.statcan.gc.ca/>.

significant First Nation, federal and provincial subsidization. Almost all employment is with the First Nation public sector. This speaks to a fundamental private investment deficit.

The private investment deficit has two dimensions. First, we can't generate investment internally on anything approaching the scale that happens elsewhere. We can't access equity from our homes. We can't take out loans like other people. We can't turn our assets into capital. Second, we can't attract outside investment on anything approaching the scale that happens off reserves. It takes 4 to 6 times longer to complete an investment transaction on our lands than elsewhere. This is a substantial disadvantage that means all too often investment monies go elsewhere.

The causes of this problem are intricate because investment decisions are complex. The key to fixing it is to break it down. The first step is to acknowledge that the most fundamental reason for economic disparities is a poorly functioning investment market on reserve lands. The second step is to begin to understand why. The principle reason is our inability to provide sufficient certainty to investors. Certainty is a complex, partly perceptual, measure that incorporates many things: the efficacy of our public sector, our political processes, our property right system, our legal framework, our fiscal arrangements, business law, our ability to provide supportive services and infrastructure.

It is the mission of the Tulo Centre of Indigenous Economics<sup>3</sup>, a not-for-profit institution based in Kamloops, British Columbia, to help interested indigenous governments build legal, administrative, and infrastructure frameworks that would support market operations on their lands. By building these frameworks, we will enable private investment from within, and attract outside investment. If we get private investment, we will also develop independent government revenues. The work of Tulo is important. However, it has always been compromised by the fact that we have an inadequate property rights regime and substandard infrastructure. We have only been able to address some of the issues.

The passage of the proposed FNPO legislation would help us address another cause, and a very important one, the property right issue. FNPO would provide clear First Nation jurisdiction, secure individual property rights, property registration certainty, low cost and secure property transactions using the Torrens title system, an improved ability to use liens and use land as collateral, and a ready-to-use legal framework that is familiar to bankers, property developers and law firms. In short, it would greatly improve the operation of the property market on First Nation lands by allowing them to use the same systems that support the investment market in the rest of Canada. As such, FNPO would provide a real change in First Nations' ability to participate in the economy.

## 2. Maximizing Number and Types of Jobs

Canada is rich in natural resources. According to Natural Resources Canada, \$650 billion in investment comprising more than 600 projects are under very active consideration over the next ten years. These projects would add \$1.4 trillion to Canadian GDP and 6.6 million jobs.<sup>4</sup> The economic benefits would

<sup>3</sup> Chief Michael Lebourdais is the current Chair of the Tulo Centre of Indigenous Economics.

<sup>4</sup> Natural Resources Canada. (2012). *Defining the Opportunity: Assessing the Economic Impact of the Natural Resources Sector*. Energy and Mines Ministers' Conference. Available at <http://www.scics.gc.ca/english/conferences.asp?a=viewdocument&id=1907>.

extend across Canada, and include many First Nations, as well as remote and northern communities. These resource projects are particularly crucial given the fiscal challenges we face as a result of an aging population.

First Nation support is essential to ensure the benefits of these investments reach the whole country. The need for support is particularly acute in BC because of the recent Supreme Court of Canada Decision in *Tsilhqot'in v. British Columbia* whereby consent of First Nations in regards to traditional territory has become a necessity. Some argue that this decision will lead to more uncertainty and less investment in resource projects. This does not have to be the case. The federal government can help gain support through two initiatives:

- **Fiscal benefits to First Nations** – First Nations require a share of the new government revenues created by these projects. It is important that the federal government explore revenue opportunities for First Nations that are associated with resource projects. It must support the fiscal accommodation of First Nations by both the provincial and federal governments. It is essential, however, that this not unintentionally obstruct accommodations through policies which inadvertently raise the costs of accommodation by provinces and businesses; and,
- **First Nation Property Ownership legislation** – FNPO would create a set of property rights that would provide access to capital for First Nation entrepreneurs and communities. It would support investment from outside First Nation lands by providing clear, transferrable, secure title to parcels of land. This alone would allow First Nations to more adequately share in the benefits brought by resource investment. FNPO would also facilitate partnerships and joint ventures, and expedite lands being added to First Nation land bases so they could benefit from resource projects.

## Recommendations

In order to advance the agenda of allowing the market to work on First Nation lands and meet the themes of ensuring prosperous and secure communities and maximizing the number and types of jobs for Canadians, the Whispering Pines/Clinton Indian Band is seeking Standing Committee on Finance support for two proposals:

1. **Continue to recommend the development and passage of First Nation Property Ownership legislation** – FNPO is an important step forward in the process of bringing First Nations into the economy. By providing clear First Nation jurisdiction, property registration certainty, individual property rights, and a ready-to-use legal framework First Nations will have access to the same rights as other Canadians. This will create certainty for investors and generate revenues for First Nation governments to build infrastructure and provide improved services to their communities.
2. **Support the consideration of specific fiscal arrangements for resource projects** – This will ensure that First Nations receive fiscal benefits from resource development projects occurring on their traditional territories. These revenues would help address infrastructure and service deficits on our lands.