

JULY 2006 CROW TRIBAL LEGISLATURE

JOINT ACTION RESOLUTION NO. JAR06-08

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:

“FINAL APPROVAL OF THE RIGHT-OF-WAY RENEWAL AGREEMENT AND PAST COMPENSATION SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE OF INDIANS AND PACIFICORP.”

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, PacifiCorp (formerly Pacific Power & Light) has rights-of-way for three (3) high-voltage electric power transmission lines on the Reservation which were granted by the Bureau of Indian Affairs in 1956, 1957, and 1962, with nominal consideration paid according to the appraisal standards in effect at that time, and PacifiCorp has accessed these transmission rights-of-way since that time without legal access rights in some cases; and

WHEREAS, the PacifiCorp rights-of-way expire at the end of their 50-year terms, beginning in October 2006; and

WHEREAS, since early 2003, the Chairman of the Executive Branch has negotiated with PacifiCorp for additional compensation for past use of the rights-of-way and access routes, and for the renewal of the transmission line rights-of-way and access routes; and

WHEREAS, from the beginning of the negotiations with PacifiCorp, the Chairman has insisted while the Tribe is not authorized to negotiate on behalf of individual allotment owners, that PacifiCorp offer to individual allotment owners at least the same terms for past compensation and the rights-of-way renewals that have been negotiated by the Tribe, which are estimated to be several times as much as PacifiCorp initially offered, which was in turn several times as much as the BIA’s appraised value for the rights-of-way renewals; and

WHEREAS, PacifiCorp has offered the same terms negotiated by the Tribe for past compensation and renewals to individual allotment owners, and has obtained consents from hundreds of individual allotment owners according to such terms; 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, at the time this Joint Action Resolution was submitted to the Legislature in order to comply with Article V, Section 7 of the Constitution, the parties had reached agreement on the substantive terms for the past compensation and renewal, and were in the process of finalizing certain terms pertaining particularly to the Tribal Government and the language of the Right-of-Way Consent and Settlement Agreement (the "Agreement"), and the draft Consent Agreement originally submitted with this Resolution have since been replaced by the final Agreement attached hereto which have been submitted to and reviewed by the Legislature; and

WHEREAS, renewal of the PacifiCorp rights-of-way on the terms as negotiated is in the best interests of the Crow Tribe, and will also enable the Tribe to have access to use excess capacity on the lines to support the development of Tribal energy projects; and

WHEREAS, after approval by the Legislature and Executive Branch of the Crow Tribe, the Right-of-Way Consent Agreement is subject to approval by the Secretary of the Interior or her designee pursuant to Federal law, but the BIA Regional Director has informed the Tribe that the BIA will not be reviewing and approving the past compensation Settlement Agreement;

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

Section 1. That the "Right-of-Way Consent Agreement and Settlement Agreement", including the limited waiver of sovereign immunity contained therein, attached hereto and incorporated by this reference, are 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. That the Chairman of the Executive Branch is authorized to sign and execute the above-referenced Agreements on behalf of the Crow Tribe, and to take such further actions as are necessary to implement and administer the Agreements.

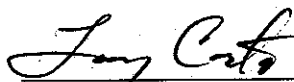
Section 3. That the final approval granted herein is effective on the date of approval of this Resolution, and is subject only to such further approvals as are required by Federal law.

CERTIFICATION

I hereby certify that this Joint Action granting **"FINAL APPROVAL OF THE RIGHT-OF-WAY RENEWAL AGREEMENT AND PAST COMPENSATION SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE OF INDIANS AND PACIFICORP"** was duly approved by the Crow Tribal Legislature with a vote of 15 in favor, 0 opposed, and 2 abstained and that a quorum was present on this 20TH day of JULY, 2006.


Speaker of the House
~Servant of the Apsáalooke Nation~
Crow Tribal Legislature

ATTEST:


Secretary, Crow Tribal Legislature



EXECUTIVE ACTION

I hereby

✓ approve,

 veto

this Joint Action Resolution granting **"FINAL APPROVAL OF THE RIGHT-OF-WAY RENEWAL AGREEMENT AND PAST COMPENSATION SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE OF INDIANS AND PACIFICORP"** 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 31 day of July, 2006.


Chairman, Executive Branch
Crow Tribe of Indians

"Final Approval of Right-of-way Renewal Agreement and
Past Compensation Settlement Agreement between the Crow Tribe
of Indians and Pacifi Corp."

Bill or Resolution Number JAR06-08 Introduced by: Executive Date of Vote: 7-20-06
Branch

<u>Representative:</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
L. Plain Bull	<u>✓</u>	<u> </u>	<u> </u>
O. Costa	<u>✓</u>	<u> </u>	<u> </u>
V. Crooked Arm	<u>✓</u>	<u> </u>	<u> </u>
M. Not Afraid	<u>✓</u>	<u> </u>	<u> </u>
R. Iron	<u>✓</u>	<u> </u>	<u> </u>
B. House	<u>✓</u>	<u> </u>	<u> </u>
E. Fighter	<u>✓</u>	<u> </u>	<u> </u>
L. Hogan	<u>✓</u>	<u> </u>	<u> </u>
S. Fitzpatrick	<u>✓</u>	<u> </u>	<u> </u>
K. Real Bird	<u> </u>	<u> </u>	<u>✓</u>
M. Covers Up	<u> </u>	<u> </u>	<u>✓</u>
R. Old Crow	<u>✓</u>	<u> </u>	<u> </u>
L. Not Afraid	<u>✓</u>	<u> </u>	<u> </u>
B. Shane	<u>✓</u>	<u> </u>	<u> </u>
J. Stone	<u>✓</u>	<u> </u>	<u> </u>
D. Wilson	<u> </u>	<u> </u>	<u> </u>
L. Costa <i>Secretary of the House</i>	<u>✓</u>	<u> </u>	<u> </u>
D. Goes Ahead <i>Speaker of the House</i>	<u>✓</u>	<u> </u>	<u> </u>
Totals:	<u>15</u>	<u>0</u>	<u>2</u>

Result of Vote:

Passed

Not Passed

Tabled

Veto Override

Signature Officer:

Carlton D. Smith

Date:

7-20-06

RIGHT-OF-WAY CONSENT
AND
SETTLEMENT AGREEMENT

This Agreement is made and entered into this ____ day of _____, 2006, by and between the Crow Tribe of Indians (hereinafter called "Crow Tribe"), and PacifiCorp, an Oregon corporation with principal offices located in Portland, Oregon ("PacifiCorp"). The Crow Tribe and PacifiCorp are sometimes referred to herein as "Party" or collectively as "Parties."

