



Métis  
Nation of  
Alberta

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May 10, 2016

**CONFIDENTIAL**

The Honourable Carolyn Bennett  
Minister of Indigenous and Northern Affairs  
10 Wellington Street  
Gatineau, Québec, K1A 0H4

Dear Minister Bennett, *Carolyn*

**Re: Establishing a Métis Nation of Alberta-Canada Exploratory Discussion Table**

On behalf of the Métis Nation of Alberta (“MNA”), I am writing to request that an MNA-Canada Exploratory Discussion Table be established in order to discuss and address outstanding Métis rights, interests and claims of Alberta Métis. These are matters of national and constitutional import that remain as the “unfinished business” of Confederation between the Crown and the Métis Nation within what is now known as the Province of Alberta.

Based on the Supreme Court of Canada’s decision in *Daniels v. Canada*, we now know that this “unfinished business” between the Crown and the Métis Nation within Alberta implicates Parliament, and, by extension, the federal government based on the Métis being included—as a distinct Aboriginal people—within s. 91(24) of the *Constitution Act, 1867*. This federal jurisdiction and responsibility for advancing “relationships” and “reconciliation” with *all* of Canada’s Aboriginal peoples, including, the Métis Nation, must *not* continue to be ignored.<sup>1</sup>

Moreover, this “unfinished business” in relation to “determining, recognizing and respecting”<sup>2</sup> Métis rights in Alberta that are protected within the meaning of s. 35 of the *Constitution Act, 1982*; the recognition of the MNA’s citizenship registration as a means to identify Métis rights-holders; the resolution of Métis claims against the federal Crown flowing from the *The Rupert’s Land and North-Western Territory Order* (the “1870 Order”), the *Dominion Lands Act* and the Métis scrip system, and, ultimately, giving legal force and effect to a future negotiated agreement that recognizes Métis rights and self-government in Alberta—all demand the federal Crown’s participation.

<sup>1</sup> *Daniels v. Canada (Indian Affairs and Northern Development)*, 2016 SCC 12.

<sup>2</sup> *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73, para. 25.

As you know, there are presently *no* federal processes available to Alberta Métis in order to meaningfully advance the constitutional purpose of s. 91(24) or the constitutional promise of s. 35. In effect, despite repeated directions from the Supreme Court of Canada to Canada over the last decade,<sup>3</sup> Alberta Métis have *no* means to advance meaningful reconciliation in relation to their rights and claims identified above. This is untenable morally, legally and constitutionally.

Moreover, based on the honour of the Crown, s. 35 and Canada's actual knowledge of established and credible Métis rights claims in Alberta, this federal inaction constitutes a breach of Canada's constitutionally mandated duty to negotiate with us.<sup>4</sup> Rather than having to go back to the courts to seek an order for at least some form of negotiations, we hope Canada will ultimately establish a formal negotiation table with us following these exploratory discussions.

The MNA sees the establishment of an Exploratory Discussions Table as an initial step towards formal negotiations on mutually agreeable topics. Through this type of confidential and "without prejudice" process, we will be able to further discuss, outline and document our established and credible Métis right claims as Alberta Métis, including, our collective claim against the federal Crown that is similar to the one already recognized by the Supreme Court of Canada in *Manitoba Métis Federation Inc. v. Canada*.

Through this process, we would want to also discuss our priority interests as well as areas for immediate action, including, the recognition of our unique Métis self-government in Alberta, the need for immediate federal investments in Métis health in order to end the discrimination our children, families and Elders currently face (*i.e.*, recent Métis-specific health studies conducted in partnership with the GoA have shown Métis with worse health indicators than First Nations in some areas), developing a consistent approach to Métis consultation and accommodation in Alberta, amongst other initiatives.

