



FIRST NATIONS SUMMIT

NEWS RELEASE

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JANUARY 9, 2013**

Prime Minister Harper can't afford to idle any longer; urgent action and real outcomes must result from January 11th meeting between First Nations leaders and PM Harper

*An Open Letter from the First Nations Summit to
Prime Minister to Stephen Harper*

Coast Salish Territory (Vancouver) — The First Nations Summit today released the attached open letter to Prime Minister Stephen Harper regarding expectations for the meeting between First Nations leaders, the Prime Minister and key Ministers scheduled to take place in Ottawa on Friday January 11, 2013.

The letter outlines the Summit's concerns about the lack of substantive follow-up from the January 2012 Crown-First Nations Gathering which, in part, has resulted in great pessimism within First Nations communities and the rise of the "Idle No More" movement. The letter also reasserts unequivocal support for Chief Theresa Spence as she brings rise to these issues through her on-going hunger strike.

"Any optimism that followed last year's Crown-First Nations Gathering is gone. Since then, we have witnessed the Federal Government's total disregard for First Nations' Aboriginal Title and Rights and Treaty Rights by pushing through Omnibus Bills C-38 and C-45", said Grand Chief Edward John of the First Nations Summit Political Executive. "There will continue to be discontent in our communities as well as legal uncertainty of crown and industry access to lands and resources in First Nations traditional territories until we see the establishment of a true nation to nation political process that addresses the well-being and dignity of Aboriginal peoples in this country".

"Friday's meeting between the Prime Minister and First Nations leaders will be a clear indicator for our communities on the ability of the federal government to recognize the extreme and dire seriousness of the issues at hand", added Chief Doug White. "First Nations will no longer stand by and continue to see our legally recognized Title and Rights trampled on by government".

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The First Nations Summit speaks on behalf of First Nations involved in treaty negotiations in British Columbia. The Summit is also a NGO in Special Consultative Status with the Economic and Social Council of the United Nations. Further background information on the Summit may be found at www.fns.bc.ca.

For Further Information:

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FIRST NATIONS SUMMIT

January 9, 2013

OPEN LETTER

Honourable Stephen Harper
Prime Minister, Canada
Langevin Block 80 Wellington Street
Ottawa, ON, K1A 0A3

Via facsimile: 613-941-6900

Dear Prime Minister Harper:

Re: Follow-up to First Nations-Crown Gathering

In preparation for the January 11, 2013 meeting in Ottawa, where the agenda includes "treaty relationship and Aboriginal rights, and economic development", we provide the following comments.

The First Nations Summit stands firmly opposed to the passage of your government's first and second omnibus bills, C-38 and C-45. The lack of consultation with First Nations by your government on the significant issues in the bills represents a serious disregard for your constitutional obligations. If implemented, we are extremely concerned there will be profound negative impacts on Aboriginal title, Aboriginal rights and treaty rights.

As one of three principals, along with Canada and BC, to the treaty negotiations process in British Columbia, where the Land Question remains largely outstanding and where the Crown has not fulfilled the reconciliation purposes under section 35 of the *Constitution Act, 1982*, we are gravely concerned with the continued aggressive and pro-industry approach by your government to resource development. First Nations, in their respective territories continue to have Aboriginal title and rights and treaty rights. These legal and constitutional rights form a solid foundation for First Nations to be fully engaged by your government on legislation, regulations and policy initiatives. Further, in accordance with case law and international standards consultation requiring their free, prior and informed consent is absolutely essential.

South of the border the President of the United States meets annually, in December in Washington DC, with over 600 Tribal leaders to discuss issues of US and Tribal relations. Issues determined by Tribal governments to be of priority, including the implementation of the *UN Declaration on the Rights of Indigenous Peoples* (the Declaration), and related budgeting are on the discussion table. In the past several years, despite the economic downturn, the Obama administration has made it a

priority to address the dire and deep social and economic gaps that Tribes face and has ensured the federal budget reflects this.

We call on you to establish a similar process of ongoing open-ended engagement and meetings, at least annually, with all First Nations leaders. Agendas, including issue priorities and budgeting should be jointly developed and follow up be jointly monitored. As well, we call on you to reconsider the recent substantive budgetary cuts made by your government to First Nations.