WHEREAS: The Crow Tribe is a federally recognized Indian tribe possessing sovereign powers over the Crow Indian Reservation, including its members and its land; and

WHEREAS: PacifiCorp has three electric power transmission line rights-of-way across the Crow Indian Reservation ("Reservation"), described as follows:

1. "Billings to Yellowtail" – 161 KV Transmission Line Right-of-Way, 100 feet in width, extending from the Northern Boundary of the Reservation in Section 28, Township 1 South, Range 27 East, to the Yellowtail Substation in Section 8, Township 6 South, Range 31 East, granted to Pacific Power & Light Company on October 25, 1956, a survey plat of which is recorded in BIA Right-of-Way File No. 202-1836 as Map No. 12732;
2. "Yellowtail to Montana State Line" – 161 KV Transmission Line Right-of-Way (later upgraded to 230 KV), 100 feet in width, extending from the Yellowtail Substation to the Southern boundary of the Reservation (concomitant with the Montana – Wyoming state boundary) in Section 32, Township 9 South, Range 36 East, granted to Pacific Power & Light Company on May 16, 1957, a survey plat of which is recorded in BIA Right-of-Way File No. 202-1836 as Map No. 12732; and
3. "Yellowtail to Frannie" – 230 KV Transmission Line Right-of-Way, 100 feet in width, extending from the Yellowtail Substation to the Southern Boundary of the Reservation in unsurveyed lands in Township 7 South, Range 27 East, granted to Pacific Power & Light Company on October 15, 1962, a survey plat of which is recorded in BIA Right-of-Way File No. 1909 as Map No. 12758.

(hereafter collectively referred to as the "Existing Rights-of-Way").

WHEREAS: True and correct survey plats of the Existing Rights-of-Way are attached hereto as Plat "A" (Billings to Yellowtail), Plat "B" (Yellowtail to Montana State Line), and Plat "C" (Yellowtail to Frannie), and are incorporated into and made a part of this Agreement.

WHEREAS: Each of the Existing Rights-of-Way was granted pursuant to the Act of February 5, 1948 (62 Stat. 17) for an initial term of 50 years, subject to renewal for a like term upon compliance with applicable regulations.

WHEREAS: The initial term of the Existing Rights-of-Way will expire on the following dates (the "Expiration Date(s)"):

1. Billings to Yellowtail: October 25, 2006
2. Yellowtail to Montana State Line: May 16, 2007
3. Yellowtail to Frannie: October 15, 2012

WHEREAS: PacifiCorp desires to renew its Existing Rights-of-Way across the Reservation.

WHEREAS: Renewal of the Existing Rights-of-Way will involve no present change in width, length, size, type, location, or status of said rights-of-way.

WHEREAS: PacifiCorp desires to obtain a non-exclusive, 20-foot wide easement over certain designated existing roads and farm trails ("Designated Access Roads") for the purpose of accessing its transmission line corridors. A true and correct survey of all Designated Access Roads and the corresponding right-of-way is described and depicted on the survey plats attached hereto.

WHEREAS: A list and descriptions of the Tribal Land, allotments and fee lands crossed by the Existing Rights-of-Way and Designated Access Roads, to the extent known, is set forth in the survey plats attached hereto and incorporated into this Agreement by reference.

WHEREAS: The Crow Tribe, in the exercise of its sovereign powers and in conformity with applicable law, finds that the terms and conditions of this Agreement are acceptable to and in the best interests of the Tribe, in both its sovereign capacity and its capacity as a landowner.

NOW, THEREFORE, in consideration of the mutual promises and benefits set forth herein, the Crow Tribe hereby consents to the renewal of the Existing Rights-of-Way and the granting of a non-exclusive right-of-way over the Designated Access Roads by the Secretary of the Interior, in accordance with the following terms and conditions, subject to applicable Federal law, and agrees to the following:

ARTICLE 1: DEFINITIONS & INCORPORATION

The foregoing recitals are contractual and are expressly included herein as part of this Agreement. As used herein, the following definitions shall apply:

1.01 "**Agreement**" means this Right-of-Way Consent Agreement, together with any exhibits or attachments hereto.

1.02 "**Allotted Land**" means any land held in trust by the United States for the benefit of an individual Indian or individual Indians, or owned by the individual Indian(s) themselves subject to Federal restrictions against alienation or encumbrance.

1.03 "**BIA**" means the United States Bureau of Indian Affairs.

1.04 "**Effective Date**" means the date upon which all of the following requirements have been met: (a) the Agreement has been approved pursuant to a Resolution of the Crow Tribal Legislature approved by the Chairman of the Executive Branch (the "Chairman") as provided in the Crow Tribal Constitution; (b) the Agreement has been signed by both parties; (c) approvals have been provided by the Parties' legal counsel as set forth in Articles 16.16 and 16.17, and (d) the Secretary has approved this Agreement to the extent (if any) required by Federal law for the grant of an easement or right-of-way for the Existing Rights-of-Way and the Designated Access Roads for the term provided in Article 4 of this Agreement, and has granted said easement(s) and right(s)-of-way.

1.05 "**Emergency**" shall include: (a) Any disruption, or imminent disruption, in the flow of electricity, either momentary or permanent, that requires PacifiCorp to inspect and/or repair the cause of the disruption; (b) Any circumstance or condition that presents an imminent risk to the continued conservation and protection of Trust resources; or (c) Any circumstance or condition that if not inspected, resolved, repaired or corrected will cause PacifiCorp to be in violation of the National Electrical Safety Code, and/or any other applicable law or regulation designed or intended for the protection of public health and safety or which could result in a disruption in the flow of electricity either momentarily or permanently.

1.06 "**Fee Land**" means any land other than Allotted Land or Tribal Land.

1.07 **"Renewed Right-of-Way"** refers to the Existing Rights-of-Way from and after the date that renewal of each right-of-way takes effect pursuant to this Agreement.

