TITLE:	Intervener Status in Manitoba Métis Federation Court Case
SUBJECT:	Land Claims
MOVED BY:	Chief Glen Hudson, Peguis First Nation, MB
SECONDED BY:	Chief Simon Fobister, Grassy Narrows First Nation, ON
DECISION:	Passed by the AFN Executive Committee

WHEREAS:

A. The Manitoba Métis Federation (MMF) litigation began in 1981 that alleges Canada failed to properly implement the provisions of the Manitoba Act, 1870 and in *Manitoba Métis Federation v. Canada (Attorney General), 2010 MBCA 71* case the stated objective of the MMF in bringing the action is to obtain a declaration from the Supreme Court of Canada (SCC) that Canada breached its fiduciary obligations to the Métis under the Manitoba Act. MMF hopes the success of the action will serve to assist the MMF in seeking a negotiated land claims settlement agreement under section 35 of the Constitution Act, 1982, with Canada and Manitoba.

B. The main issues in the MMF appeal that are of interest to First Nations are:
   - Whether Canada owed the Métis a fiduciary duty in respect of the setting aside of lands under the Manitoba Act, 1871;
   - Whether limitation periods apply when legislation is constitutionally invalid; and
   - Whether historical agreements affecting Canada's relationship with First Nations (e.g. Treaties, the Natural Resources Transfer Agreement (NRTA), etc.) are to be interpreted narrowly or broadly as part of a historic compromise between Aboriginal peoples and Canada.

C. The fiduciary issue raises the question of whether Canada acknowledged Métis Aboriginal title.

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D. The limitation period issues may lead the SCC to clarify the requirements for establishing a breach of fiduciary duty.

E. First Nations with outstanding treaty land entitlements have a vested interest in the same lands.

F. Future Métis land claims may have far reaching implications to First Nations in other Regions.

G. The Assembly of First Nations as the national representative political organization together with the regional political organizations represent First Nation collective interests and have a direct interest and a unique perspective in the outcome of the appeal.

H. Time is of the essence to determine whether AFN should seek intervener standing since the MMF will be filing its factum in early August 2011 and there is a short window of four weeks to file intervener application, with the SCC hearing tentatively scheduled for December 13, 2011.

THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:

1. Direct the Assembly of First Nations (AFN) to review the MMF factum on the constitutional questions posed to the Supreme Court of Canada and seek intervener status to represent the collective interests and unique perspectives of First Nations in Canada.

2. Direct the AFN to work closely with the Regional Chiefs in moving forward collectively to seeking intervener status in this appeal.

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