With respect to the Declaration we completely agree with the UN Special Rapporteur on the Rights of Indigenous Peoples, Professor James Anaya's statement of January 8, 2013 that it is a solid "framework for dialogue". We also add that it provides an important "remediative framework" for resolving outstanding Indigenous peoples grievances in relation to rights concerning lands, territories and resources as well as "treaties, agreements and other constructive arrangements". Article 43 provides that the rights in the Declaration are the "minimum standards" to support the "survival, dignity and well-being" of Indigenous peoples. We agree with the call by the National Chief to ensure that James Anaya is invited, in his capacity as Special Rapporteur, by Canada to conduct a 'country visit'. In addition, we call on Canada to fully engage with Aboriginal peoples across Canada in preparation for the 2014 UN World Conference on Indigenous Peoples.

In June 2011, there was agreement on a "Joint Action Plan" identifying six key and significant issues. These included: improving relationships and strong partnerships between Canada and First Nations respectful of Aboriginal and Treaty rights as recognized and affirmed in the *Constitution Act, 1982*; building effective, appropriate, transparent and fully accountable governance structures; empowering success of individuals through access to education and opportunity; enabling strong, sustainable, and self-sufficient communities; creating conditions to accelerate economic development opportunities and maximize benefits for all Canadians and; respecting the role of First Nations' culture(s) and language(s) in our history and future. We note that action and progress on these six issues remain outstanding.

In January of 2012, we, on behalf of First Nations in BC, attended the "Crown-First Nations" gathering in Ottawa. In the midst of deep skepticism there was a sliver of optimism in the "outcomes document" committing to "action" on four of the six issues in the June 2011 Plan. Unfortunately, in the intervening months these commitments to First Nations became hollow, giving way to rising pessimism and now growing protests across Canada. This deep pessimism is not likely to dissipate any time soon and the protests will likely continue.

The trend of recent federal laws and policies by, the aggressiveness of the conduct of, and dismissive attitude of your government towards First Nations is moving us away from "improving relationships and strong partnerships" articulated in the June 2011 Joint Action Plan. Federal legislation, regulations and policies, inconsistent with decisions from the Supreme Court of Canada and with international standards such as those in the Declaration, have become the order of the day. The underlying premises of Canada's policies respecting Indigenous/Aboriginal peoples are deeply flawed in that they are grounded in the outdated, anachronistic and discredited "doctrines" of discovery and terra nullius. These doctrines are based on the Eurocentric based beliefs in the inferiority of Indigenous peoples, civilizations and cultures. Canada's litigation and negotiations policies perpetuate this. First Nations peoples and their rights as Indigenous peoples do not exist until and unless proven in expensive, lengthy and inaccessible justice systems, or negotiated within the framework of Canada's unilaterally developed negotiation policies and mandates.

By way of example, based on the "outcomes document" commitments, our communities and elected Chiefs in BC and throughout Canada counted on a serious, thorough and complete review and overhaul of Canada's outdated comprehensive claims policies and mandates. However, we have been informed by federal officials in AANDC that the federal government has never committed to such review and revisions, and that they have no mandate to engage with First Nations on these issues. We call on you to support a joint First Nations-Canada substantive review and overhaul of the federal "comprehensive claims" policies. The new policies should consider and be consistent with emerging case law in Canada as well as with the "standards" in the Declaration. We, First Nations in BC, have developed detailed proposals on key issues which we will bring to our joint review.

As of 2012, First Nations in BC have collectively borrowed some \$447.0 million to support their part in "negotiations". These are loans which First Nations have had to borrow because they have no other sources to rely on for their participation in these negotiations. There is a deep concern in our communities that they have to borrow negotiating funds from the very governments which took away their lands, territories and resources without our agreement. Consistent with Canada's approach in forgiving loans to third world countries, these loans to First Nations in BC, and other parts of Canada should be forgiven. We also call on the federal government to review this policy with First Nations and provide necessary financial resources by way of contributions to support negotiations.