1.08 **"Reservation"** means those lands lying within the exterior boundaries of the Crow Indian Reservation.

1.09 **"Rod"** means a lineal distance of 16.5 feet measured along the centerline of the Existing Rights-of-Way or Designated Access Roads.

1.10 **"Secretary"** means the Secretary of the Interior of the United States or his duly authorized representative.

1.11 **"Transmission Facilities"** means all of PacifiCorp's electric transmission lines, associated structures, fixtures, facilities, improvements and equipment located within the exterior boundaries of the Existing Rights-of-Way.

1.12 **"Tribal Land"** means all land and interests in land owned by the United States of American in trust for the benefit of the Crow Tribe, or owned by the Tribe itself subject to Federal restrictions against alienation or encumbrance. Tribal Land specifically includes undivided interests in allotted lands owned by the United States in trust for the benefit of the Crow Tribe, or owned by the Tribe itself subject to Federal restrictions against alienation or encumbrance. The Parties recognize that the obligations of the Secretary do not extend to fee lands of the Crow Tribe.

1.13 **"Trust Lands"** shall collectively refer to Allotted and Tribal Lands.

ARTICLE 2: RECOGNITION OF CROW TRIBE'S SOVEREIGN AUTHORITY.

PacifiCorp hereby recognizes the sovereignty of the Crow Tribe, and, in accordance with the terms and provisions of this Agreement, consents to the jurisdiction of the Crow Tribe over its facilities and operations on Trust Lands and Tribally-owned Fee Lands within the Reservation.. In consideration of such consent, the Crow Tribe agrees to limit the effect of future Tribal laws and regulations on PacifiCorp and its facilities and operations as provided in this Agreement. In entering in this Agreement, the Crow Tribe acknowledges that it is acting in both its sovereign capacity and in its capacity as a landowner.

ARTICLE 3: SETTLEMENT OF PAST CLAIMS

The Tribe does hereby fully and forever release and discharge PacifiCorp, its predecessors, successors, assigns and agents, from any and all claims, causes of actions and demands for compensation, damages, injuries and losses accruing on or before the Effective Date relating to or arising out of the placement, ownership and operation of the electric transmission lines and related facilities, and from any and all claims arising from or related to any and all past use of Tribal Land and fee land owned by the Tribe by PacifiCorp and its predecessors for purposes of accessing the electric transmission line corridor, whether asserted or unasserted, known or unknown, foreseen or unforeseen (altogether referred to as the "Released Claims"). In exchange for this release, PacifiCorp agrees to make the following payments:

3.01 PacifiCorp shall pay the Tribe Ten Dollars (\$10.00) per rod of Designated Access Roads on Tribal Land or fee land owned by the Tribe.

3.02 PacifiCorp shall pay the Tribe Twenty-Four Dollars (\$24.00) per rod of Existing Rights-of-Way on Tribal Land or fee land owned by the Tribe.

3.03 In calculating the number of rods for which payment will be made, lands over which PacifiCorp has a right-of-way that have been acquired by the Tribe since PacifiCorp's right-of-way was acquired shall not be included. As to each tract of Tribal Land or fee land owned by the Tribe in which undivided interests are owned by individuals, payment to the Tribe shall be proportionate to its undivided interests in that tract.

3.04 The parties agree that the total compensation to be paid for the rights and releases provided in Article 3.01 and 3.02 is Three Hundred Twenty-Seven Thousand Eight Hundred Forty-Five Dollars (\$327,845). This amount will be paid to the Tribe within 10 days of the Effective Date of this Agreement.

3.05 The Tribe shall never assert a lawsuit or claim against PacifiCorp, its predecessors, successors, assigns or agents with regard to the Released Claims. The Tribe further agrees that in the

event that the United States asserts such a lawsuit or claim on behalf of the Tribe, PacifiCorp will be entitled to a credit or offset against any settlement or judgment for all sums paid to the Tribe pursuant to Sections 3.01 – 3.04 above, provided that such credit or offset shall in no event exceed the amount of the settlement or judgment or otherwise require the Tribe to reimburse any portion of the foregoing payments.

3.06 As a condition of the Crow Tribe's release of the Released Claims, PacifiCorp shall offer at least the same rates of compensation as provided in this Article 3 to all beneficial owners of Allotted Land crossed by the Existing Rights-of-Way and the Designated Access Roads ("Allotment Owners") in proportion to their interests as they may appear, together with a "dignity payment" equal to at least One Hundred Dollars (\$100) to each owner for each separate Allotment in which they have an interest (up to a maximum of \$300 dignity payments per individual owner); provided, however, that Allotment Owners are free to accept or reject PacifiCorp's offer, and nothing in this Agreement will be affected whether or not the owners of Allotted Land accept PacifiCorp's offer.

3.07 Within 10 days after the Effective Date of this Agreement, PacifiCorp shall pay to the Crow Tribe the sum of Six Hundred Thousand Dollars (\$600,000) for any and all damage caused to archeological and/or cultural sites by PacifiCorp's past operations and construction. The Crow Tribe accepts this payment as the sole consideration for full satisfaction and accord to compromise a disputed claim. Accordingly, subject to PacifiCorp's further and continuing cultural protection obligations as specified in Article 10, the Tribe does hereby fully and forever release and discharge PacifiCorp, its predecessors, successors, assigns and agents, from any and all claims, causes of actions and demands for compensation, damages, injuries and losses with regard to archeological and/or cultural sites within the Crow Reservation which occurred prior to the Effective Date of this Agreement, whether asserted or unasserted, known or unknown, foreseen or unforeseen, and does hereby covenant and agree to not hereafter prosecute or cause to be prosecuted any suit or action of any kind or description against PacifiCorp, its predecessors, successors, assigns and agents for damages or other relief with regard to the same. The Tribe further agrees that in the event that the United States asserts such a lawsuit or claim on

behalf of the Tribe, PacifiCorp will be entitled to a credit or offset against any settlement or judgment for all sums paid to the Tribe pursuant to this Section 3.07, provided that such credit or offset shall in no event exceed the amount of the settlement or judgment or otherwise require the Tribe to reimburse any portion of the foregoing payments.

3.08 For the same consideration set forth in this Article 3, the Tribe shall diligently cooperate with PacifiCorp in obtaining approval of the settlements provided in this Article 3 by the BIA or other agency of the United States, as appropriate.