Clearly, on many of these issues, the MNA recognizes it will be necessary for the GoA to participate in our exploratory discussions as well. Since the release of the *Daniels* case, I have already met with Alberta's current Minister for Indigenous Relations. Minister Feenan has

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<sup>3</sup> *R v. Powley*, [2003] 2 S.C.R. 207, paras. 17-18; *Alberta (Aboriginal Affairs and Northern Development) v. Cunningham*, 2011 SCC 37, paras. 5-8; *Manitoba Métis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14, para. 140; *Daniels, supra*, paras. 12-13.

<sup>4</sup> *Daniels, supra*, para. 56; see also *Haida* at para. 25; *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, 2004 SCC 74, [2004] 3 S.C.R. 550, at para. 24; *Manitoba Métis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14, para. 66; *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*, [2010] 2 SCR 650, 2010 SCC 43 at para. 32; *Tsilhqot'in Nation v. British Columbia*, 2014 SCC 44 at paras. 17 & 18.

indicated the GoA's willingness to participate in this type of trilateral discussion with a view to advancing reconciliation with Alberta Métis as well as ensuring the GoA's jurisdictions and interests are respected.

Related to this, I would highlight that for many years the GoA and the MNA have worked together through a MNA-Alberta Framework Agreement process, which has generated significant successes over the last two decade. This process stands in stark contrast to the federal government's approach on these issues. Conveniently and consistently it has been Canada that has been "missing in action" on significant issues such as Métis rights and addressing distinct Métis policy needs despite Canada's constitutional jurisdiction and obligations owing to Alberta Métis (aside from notable investments in the MNA's registry and labour market training).

Moreover, as recently federal government evaluations confirm, previously productive MNA-Canada-Alberta tripartite processes have been reduced to nothing more than year-to-year project management. Gaps in federal policy and bureaucratic inertia continue to thwart any concerted or comprehensive progress being made on Métis issues. Instead, Métis rights related issues are simply "managed," rather than Métis rights being "determined, recognized and respected"<sup>5</sup> as demanded by s. 35. In effect, federal inaction has made reconciliation a fiction for Métis. This is shameful and must end—now.

Instead of focusing on our challenging past, I am optimistic that an Exploratory Discussion Table will allow us to begin to map out a mutually agreeable way forward—together. As you know, the MNA is the oldest of the Métis National Council's Governing Members and is the continuation of the Métis Nation's long tradition of being self-governing in western Canada. We maintain a credible and objectively verifiable registry that includes over 35,000 Métis citizens who expressly authorize the MNA to advance their collective rights, interests and claims in Alberta.<sup>6</sup> Accordingly, any future discussions on these rights-related topics must be directly with the MNA's governance structure, which includes our Regions and Locals.

I look forward to hearing from your on this request. In order to discuss this request as well as other MNA priorities, I am formally requesting a meeting with you. Ideally, I would hope that you could attend at our Head Office in Edmonton in order to see the MNA Registry first-hand as well as potentially visit some of the institutions the MNA has developed over the years (*i.e.*, Rupertsland Institute, Apeetogosan Development Inc., Métis Urban Housing, etc.). If your

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<sup>5</sup> *Haida, supra*, para. 25.

<sup>6</sup> See *Behn v. Moulton Contracting Ltd.*, [2013] 2 SCR 227, para. 30. By registering as MNA citizens and accepting the MNA's Bylaws, over 35,000 individual Métis rights-holders across Alberta have authorized the MNA to represent their collective rights, interests, and claims (for example see, *Labrador Métis v. Newfoundland*, 2007 NLCA 75 at paras. 46-47).

schedule does not allow for this type of meeting in the next few months, I would be happy to meet with you in Ottawa. Prior to our meeting, I have asked MNA officials to attempt to meet your senior officials in order to better understand the MNA's interests.

I look forward to working with you in order to put in place a true nation-to-nation relationship between the federal Crown and the Métis Nation here within Alberta.

Yours truly,

A handwritten signature in cursive script that reads "Audrey Poitras".

Audrey Poitras  
President  
Métis Nation of Alberta

cc: Métis Nation of Alberta Provincial Council  
Joe Wild, Senior Assistant Deputy Minister, Treaties and Aboriginal Government,  
Indigenous Relations and Northern Affairs