

JANUARY 2004 CROW TRIBAL LEGISLATURE

CROW LEGISLATIVE BILL NO. CLB04-02

INTRODUCED BY CARL E. VENNE
CROW TRIBAL EXECUTIVE BRANCH

A BILL FOR AN ACT ENTITLED "AN ACT OF THE CROW TRIBAL LEGISLATURE GRANTING FINAL APPROVAL OF THE AGREEMENT BETWEEN WESTMORELAND RESOURCES, INC. AND THE CROW TRIBE FOR THE RIGHTS TO EXPLORE AND LEASE THE 'SOUTH EXTENTION' OF THE ABSALOKA MINE, SETTling THE PENDING MMS DISPUTE, AND RENEGOTIATING THE ROYALTY AND EXTENDING THE TERM OF THE EXISTING TRACT III LEASE AGREEMENT."

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 the royalty payable to the Tribe under that lease as amended on December 2, 1994 is subject to renegotiation effective on December 1, 2004; and

WHEREAS, there is a currently pending dispute between the WRI and the Tribe concerning the alleged underpayment of royalties to the Tribe under the existing Tract III Lease, and the preliminary finding and underpayment demand are on administrative review with the Minerals Management Service, U.S. Department of Interior (the "MMS"); and

WHEREAS, Westmoreland Resource, Inc., has proposed that WRI and the Crow Tribe enter into an Agreement pursuant to the Indian Minerals Development Act of 1982 (the "IMDA") whereby WRI would be granted the right to explore and evaluate the coal reserves owned by the Tribe in an area located on the Crow Reservation and south of the existing Absaloka mine (the "South Extension"), and the exclusive option to lease and mine the coal located there pursuant to the lease terms in the Agreement; and

WHEREAS, the Tribe's coal resource located in the South Extension will be necessary in order for WRI to continue mining at the Absaloka mine past 2007, and the facilities on the Tract III Lease will be necessary for the processing and shipping of coal mined from the South Extension; 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 in Article IV, Section 3(k) to "negotiate and approve limited waivers of sovereign immunity when such a waiver is necessary for business purposes in accordance with Article V, Section 2(f) of [the] Constitution;" 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 in Article V, Section 2(f) to "grant final approval or disapproval of limited waivers of sovereign immunity by the Executive Branch when waivers are necessary for business purposes;" and

WHEREAS, the Chairman and WRI have reached an agreement on the material terms for an "Exploration and Option to Lease Agreement," which in exchange for payments of certain sums and taxes and royalties to the Tribe on Tribal coal mined, provides for (a) WRI's right to explore the South Extension as described on Exhibit B of the Agreement, (b) the option to mine coal in the South Extension pursuant to the terms and conditions of the Coal Mining Lease set forth as Exhibit A of the Agreement, (c) an option to extend the term of the Tract III Lease and renegotiation of the royalty rate as described in the Agreement, and (d) settlement of the MMS underpayment dispute according to the terms in the Settlement Agreement set forth as Exhibit C of the Agreement; and

WHEREAS, at the time this Bill was submitted to the Legislature in order to comply with Article V, Section 7 of the Constitution, the parties were in the process of finalizing the "Exploration and Option to Lease Agreement," which final Agreement attached hereto has been submitted to and reviewed by the Legislature; and

WHEREAS, after approval by the Legislature and Executive Branch of the Crow Tribe, the Agreement is subject to approval by the Secretary of the Interior or her designee, and the MMS as provided in the Agreement and pursuant to applicable Federal law;

NOW THEREFORE, BE IT ENACTED BY THE LEGISLATURE OF THE CROW TRIBE:

Section 1. The following "Exploration and Option to Lease Agreement" between Westmoreland Resources, Inc., and the Crow Tribe, including all Exhibits and the limited waiver of sovereign immunity therein, is hereby granted final approval pursuant to Article V, Sections 2(d) and 2(f) of the Constitution and Bylaws of the Crow Tribe.

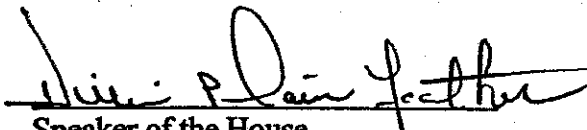
Section 2. The final approval granted in Section 1 extends to the "Coal Mining Lease" for the South Extension (Exhibit A), including the limited waiver of sovereign immunity contained therein, the "Settlement Agreement and Mutual Release" for the MMS dispute (Exhibit C), including the limited waiver of sovereign immunity contained therein, and the agreement to amend the parties' existing Tract III Lease for renegotiation of the royalty, Tribal employment, and extending the term as set forth in Section 6 of the Exploration and Option to Lease Agreement.

Section 3. The Chairman of the Executive Branch is authorized to sign and execute the above-referenced agreements on behalf of the Crow Tribe.

Section 4. The final approval granted herein is effective on the date of approval of this Act, and is subject only to such further approvals as are required by Federal law.

CERTIFICATION

I hereby certify that this Bill was duly approved by the Crow Tribal Legislature with a vote of 16 in favor, 0 opposed, and 0 abstained and that a quorum was present on this 10th day of February, 2004.

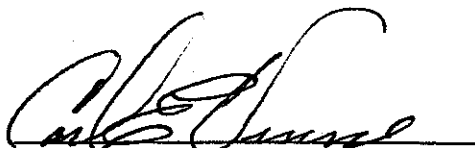

Speaker of the House
Crow Tribal Legislature

ATTEST:


Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby X approve, _____ veto this Bill 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 12 day of February, 2004.


Chairman, Executive Branch
Crow Tribe of Indians