



# Chiefs of Treaties No. 1 - No. 11 Resolution

**RESOLUTION:** 27-07-2007/#02R

**SUBJECT: TREATIES NO. 1 - NO. 11 POSITION ON THE FUNDAMENTAL LAWS OF TREATY NO. 6 IN PARTICULAR THE MEDICINE CHEST CLAUSE AND THE INALIENABLE AND TREATY RIGHT TO HEALTH CARE**

**WHEREAS** Treaty Chiefs, Headman and Members of the Nations from Crown Treaties No. 1 - No. 11 did meet in a duly convened Gathering July 23-27, 2007 at Fort Carlton Historic Park located in Duck Lake, Saskatchewan - Treaty No. 6 Territory; and

**WHEREAS** it is the duty of the Treaty No. 1 - No. 11 Chiefs acting collectively, in addition acting on behalf of their respective Nations/Tribes, to preserve, protect and enhance the treaty way of life and sovereignty of the members and their governments; and

**WHEREAS** the Treaty No. 1 - No. 11 Chiefs are concerned with the fact that we are witnessing the steady decline in quality of health amongst our members coupled with the concomitant decline in the federal government's Non-Insured Health Program of First Nations and access to comprehensive health care; and

**WHEREAS** the Treaty No. 1 - No. 11 Chiefs finds that the inalienable rights of our people to comprehensive health services is articulated in the text of Treaty No. 6 where it states:

*That a medicine chest shall be kept at the house of each Indian Agent for the use and benefit of the Indians, at the direction of such Agent.*

**WHEREAS** the Treaty No. 1 - No. 11 Chiefs further finds that the *Medicine Chest* provision shall be interpreted according to the principles of treaty interpretation which the Supreme Court of Canada set out in *R. v. Badger*, [1996] 4W.W.R. 47, where it held:

*First, it must be remembered that a treaty represents an exchange of solemn promises, between the Crown and the various Indian nations. It is an agreement whose nature is sacred...*

*Second, the honour of the Crown is always at stake in its dealing with Indian peoples. Interpretations of treaties and statutory provisions which have an impact upon treaty or aboriginal rights must be approached in a manner which maintains the integrity of the Crown. It is always*

**SUBJECT: TREATIES NO. 1 - NO. 11 POSITION ON THE FUNDAMENTAL LAWS OF TREATY NO. 6 IN PARTICULAR THE MEDICINE CHEST CLAUSE AND THE INALIENABLE AND TREATY RIGHT TO HEALTH CARE**

*assumed that the Crown intends to fulfil its promises. No appearance of "sharp dealing" will be sanctioned...*

*Third, any ambiguities or doubtful expressions in the wording of the treaty or document must be resolved in favour of the Indians. A corollary to this principle is that any limitations which restrict the right of Indians under treaties must be narrowly construed...*

*Fourth, the onus of providing that a treaty or aboriginal right has been extinguished lies upon the Crown. There must be "strict proof of the fact of extinguishment" and evidence of a clear and plain intention on the part of the government to extinguish treaty rights.*

The Court expressly stated that verbal promises were an important source of information in interpreting treaties.

*In addition, when considering a treaty, a court must take into account the context in which the treaties were negotiated, concluded and committed to writing. The treaties, as written documents, recorded an agreement that had already been reached orally and they did not always record the full extent of the oral agreement...As a result, it is well settled that the words in the treaty must be interpreted in their strict technical sense nor subjected to rigid modern rules of construction. Rather, they must be interpreted in the sense that they would naturally have been understood by the Indians at the time of the signing.*

*The Indian people made their agreements orally and recorded their history orally. Thus, the verbal promises made on behalf of the federal government at the times the treaties were concluded are of great significance in their interpretation.*

**WHEREAS** the Treaty No. 1 - No. 11 Chiefs further finds that the Treaty No. 6 *Medicine Chest* clause must be protected and its application continually assured by the incorporation of the treaty provision and treaty interpretation in the Contribution Funding Arrangements and related funding arrangements that exist between First Nations and Indian and Northern Affairs Canada (INAC), that openly acknowledges and recognizes the importance of the treaty right and that provides for significantly higher standards of health care/services amongst all our members; and

**WHEREAS** the Treaty No. 1 - No. 11 Chiefs further finds that it is entirely appropriate for the federal government itself to openly observe the existence of the fundamental treaty and internationally recognized right to health care/services in its laws, policies and administrative directives.

**THEREFORE BE IT RESOLVED THAT:**

1. The Treaty No. 1 - No. 11 Chiefs intend that as descendants and signatories and as Chiefs representing our respective Nations/Tribes, it is our duty and responsibility to uphold our part of the sacred treaty agreement, and to continue to hold accountable to the fullest extent of the law, the Crown government and beneficiaries who signed Treaty No. 6 and

**RESOLUTION: 27-07-2007/#02R**

**Page 33 of 33**

**SUBJECT: TREATY NO. 1 - NO. 11 CHIEFS POSITION ON THE FUNDAMENTAL LAWS OF TREATY NO. 6 IN PARTICULAR THE MEDICINE CHEST CLAUSE AND THE INALIENABLE AND TREATY RIGHT TO HEALTH CARE**

2. The Treaty No. 1 - No. 11 Chiefs intend that a process be established in cooperation with the federal government which shall reflect the spirit and intent of the Treaty No. 6 *Medicine Chest* clause. The process shall be sufficiently funded to allow our respective Nations/Tribes to fully access comprehensive health care/services of our members wherever they live; and
3. The Treaty No. 1 - No. 11 Chiefs support this Resolution as a fair representation of the summary position of the Treaty No. 6 *Medicine Chest*, the principles of treaty interpretation and the duty to consult as set out by the Supreme Court of Canada as legally and politically binding on the federal government.

**MOVED BY: PROXY DARCY LINKLATER, Nisichawayasihk Cree Nation**

**SECONDED BY: CHIEF ROSE LABOUCAN, Dnipile First Nation**

**QUESTION CALLED**

**DISPOSITION: CONSENSUS**

**CO-CHAIR: \_\_\_\_\_  
Ron Lameman**

**RESOLUTION CHAIRPERSON: \_\_\_\_\_  
Eunice Lbuis**