In September 2012, Canada announced what it called "results based" policies to speed up land rights and self-government negotiations. Where this completely fails is that all delays and shortcomings lie entirely within Canada's comprehensive claims policies relating both to process and substance. Canada's policies have a built in "take it or leave it" approach, with no negotiations on many key issues including for all Crown takings and appropriations of lands, territories and resources from Indigenous peoples. This dispossession has led to severe levels of poverty in First Nations communities with no real prospects of benefits from development to First Nations. Meanwhile, Canada's economic policies, to support Canada's well-being, are built completely on developing lands and resources within First Nations traditional territories. We call on you to examine the nature, background and the foundations of these historic dispossessions. The so-called doctrines of discovery and terra nullius must be repudiated by Canada, and the remaining vestiges of these, as contained in current comprehensive claims policies, be eliminated.

The dignity and well-being of Indigenous peoples and, that of all Canadians, depends very much on building enduring constructive relationships. Without this (based on section 35 of the *Constitution Act, 1982*, the legal rights of First Nations confirmed in a multiplicity of court cases and "standards" in the Declaration) the legal uncertainty for access, by the federal and provincial governments and industry, to lands and resources in First Nations traditional territories will continue. We take this opportunity to remind you that this legal uncertainty is not a solid foundation for investment or development.

We continue to call on you, as the Prime Minister, to recognize that it is imperative that your government seriously reconsider its current path and move to uphold the honour of the Crown by fulfilling your legal and constitutional obligations to First Nations.

We wish to convey our strong and unequivocal support for the efforts of Chief Theresa Spence and others in their hunger strike, as well as, the broader "Idle No More" movement. In a first world democratic country it is absolutely inconceivable that an elected First Nations leader and First

Nations peoples would have to resort to debilitating hunger strikes to seek a meeting with this country's political leader. The health and well-being of Chief Spence and the other hunger strikers is an absolutely urgent and critical matter. It is a singularly important focal point of growing dissension and protests in First Nations and Aboriginal communities across the country. The people from our communities are deeply engaged.

There is now a growing, and welcome, dialogue between Aboriginal peoples and the Canadian public, some of which is about the place of Indigenous peoples in Canada and the relationships between Crown governments and Aboriginal peoples. There are not only "two solitudes", French and English, in Canada. There is the reality of the "Indigenous solitude" which has been ignored or towards which there has been systemic indifference and at times outright State hostility. There is a deeply unfortunate development now, in that we see very publicly the depth of prejudice, discrimination and racism towards Aboriginal peoples. As the Prime Minister you have a responsibility to address this issue, as you did when you issued the apology to the survivors of Indian residential schools. The tone you set, as the Prime Minister, will be crucially important to improving and supporting our relationships in this country.

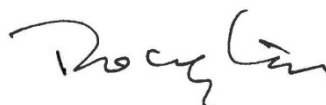
We believe substantial effort and progress on quality of life issues and on the resolution and reconciliation of Aboriginal rights, Aboriginal title and treaty rights implementation will be important to address the simmering and underlying concerns. In your early years as Prime Minister you condemned countries such as China for their human rights records. In our opinion, the issues raised by Chief Spence and the other hunger strikers, as well as by the Idle No More movement, are not materially different. We call on you, Prime Minister, to be proactive on these issues and to engage with our peoples in an open and respectful way. We believe substantial commitment, effort and progress on quality of life issues and on the resolution and reconciliation of Aboriginal rights, Aboriginal title and treaty rights implementation are important to address the simmering and underlying concerns.

Respectfully,

FIRST NATIONS SUMMIT POLITICAL EXECUTIVE



Grand Chief Edward John



Chief Douglas White III Kwulasultun



Dan Smith

- cc. Hon. John Duncan, Minister of Aboriginal Affairs and Northern Development
Hon. Leona Aglukkaq, Minister of Health, Minister of the Canadian Northern Economic Development Agency and Minister for the Arctic Council
Hon. Keith Ashfield, Minister of Fisheries and Oceans
Hon. Peter Kent, Minister of the Environment
Hon. Joe Oliver, Minister of Natural Resources
Hon. John Baird, Minister of Foreign Affairs
Shawn A-in-chut Atleo, Assembly of First Nations