ARTICLE 4: GRANT & CONSENT TO GRANT.

4.01 The Crow Tribe hereby consents to the renewal of PacifiCorp's Existing Rights-of-Way by the Secretary for a term of **twenty (20)** years, commencing for each Existing Right-of-Way on October 26, 2006. It is the parties' intention that each of the Existing Rights-of-Way shall be renewed by the Secretary by means of one instrument, and upon approval shall be considered a single right-of-way (the Renewed Right-of-Way). The right-of-way renewal will be granted by the Secretary pursuant to the authority of 25 U.S.C. §§ 323-328 and 25 C.F.R. Part 169, and in accordance with the terms and conditions of this Agreement.

4.02 The Renewed Right-of-Way may be used by PacifiCorp during the term of this Agreement for the purpose of locating, accessing, surveying, inspecting, repairing, replacing, maintaining, operating, upgrading, using and removing the Transmission Facilities, and for constructing or installing such structures, fixtures or improvements as may be necessary or beneficial for the safe and efficient operation of the Transmission Facilities, subject to the restrictions in Section 4.09 of this Agreement.

4.03 The Crow Tribe hereby further consents to the grant by the Secretary to PacifiCorp of a non-exclusive easement 20 feet wide running the length of each Designated Access Road, as described and depicted on the survey plats attached hereto, insofar as the same cross Tribal Land, for a term of **twenty (20)** years, commencing on October 26, 2006. Said easement shall be granted for the purpose of allowing PacifiCorp to access the Renewed Right-of-Way with motorized vehicles and equipment for all

purposes incident to locating, surveying, inspecting, operating, maintaining, repairing, replacing, upgrading and removing the Transmission Facilities. The easement shall be granted by the Secretary pursuant to the authority of 25 U.S.C. §§ 323-328 and 25 C.F.R. Part 169, and in accordance with the terms and conditions of this Agreement. Notwithstanding the fact that the easement hereby consented to crosses many individual and discontinuous tracts, the parties intend that the same shall be granted by the Secretary in one and the same instrument as the Renewed Right-of-Way, and upon Secretarial approval, both shall be considered a single right-of-way.

4.04 For the same consideration, the Crow Tribe hereby grants to PacifiCorp a right-of-way over any and all fee land and undivided fee interests in land now owned or hereafter acquired by the Tribe within the corridors of the Renewed Right-of-Way and Designated Access Road right-of-way described in Sections 4.01 and 4.03 above. Said right-of-way shall be subject to all terms and conditions of this Agreement, and shall run for a concurrent term.

4.05 It is understood and agreed that the right-of-way granted pursuant to this Article 4 includes rights of ingress and egress over and across Tribal Lands outside the transmission line corridors for purposes of accessing the same; provided, however, that in accessing the transmission line corridors across Tribal Lands, PacifiCorp shall utilize only the Designated Access Roads, except as otherwise required in the event of an Emergency or as agreed to by the Crow Tribe after consultation.

4.06 This Agreement, and the Crow Tribe's consent to renewal, applies to all Tribal Land lying within the corridors of the rights-of-way described in Sections 4.01 and 4.03 above, whether presently owned or hereafter acquired, including all Tribal Land that is not, for any reason, presently identified as Tribal Land.

4.07 Upon request, the Crow Tribe shall not unreasonably deny PacifiCorp the temporary use of Tribal Land, not to exceed an additional 50 feet in width, lying adjacent to the Renewed Right-of-Way, if necessary for purposes of repair, replacement or removal of the Transmission Facilities. Utilization of Tribal Land under this provision is limited to the time reasonably necessary to complete the activity, up to a maximum of ninety (90) days. PacifiCorp shall restore any land so utilized to as-

near its original condition as reasonably practicable, and shall reimburse the Tribe for the fair rental value of the land and any actual damage caused pursuant to further agreements entered into with or authorized by the Chairman of the Executive Branch.

4.08 The Crow Tribe agrees that PacifiCorp may utilize existing public roads (including state highways, county roads and BIA roads) to access the right-of-way granted and consented to herein to the extent such roads cross Tribal lands, even if such roads should later be determined to have been improperly opened or perfected; provided, however, that if such a road is closed to the public by an authority of competent jurisdiction, PacifiCorp will cease and desist from using such road until it has obtained the legal right to do so.

4.09 PacifiCorp agrees that it will not expand or change its use of the Renewed Right-of-Way granted and consented to herein without obtaining the Tribe's consent to any such change or expansion. In particular, and without limitation, PacifiCorp agrees that it will not increase the voltages of the transmission lines or the sizes of the structures, and shall not use the Renewed Right-of-Way for any purpose other than as specified in Section 4.02 of this Agreement, or allow any third party to use the Renewed Right-of-Way for any purpose whatsoever, including but not limited to telecommunications, fiber optics, roads, pipelines, or any other method of electric energy transmission, without the Tribe's further written consent and agreement. The restrictions in this Section 4.09 extend to rights-of-way over Allotted Land, and the Allotment owners' consents shall be required for any such change or expansion in use. Notwithstanding the foregoing, PacifiCorp and the Tribe agree that PacifiCorp shall have the right to increase the voltage of the Billings line to 230 KV, and the Crow Tribe hereby grants the right to and consents to PacifiCorp increasing the voltage on the Billings to Yellowtail line up to 230,000 volts at any time during the term of this Agreement. Nothing in this Section 4.09 shall preclude PacifiCorp from operating, maintaining, installing and upgrading communication lines and related facilities within the Renewed Rights-of-Way for purposes of managing its transmission system.

