

APRIL 2005 CROW TRIBAL LEGISLATURE

JOINT ACTION RESOLUTION NO. JAR05-03

**INTRODUCED BY CARL E. VENNE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH**

**JOINT ACTION RESOLUTION OF THE CROW TRIBAL LEGISLATURE AND
THE CROW TRIBAL EXECUTIVE BRANCH ENTITLED:**

**“APPROVAL OF AN ADDENDUM TO THE EXPLORATION AND OPTION TO
LEASE AGREEMENT BETWEEN WESTMORELAND RESOURCES, INC. AND THE
CROW TRIBE DATED FEBRUARY 13, 2004.”**

WHEREAS, Westmoreland Resources, Inc. (“WRI”) currently operates the Absaloka Mine in the “ceded strip” pursuant to an amended coal mining lease with the Crow Tribe dated November 26, 1974 (“Tract III Lease”); and

WHEREAS, the Crow Tribe and WRI entered into an “Exploration and Option to Lease Agreement” on February 13, 2004, providing for, among other things, the option to lease the “South Extension” area and amending the royalty rate and other terms of the Tract III Lease, and the Agreement was approved by the Bureau of Indian Affairs on September 28, 2004; and

WHEREAS, WRI’s tax and royalty payments under the Tract III Lease have been made by mailing checks to the Superintendent, which results in delays in the Tribe’s receipt of the payments and loss of interest income, and the payment and reporting terms in the Exploration and Option to Lease Agreement require clarification; and

WHEREAS, since the U.S. District Court’s order in Case No. CV-78-110-BLG-JFB (D. Mont., Sept. 19, 1988), Tribal severance and gross proceeds tax payments from the Absaloka Mine have been treated as trust income; and

WHEREAS, the Minerals Management Service (“MMS”) of the U.S. Department of Interior has reviewed and concurs with the Addendum, and WRI has agreed to and executed the Addendum; and

WHEREAS, the Chairman of the Executive Branch has authority and responsibility pursuant to the “enumerated powers” in Article IV, Section 3(f) of the Constitution and Bylaws of the Crow Tribe of Indians to “negotiate and approve or prevent any sale, disposition, lease or encumbrance of Tribal lands, interests in lands or other Tribal assets, including buffalo, minerals, gas and oil with final approval granted by the Legislative Branch;” and

WHEREAS, the Legislative Branch has authority and responsibility pursuant to its "powers and duties" in Article V, Section 2(d) of the Constitution "to grant final approval or disapproval of items negotiated by the Executive Branch of Government pertinent to the sale, disposition, lease or encumbrance of Tribal lands, interests in lands or mineral assets;" and


WHEREAS, the reporting and payment methods specified in the Addendum will ensure that payments are credited to the Tribe's accounts in a timely manner consistent with modern banking practices, that MMS can properly verify royalty payments, and that funds from tax and royalty payments continue to be managed by the Office of the Special Trustee of the U.S. Department of the Interior and disbursed according to the Tribal budget;

NOW THEREFORE, BE IT RESOLVED BY THE LEGISLATURE AND THE EXECUTIVE BRANCH OF THE CROW TRIBE:

"That the Crow Tribal Legislature acting jointly with the Crow Tribal Executive Branch hereby approves the "ADDENDUM TO EXPLORATION AND OPTION TO LEASE AGREEMENT Between the Crow Tribe of Indians and Westmoreland Resources, Inc., Dated February 13, 2004" negotiated by the Chairman of the Executive Branch, attached and incorporated by this reference, to be effective immediately upon approval by the Bureau of Indian Affairs pursuant to the Indian Mineral Development Act of 1982."

CERTIFICATION

I hereby certify that this Joint Action Resolution, approval of an addendum to the exploration and option to Lease Agreement between Westmoreland Resources, Inc., and the Crow Tribe dated February 13, 2004, was duly approved by the Crow Tribal Legislature with a vote of 14 in favor, 2 opposed, and 0 abstained and that a quorum was present on this 19th day of April, 2005.


Speaker of the House
Crow Tribal Legislature

ATTEST:


Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby

✓ *CAJ*
approve,

_____ veto

this Joint Action Resolution, approval of an addendum to the exploration and option to Lease Agreement between Westmoreland Resources, Inc., and the Crow Tribe dated February 13, 2004 pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 and Article IV, Sections 3(f) and 3(k) of the Constitution and Bylaws of the Crow Tribe of Indians on this 2 day of May, 2005.

[Signature]
Chairman, Executive Branch
Crow Tribe of Indians

Bill or Resolution Number JAR05-03 Introduced by: Executive Date of Vote 4.19.05
 Representative

	Yes	No	Abstain
B. Cloud	<input checked="" type="checkbox"/>		
C. Goes Ahead	<input checked="" type="checkbox"/>		
O. Costa	<input checked="" type="checkbox"/>		
V. Crooked Arm			
R. Iron		<input checked="" type="checkbox"/>	
J. Stewart			
E. Fighter	<input checked="" type="checkbox"/>		
L. Costa			
L. Hogan	<input checked="" type="checkbox"/>		
D. Old Elk	<input checked="" type="checkbox"/>		
K. Real Bird	<input checked="" type="checkbox"/>		
E. Pease	<input checked="" type="checkbox"/>		
S. Medicine Horse	<input checked="" type="checkbox"/>		
L. Not Afraid	<input checked="" type="checkbox"/>		
P. Real Bird	<input checked="" type="checkbox"/>		
D. Wilson		<input checked="" type="checkbox"/>	
J. Stone	<input checked="" type="checkbox"/>		
<i>Secretary of the House</i>			
W. Plain Feather	<input checked="" type="checkbox"/>		
<i>Speaker of the House</i>			
Totals:	<u>14</u>	<u>2</u>	<u>0</u>

Results of Vote: Passed Not Passed Tabled Veto Override

Signature of Officer: W. Plain Feather Date: 4-19-05

ADDENDUM TO EXPLORATION AND OPTION TO LEASE AGREEMENT

Between the Crow Tribe of Indians and Westmoreland Resources, Inc.

