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Chief Robert Louie,  
Chair, Lands Advisory Board

**REPORT ON ELECTORAL PROCESS  
LANDS ADVISORY BOARD, 2011**

In my capacity as Electoral Officer, I am delivering this report to you following on the close of nominations at 5:00 pm (PDT) yesterday, October 14, 2011. As all are aware, the nomination and election process is governed by the LAB Rules and Procedures which you distributed to the operational First Nations at the commencement of process when you invited them to submit nominations for directors' seats open for election in their respective Regions.

Pursuant to the Rules and Procedures, I have reviewed the nomination BCRs submitted for each Region up to the close of nominations and have had regard to the following direction to the Electoral Officer:

3. (e) The electoral officer will review the nomination forms for each region and proceed as follows:
  - (i) If the number of nominees for a region is the same as the number of members to be elected, he or she shall declare the nominee or nominees "elected by acclamation".
  - (ii) If the aggregate number of nominations in respect of a nominee represents a majority of the First Nations eligible to vote in a region, he or she shall declare that nominee "elected".
  - (iii) If he or she determines that there is still a member to be elected in a region after consideration is given to (i) and (ii), he or she shall advise the Chairman that a vote will be required for that region.

For all Regions in 2011, Rule 3 (e) (ii) has been applied and all seats in all Regions have been filled by nominees who received a majority of nominations from First Nations eligible to vote, including the new seat designated by the Board for Manitoba First Nations.

## Election Results

Accordingly, I declare the following nominees elected to the Board:

<u>BC Region</u> (2 seats):	<b>Leah George-Wilson</b>	(12/20)
	<b>Chief Joe Hall</b>	(12/20)
<u>Prairie Region</u> (1 seat):	<b>Chief Austin Bear</b>	(04/07)
<u>Manitoba</u> (new: 1 seat):	<b>Chief Michael Constant</b>	(02/03)
<u>Eastern Region</u> (1 seat):	<b>William McCue</b>	(04/07)

I have relied on the nomination BCRs provided to me pursuant to the Rules and Procedures in making these determinations. First Nations may wish to refer, for further information, to an informal summary of the nominations submitted and names of nominees on the LAB website that will be updated to close of nominations on October 14, 2011 (it currently shows the state of nominations to October 13 only).

## Rulings

The Rules and Procedures provide for rulings by the Electoral Officer:

3. (g) (ix) (iii) All questions of interpretation and application of these rules shall be determined by the electoral officer, whose ruling may be appealed to the Board at the Annual Meeting by any eligible nominee.

During the course of this election cycle, I was asked to make one ruling. The question was whether a First Nation that had approved its land code was an eligible voting First Nation even though, for want of an Individual Agreement signed by the Minister, the land code was not yet in force and effect.

The Rules and Procedures say, at the end of Rule 2:

“A First Nation is deemed to have ratified the Framework Agreement when, according to its terms, the community has voted to ratify the Framework Agreement, the Verifier has certified the vote and the First Nation has brought its land code into force and effect.”

Applying that Rule would mean that the First Nation in question would not be an eligible voter since its land code is not in force and effect. However, the Rules and Procedures also say, in Rule 11:

“Nothing in these Rules & Procedures is intended to be inconsistent with any provision of the Framework Agreement that deals with the status, roles and responsibilities of the Board and any apparent inconsistency shall be resolved in favour of the Framework Agreement.”

Reviewing the Framework Agreement, I determined that there is an inconsistency because Clause 48.2 provides, in part:

“This Agreement will be considered to have been ratified by a First Nation when the First Nation approves a land code . . . “

Under this, the First Nation in question had approved its land code and would be deemed to have ratified the Framework Agreement. Rule 11 directs that the inconsistency be resolved in favour of the Framework Agreement, so my ruling was that the First Nation is an eligible voter.

This ruling is, as provided in the Rules and Procedures, open to appeal to the full Board by any eligible nominee. In the circumstances of this election, such an appeal would not change the result.

### **Notes and Recommendations**

The Rules and Procedures include provision for their amendment. For the next AGM, the Board may wish to consider the following:

1. The inconsistency identified in my ruling described above should be resolved by amending the Rules and Procedures to make the definition of “ratification” conform to the provisions of the Framework Agreement.
2. The LAB has resolved that its members should be styled “directors” and the Rules and Procedures should be amended to reflect that change.
3. The LAB has created a new seat on the Board for Manitoba First Nations and that new seat has been filled by election in 2011. The Rules and Procedures should be amended to reflect that change and to provide for this new seat on the Board.

All of which is respectfully submitted,



Electoral Officer