4.10 The Tribe's consent to and the grant of the Renewed Right-of-Way shall be subject to the stipulations in 25 C.F.R. Section 169.5 (as such regulation may be amended or replaced and is currently

effective), and to the extent not inconsistent therewith, PacifiCorp further agrees to the following conditions:

4.10.01 PacifiCorp shall notify the Crow Tribe at least ten (10) days prior to the anticipated start of any construction, repairs or surface-disturbing activities, except in the event of an Emergency in which case notice will be given according to Section 16.19 of this Agreement;

4.10.02 PacifiCorp shall comply with Tribal laws and ordinances as provided in this Agreement;

4.10.03 PacifiCorp will comply with the "Suggested Practices for Raptor Protection on Powerlines: The State of the Art in 1996" (EEI/Raptor Research Foundation), as updated or replaced by similar guidelines during the term of this Agreement; and

4.10.04 Consistent with its obligations for weed control, clearing and fire control under 25 C.F.R. Section 169.5, PacifiCorp will minimize the use of pesticides, shall use them only in accordance with their registered uses, and shall take all reasonable measures to ensure that they are not applied outside the right-of-way or easement boundaries (unless consented to by the Tribe for weed control purposes). PacifiCorp will give advance notice of and opportunity for the Tribe to comment on PacifiCorp's plans for the use of pesticides.

4.10.05 PacifiCorp shall defend, indemnify and hold the Crow Tribe and its authorized users of the lands within the Renewed Right-of-Way and Designated Access Road easements harmless against any liability for loss of life, personal injury and property damage arising from the construction, maintenance, occupancy or use of such lands by PacifiCorp, its employees, contractors and their employees, or subcontractors and their employees.

4.11 The Crow Tribe reserves the right to use and enjoy the Tribal Land and Tribal fee land included in the Renewed Right-of-Way and the Designated Access Roads, and to permit the use thereof by third parties, to the fullest extent possible without unreasonable interference with the exercise by PacifiCorp of its right to use such lands in accordance with the terms of this Agreement, including but

not limited to the use of the Tribally-owned lands in the Renewed Right-of-Way for agricultural crops less than 10 feet in height or for the purpose of crossing the Renewed Right-of-Way with other rights-of-way of any kind (along with associated pipeline, transmission or other facilities) which may hereafter be operated or permitted by the Crow Tribe, and PacifiCorp will not interfere with the Crow Tribe's use of such lands for any purpose not inconsistent with the primary purpose for which the rights-of-way are granted; provided, however, that the Crow Tribe shall consult with PacifiCorp prior to undertaking or permitting any use which may result in an unsafe condition, and shall not undertake or permit a use that results in an unsafe condition or a violation of the National Electric Safety Code.

ARTICLE 5: BASIC CONSIDERATION.

In consideration of the Renewed Right-of-Way and Designated Access Road easements herein granted and consented to, PacifiCorp shall make the following payments to the Crow Tribe:

5.01 PacifiCorp shall pay the Tribe Twenty Dollars (\$20.00) per rod of Designated Access Roads on Tribal Land or fee land owned by the Tribe.

5.02 PacifiCorp shall pay the Tribe One Hundred Dollars (\$100.00) per rod of Existing Rights-of-Way (for transmission lines) on Tribal Land or fee land owned by the Tribe.

5.03 In calculating the number of rods for which payment will be made, lands over which PacifiCorp has a right-of-way that have been acquired by the Tribe since PacifiCorp's right-of-way was acquired shall be included, and the Parties agree that the total amount of such compensation is One Hundred Seventy-One Thousand Fifty-Two Dollars (\$171,052), which amount is included in the amount stated in Section 5.04. As to each tract of Tribal Land or fee land owned by the Tribe in which undivided interests are owned by individuals, payment to the Tribe shall be proportionate to its undivided interests in that tract.

5.04 The parties agree that the total compensation provided in this Article 5 is One Million Two Hundred Five Thousand Eighty-Nine Dollars (\$ 1,205,089). The portion of this amount applicable to Tribal Land held in trust shall be deposited with the Secretary as provided in 25 C.F.R. § 169.14 for disbursement by the Secretary to the Crow Tribe, or if the foregoing procedure does not apply, shall be

made by PacifiCorp within 10 days after the Effective Date of this Agreement by electronic funds transfer to the Office of the Special Trustee ("OST") 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. Any portion of this amount applicable to Tribally-owned Fee Land which are not considered trust income subject to receipt and distribution by the Secretary shall be paid directly to the Crow Tribe within 10 days after the Effective Date.

5.05 The amount of compensation paid pursuant to this Article 5 shall be adjusted for any survey or ownership errors discovered prior to the Effective Date or during the term of this Agreement based on the per-rod rates stated in Sections 5.01 and 5.02, provided that the net amount of any such adjustment shall not result in any reimbursement to PacifiCorp of any amounts previously paid to the Tribe or reduction in any amounts or compensation offered or paid to other owners of Allotted Land.

5.06 As a condition of the Crow Tribe's consent to the Renewed Right-of-Way, PacifiCorp shall offer at least the same rates of compensation as provided in this Article 5 to all Allotment Owners in proportion to their interests as they may appear; provided, however, that Allotment Owners are free to accept or reject PacifiCorp's offer and to negotiate their own compensation terms with PacifiCorp

ARTICLE 6: TRIBAL USE OF PACIFICORP TRANSMISSION SYSTEM.

6.01 The Crow Tribe and developers of Tribal energy resources shall have non-discriminatory access to the PacifiCorp Transmission System (including that portion of the Transmission System situated within the Renewed Rights of Way), at the rates and upon the terms and conditions provided for in PacifiCorp's Open Access Transmission Tariff ("OATT"), on file with and approved by the Federal Energy Regulatory Commission. Any Transmission Service, Generation Interconnection Service, or Ancillary Services provided to the Crow Tribe by PacifiCorp shall be provided subject to the jurisdiction of the Federal Energy Regulatory Commission.

6.02 Within 10 days of the Effective Date of this Agreement PacifiCorp shall pay to the Crow Tribe of the sum of Two Hundred Twenty-Five Thousand Dollars (\$225,000). This sum is intended to assist the Tribe in making transmission reservation for energy projects on the Reservation in accordance

with PacifiCorp's OATT procedures, by funding some or all of the cost of interconnection application fees and associated system impact studies, and the reservation of 100 MW of capacity; provided, however, that the Tribe may use these funds for any purposes it deems appropriate. In addition, PacifiCorp agrees that it will provide to the Tribe future Integrated Resource Planning documents as well as bid preparation information to the Tribe or its designee for evaluation and use by the Tribe in submitting Tribal generation resources into PacifiCorp's resource procurement processes. Any future request for transmission reservation or service by the Crow Tribe is subject to all rules and regulations of the Federal Energy Regulatory Commission and other applicable law.

ARTICLE 7: TRIBAL TAXES.