Dated February 13, 2004

THIS ADDENDUM amends that certain "Exploration and Option to Lease Agreement" dated February 13, 2004 (the "Agreement") between the Crow Tribe of Indians (the "Tribe") and Westmoreland Resources, Inc. ("Westmoreland") with respect to Westmoreland's payment and reporting obligations under the Agreement and the "Coal Mining Lease" attached to the Agreement as Exhibit A (the "Lease"). This Addendum also amends that certain "Amended Coal Mining Lease Indian Lands" dated November 26, 1974 (the "Tract III Lease") as subsequently amended, including the amendments in Section 6 of the Agreement, and shall apply to Westmoreland's reporting and payment obligations under the Tract III lease after the date of execution of this Addendum.


Westmoreland recognizes the reporting, accounting, and auditing functions performed by Minerals Management Service ("MMS") in connection with the lease of coal owned by the Crow Tribe of Indians, and Westmoreland agrees to comply with MMS reporting and auditing requirements at 30 C.F.R. §§ 210.200-210.206 (Forms and Reports); § 212.200 (Records and File Maintenance, § 217.200 (Audits); §§218.10-218.42 & 218.200-218.203 (Collection of Royalties, Rentals, etc); §§228.1-228.10 (Cooperative Agreements); Part 243 (Suspensions Pending Appeal and Bonding); and Part 290, Subpart B (Appeals) (including any future modified versions of these

regulations) on all rent, royalty, and bonus payments under the Agreement and Lease and under the Tract III Lease referenced above.

Further, notwithstanding any other provision of the Agreement or the Lease or the Tract III Lease (including but not limited to Section 22.1 of the Agreement, Article 7.1 of the Lease, and any other provisions referring to Westmoreland making payment to the Superintendent), all payments by Westmoreland to the Tribe, including without limitation, royalties, taxes (characterized as trust funds by order of the United States District Court in Case No. CV-78-110-BLG-JFB (D. Mont., Sept. 19, 1988)), rentals, bonuses and lump sum payments under the Agreement and Lease and the Tract III Lease shall be made by electronic funds transfer to the Office of the Special Trustee for American Indians of the United States Department of the Interior into an account or accounts designated by the Crow Tribe and approved by the Superintendent, except that the payment referred to in section 7 of the Agreement shall be made directly to the Crow Tribe as provided therein.

DATED this 2 day of May, 2005.

CROW TRIBE OF INDIANS


Chairperson

ATTEST:

WESTMORELAND RESOURCES, INC.

By 
Secretary

President & Chief Executive Officer

ACKNOWLEDGMENT OF CROW TRIBE OF INDIANS

STATE OF MONTANA)
 :ss.
County of Big Horn)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person that executed the within instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Print or type name
Notary Public for the State of Montana
Residing at: _____
My Commission expires: _____

ACKNOWLEDGMENT OF WESTMORELAND RESOURCES, INC.

STATE OF MONTANA)
 :ss.
County of Big Horn)

On this _____ day of _____, 2005, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the person that executed the within instrument, and acknowledged to me that he/she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Print or type name
Notary Public for the State of Montana
Residing at: _____
My Commission expires: _____



Crow Country

LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

P.O. Box 309 – ITCHIK BLDG., MAKAWASHA Avenue
Crow Agency, Montana 59022
Phone: (406) 638-2023/2025 Fax: (406) 638-2030

Legislative Branch

Pryor:

Arrow Creek

Benjamin Cloud, III
Oliver Costa
Carlson Goes Ahead

Big Horn:

Valley of the Give

Away

Vincent Crooked Arm
Ralph Iron, Jr.
Willie Plainfeather,
Speaker of the House

Dunmore:

Black Lodge

Jared Stewart
Larry Costa
Ertis Fighter, Sr.

Reno:

Center Lodge

Lloyd Hogan, Jr.
Daniel Old Elk, Sr.
Kennard Real Bird

Lodge Grass:

Valley of the Chief

Eloise Pease
Scott Medicine Horse
Leroy Not Afraid

Wyola:

Mighty Few

Pius Real Bird
Dana Wilson
J.D. Stone, Secretary

Staff

Freda Knows Gun,
Office Manager
Karla Bishop,
Adm. Assistant
Alex Medicine Horse, Jr.
Sergeant at Arms
Thomas J. Half,
Interpreter/Office Asst.
Nellie Moccasin,
Office Assistant
Ronald Arneson, Esq.,
Legislative Branch
Attorney At Law

OFFICIAL CERTIFICATE OF SERVICE

I, **Jonathan D. Stone, Secretary of the Legislative Branch of the Crow Tribal Government** hereby this Transitional Action do deliver a True and Correct Official copy of Approval of an Addendum to the Exploration and option to lease Agreement between Westmoreland Resources, Inc., and the Crow Tribe dated February 13, 2004
Bill No. JAR05-03 to Carol E. Housa in
the position of Chairman for the Crow Tribal Executive Branch.

Done and dated this 5th day of May, 2005 @ 1:41 1:25 am/pm.

Jonathan D. Stone
Jonathan D. Stone, Secretary
Crow Legislative Branch

Served by:

Karla Bishop 55.05
[Signature]
Legislative Branch Staff