7.01 On or before October 1, 2006, and each October 1 thereafter during the term of this Agreement, PacifiCorp shall pay to the Crow Tribe the Tribal Railroad and Utility Tax in the amount of Fifty-Four Thousand Dollars (\$54,000), adjusted for inflation as set forth in this Article 7.

7.02 The \$54,000 sum referenced in Section 7.01 shall be adjusted for inflation each year that this Agreement remains in force (including the 2006 payment), increasing or decreasing in accordance with the percentage change in inflation obtained by averaging the percentage change from June 2005 in (a) the Consumer Price Index for All Urban Consumers (CPI-U) – U.S. City Average, All Items, not seasonally adjusted (1982-84 = 100) and (b) the Producer Price Index for Fuels and related products – Electric power, commodity code 054 (WPU054), not seasonally adjusted, both as published by the U.S. Bureau of Labor Statistics (referred to collectively as the "Indexes"). The adjustment calculations shall be made as of August 1 of each year, based upon the average of the percent changes in the Indexes between the reference base period of June 2005 and June of the most recent year. All calculations shall be based upon the latest version of the Indexes published by BLS as of August 1 of each year. All percentage changes shall be rounded to the nearest one-tenth of one percent. If either of the Indexes is discontinued or replaced, the parties will agree upon a replacement index that most closely resembles the previous Index.

7.03 PacifiCorp shall pay the adjusted amount calculated and billed by the Tribe, or if such a bill is not received by September 15 of any year, PacifiCorp shall calculate and pay the adjusted amount as provided in this Article 7 on or before October 1; provided, however, that if either party disagrees with the other's calculations, it shall have six (6) months from the due date of the payment to give notice of its disagreement and the parties shall thereafter work together to resolve the disagreement.

7.04 In consideration of this Agreement, including without limitation the payment provided for in Section 6.02, the Tribe agrees that the annual payments provided for in this Article 7 shall satisfy PacifiCorp's obligations for all Tribal taxes, assessments, and other general payment obligations for the term of this Agreement, including taxes which may be assessed under the Crow Tribal Code, Title XIII – Taxation – Railroad and Utility Tax, and any other tribal tax ordinance which may otherwise be applicable to PacifiCorp, its rights-of-way, rights of access, Transmission Facilities, equipment and property located within the Crow Reservation, the operation, maintenance and repair of its Transmission Facilities, and all income generated thereby, regardless of whether such taxes or other payment obligation arise under tribal ordinances now in effect or hereinafter enacted; provided, that nothing in this Article 7 shall relieve PacifiCorp from the obligation to pay usual and ordinary fees for Tribal government permits and licenses as required by generally-applicable Tribal law.

7.05 The Crow Tribe, as sovereign and landowner, expressly agrees that it shall never raise the assessment against PacifiCorp while this Agreement remains in effect except as provided in this Article 7, and that if the Tribe should assess any tax or assessment applicable to PacifiCorp that is contrary or in addition to the provisions of this Article 7, PacifiCorp shall be entitled to claim and receive a credit for the difference between the total Tribal taxes so assessed and the amounts of the tax payments as provided in this Article 7, and to the extent that future taxes exceed the tax payments provided for in this Article 7, such taxes shall be considered waived as to PacifiCorp.

7.06 The Tribe acknowledges that all Tribal taxes due and payable by PacifiCorp as of the Effective Date of this Agreement have been paid in full.

ARTICLE 8: TRIBAL EDUCATIONAL ASSISTANCE.

8.01 Within ten (10) days after the Effective Date of this Agreement, and on or before August 10 of each year thereafter during the term of this Agreement, PacifiCorp shall make available to the Tribal Education Department the sum of Seven Thousand Five Hundred Dollars (\$7,500) for the purpose of providing college scholarships to Tribal members. This amount shall be adjusted each year for inflation in the same manner as set forth in Section 7.02. All scholarships shall be awarded in PacifiCorp's name by the Tribal Education Department to students actively pursuing training or degrees (including vocational and technical education and training) in technical fields related to electricity generation transmission or distribution, including but not limited to engineering, operation or maintenance.

8.02 If PacifiCorp establishes a trust for this purpose, the instrument establishing the trust shall direct the trustee to distribute the scholarship funds as directed by the Tribal Education Department according to its guidelines in effect at the time, provided that the selection of the trustee shall be subject to the Tribe's concurrence, and the trustee shall be entitled to make non-binding recommendations for the awards to the Education Department.

8.03 If the amounts provided herein are not fully awarded or expended in any year, the remainder shall be carried over and available for award in the following year(s).

ARTICLE 9: TRIBAL EMPLOYMENT.

9.01 PacifiCorp recognizes that the lack of economic opportunities have resulted in poverty and high unemployment on the Crow Reservation, and that the Crow Tribe is concerned with the status of employment and contracting opportunities for Tribal members living on or near the Reservation. PacifiCorp also recognizes the desire of the Crow Tribe to obtain additional capital investment, development and employment opportunities within the Reservation. Finally, PacifiCorp recognizes that the Crow Tribe has enacted specific laws concerning Tribal member and Indian preference which apply to PacifiCorp's maintenance and repair activities on the Renewed Right-of-Way. The Crow Tribe, in turn, recognizes that PacifiCorp is concerned that its Transmission Facilities be maintained and repaired

in a manner which will ensure, in the most efficient method possible, compliance with all relevant laws, regulations and industry codes designed to safeguard public safety and the environment. Consistent with these understandings, desires, and needs, PacifiCorp agrees that it shall, as provided in this Article 9, comply with the Crow Tribal Employment Rights Ordinance ("TERO") and cooperate with the Crow Tribe's Tribal Employment Rights Office (the "TERO Office") to provide employment and contracting opportunities in connection with any construction, upgrading, maintenance and repair work regarding the Transmission Facilities. In consideration of this Agreement, including without limitation the scholarships provided in Article 8 herein, the Crow Tribe hereby agrees that its TERO, insofar as it applies to PacifiCorp, shall be subject to the following provisions:

9.01.01 PacifiCorp shall have a reasonable opportunity to cure any violations without penalty, after notification by the TERO Office. All administrative rulings, orders and determinations by the TERO Office, including fines, penalties and other enforcement measures, shall be subject to appeal by PacifiCorp pursuant to the Dispute Resolution provisions in Article 14 and Exhibit A. In any such appeal, the arbitrators shall be bound by the standards of review of decisions of the TERO Office or Director as set forth in the TERO. Any sanctions, fines or penalties assessed against PacifiCorp determined by the arbitrators to be unfair or unreasonable under the circumstances, or disproportionate to the alleged infraction, shall be deemed arbitrary and capricious, and pursuant to Section 19.D. of TERO, shall be reversed or modified accordingly.

9.01.02 TERO violations may not result in the loss or forfeiture of PacifiCorp's rights under this Agreement, nor the loss, seizure or forfeiture of PacifiCorp's property, unless so ordered in an arbitration award and confirmed by the Secretary pursuant to the Dispute Resolution Procedures in Article 14 of this Agreement. Any fines and penalties assessed shall in all instances be fair and reasonable in light of the circumstances and proportionate to the alleged infraction.

9.01.03 For so long as this Agreement remains in effect, PacifiCorp's annual Employer Permit shall not exceed the \$500.00 maximum presently set forth in Section 11 of TERO, nor shall project fees, as presently set forth in Section 21 of TERO, exceed 3% of the total cost of work performed within the territorial boundaries of the Crow Reservation. Likewise, with regard to inspection, maintenance or repair projects performed directly by PacifiCorp employees, any resulting employment fees shall not exceed 3% of payroll earned while performing work on the Crow Reservation. The maximum permit fee shall be adjusted for inflation in the same manner set forth in Section 7.02 of this Agreement.

9.01.04 No contractor shall be considered a qualified contractor for the purpose of bidding on PacifiCorp projects, until that contractor has completed a Pre-Qualification form applicable to all PacifiCorp construction projects and has in place a Drug and Alcohol Plan that meets the requirements of the United States Department of Transportation, currently set forth in 49 C.F.R. Part 199; provided, however, that qualification criteria established by PacifiCorp for contractors or employees shall not have the effect of serving as barriers to Tribal or Indian contracting or employment unless PacifiCorp can demonstrate that such criteria are required by business necessity or Federal law.

9.01.05 TERO compliance shall not impede or delay PacifiCorp's line inspection at such time and intervals as deemed prudent by PacifiCorp, or the performance of necessary repair work in the event of an Emergency.

9.01.06 Any new requirements in future Tribal TERO legislation and administrative rules implemented pursuant to TERO, as they apply to PacifiCorp's operations under this Agreement, shall be subject to the provisions of Article 12 of this Agreement.

9.02 PacifiCorp will annually offer to the Crow Tribe or Tribal contractor a contract for right-of-way clearing and weed control on the Renewed Right-of-Way. The Tribe or contractor shall meet all usual terms and conditions required under the PacifiCorp standard contractor contract to be eligible. Contract specifics and requirements such as scope, timing, competitive costs, performance standards,

etc. will be defined annually. PacifiCorp's annual offer of this contract shall be made through the TERO Office, and the Tribe or Tribal contractor shall have sixty (60) days to meet the qualifications and contractual requirements and accept the offer.

9.03 To be considered a "qualified" contractor for purposes of a preference under TERO, each contractor must complete a Pre-Qualification Form applicable to all PacifiCorp construction projects and have in place a Drug and Alcohol Plan that meets the requirements of the United States Department of Transportation, currently set forth in 49 C.F.R. Part 199 (2003).

9.04 The Crow Tribe agrees that PacifiCorp need not hire any additional employees to perform minor re-occurring, part-time tasks within the Reservation (including inspections and Emergency repairs) where such routine tasks can be readily accomplished by employees that are part of the regular, full-time staff of PacifiCorp. When, however, it becomes necessary to perform within the Reservation substantial scheduled repair, maintenance or construction tasks concerning the Transmission Facilities or the rights-of-way and easements covered by this Agreement, PacifiCorp agrees that Tribal and Indian preference will be applied in the hiring of the employees, contractors and contractors' employees to perform such tasks, subject to the core crew exemption and as otherwise provided in the TERO.

9.05 Nothing in this agreement shall be construed to require the employment or retention of any contractor, subcontractor, or employee who is not qualified to perform the duties of employment in a satisfactory manner and as reasonably required.

9.06 PacifiCorp will provide an individual contact to Tribal members seeking employment with PacifiCorp. A specified recruiter will be made available to assist applicants with questions regarding the recruitment process. Currently, Tribal members may contact PacifiCorp Human Resources at 503-813-5020. The recruiter will also provide career guidance for tribal applicants seeking a job opportunity with PacifiCorp. PacifiCorp will assist interested tribal parties in navigating the PacifiCorp job posting website. Interested Tribal members can receive automated notifications when a desired position is open for recruitment. Tribal members are encouraged to review all open positions, currently posted at

www.pacifiCorp.com under "Career Opportunities." Job opportunities will be in locations where PacifiCorp currently has business operations. Successful candidates will be required to work where existing jobs are located. Consistent with the foregoing, PacifiCorp will make active, ongoing good faith efforts to provide mentoring for Crow Tribal members who express serious interest in lines of work performed by PacifiCorp employees, by working with the TERO Office, the Tribal Education Department, and Little Big Horn College by making information available on career opportunities in these lines of work along with the types of education, training and qualifications necessary to successfully pursue such careers.

ARTICLE 10: TRIBAL CULTURAL PROTECTION.

10.1 Cultural Resources Protection Act. PacifiCorp recognizes the critical ongoing historical, traditional and cultural importance to the Crow Tribe and its members of cultural resources, sites and items that may be located on or near the Renewed Right-of-Way and the Designated Access Roads. Accordingly, PacifiCorp agrees to comply fully with the Tribal Cultural Resource Protection Act of 2005 (referred to in this Article as the "Act"), as it applies to PacifiCorp's activities on the Reservation during the term of this Agreement, and as further provided in this Article.

10.02 Sites Damaged by Previous Operations. With respect to the cultural sites identified in the Bureau of Indian Affairs' Environmental Assessment (the "EA") as Site Numbers 24BH3257, 24BH3263, 24BH3269 and 24YL1604, and any other similarly sensitive sites identified by the Crow Culture Committee (referred to in this Article 10 as the "Sites"), the parties agree as follows:

10.02.01 The Crow Culture Committee and the Tribal Historic Preservation Officer ("THPO") have viewed the sites identified in the EA for further inspection and testing, and agree that the provisions of the EA for such further inspection and testing are adequate to support the BIA's approval of the rights-of-way renewals and access easements consented to in this Agreement, provided that PacifiCorp comply with the EA conditions as supplemented by the further provisions of this Section 10.02.

10.02.02 PacifiCorp will provide funding for the further archaeological testing and development of mitigation plans for the Sites as required by the National Historic Preservation Act (NHPA) and its implementing regulations at 36 C.F.R. Part 800. The proposed mitigation plans and work shall be subject to approval by the Crow Tribe and the Bureau of Indian Affairs. The work will be conducted under the supervision of a qualified archaeologist, who meets Federal professional standards and is acceptable to the THPO.

10.02.03 The testing report and mitigation plans will meet the reporting and consultation requirements of NHPA, and any plans shall be developed only for those sites determined to be eligible for listing in the National Register of Historic Places. In each case, PacifiCorp and the Crow Tribe shall cooperate in good faith to agree upon and present to the BIA a mitigation plan that provides for a cost-effective resolution of adverse effects consistent with generally-accepted methods within the archeological profession.

10.02.04 PacifiCorp will promptly take and be responsible for the costs of any mitigation measures required by the approved plans.

10.02.05 The Crow Tribe, through its THPO and Cultural Committee, shall timely issue any permits that may be required with regard to the testing, excavation and mitigation of the Sites.

10.02.06 To the extent required by Federal law, PacifiCorp shall make diligent, good-faith attempts to obtain landowners' permission to test the Sites to the extent that such additional permission is required by the Archeological Resources Protection Act (16 U.S.C. § 470cc(g)(2)), including the payment of fair compensation (e.g., for surface damages and temporary or permanent loss of use) to the landowners and their lessees as their interests may appear or as required by the BIA, and subject to the any ownership rights of the landowners under applicable law in cultural items located on the sites. However, unless otherwise required by Federal law, PacifiCorp shall not be required to undertake further testing or mitigation with regard to those Sites for which it is unable to obtain landowner permission.

10.02.07 Within ten (10) days after the Effective Date of this Agreement (or before commencement of the Site testing, if that occurs at PacifiCorp's request prior to the Effective Date), PacifiCorp shall pay the sum of Sixty Thousand Dollars (\$60,000) to the Crow Tribe to cover:

(a) the costs of a two-week archaeological training program for up to 10 Tribal members, including training in site recognition and testing;

(b) one (1) cultural awareness training session for PacifiCorp employee(s) and/or contractor(s) responsible for supervising the inspection, maintenance and repair of the Transmission Facilities;

(c) the costs for the Tribal personnel, including the Culture Committee, THPO, and the Monitors to participate in the further inspection, testing, and mitigation plan development for the Sites; and

(d) any fees associated with Tribal permits that may be required with regard to the testing, excavation and mitigation of the Sites.

(e) The Crow Tribe acknowledges receipt from PacifiCorp of the additional sum of Twelve Thousand Five Hundred Dollars (\$12,500), as full reimbursement of the costs for the Culture Committee and the THPO to review the cultural survey and related provisions of the EA, consultations with the Bureau of Indian Affairs archaeological staff, selection of Tribal cultural site monitors, initial inspection of sensitive sites identified in the EA, and planning for implementation of training and other protective measures provided in this Agreement.

10.02.08 PacifiCorp's compliance with this Section 10.02 shall constitute full compliance with the Act as it applies to the process of obtaining the Renewed Rights-of-Way and the Designated Access Road easements, and shall satisfy all mitigation requirements as to all cultural resource sites identified in the EA.

10.03 Operations after Effective Date. The cultural awareness training, monitoring, and mitigation requirements of this Section 10.03 shall apply to all of PacifiCorp's operations after the Effective Date, and satisfy the requirements of the Act as it pertains to such operations:

10.03.01 PacifiCorp will provide one day of environmental and cultural awareness training annually to the supervisor of all crews responsible for inspecting, maintaining and repairing the Transmission Facilities. The cultural awareness training shall be conducted by the Crow Culture Committee or its designees. Additionally, as scheduling allows, PacifiCorp shall make good-faith efforts to provide such training to all its employees and contractors performing work within the Crow Reservation.

10.03.02 PacifiCorp shall notify the THPO prior to performing any maintenance, construction or repair operations on Trust Lands that may involve or result in surface disturbance. At least five (5) business days' prior notice shall be provided for routine operations. In the event of an Emergency, shorter or no advance notice may be given, provided that where circumstances do not allow prior notice, PacifiCorp shall report the type and location of its operations to the THPO as soon as possible after making entry.

10.03.03 Upon receiving notice of PacifiCorp's intended operations, the THPO shall arrange to make a representative of the Cultural Committee ("Monitor") available to monitor PacifiCorp's operations for the purpose of ensuring the protection of cultural sites. Access by PacifiCorp shall not be restricted due to Tribal staff availability, provided that PacifiCorp has also given at least two (2) hours' notice that it is ready to commence the operation.

10.03.04 The notices required under this Section 10.03 may be made by telephone, followed with a written confirmation by mail or facsimile, to the telephone numbers and address provided by the THPO.

10.03.05 On or before October 1 of each year during the term of the Agreement, PacifiCorp shall pay Fifteen Thousand Dollars (\$15,000) to the Crow Tribe for the purpose of

providing the Crow Cultural Committee and the THPO office funds to compensate the time (at the rate of \$25.00 per hour) and expenses (mileage at IRS rates and Tribal per diem) of the Tribal Monitors for PacifiCorp's future maintenance and repair operations, and to compensate the Tribe for annual cultural awareness training of PacifiCorp's employee(s) and/or contractor(s). If the level of PacifiCorp's activities during any year causes Monitor compensation and expenses plus cultural awareness training costs to exceed the amount stated above, PacifiCorp shall promptly reimburse the difference upon receipt of the Tribe's invoice for same. The amounts and hourly rate in this Paragraph 10.03.05 shall be adjusted for inflation in the same manner as provided in Section 7.02.

10.03.06 For any additional cultural artifacts or archaeological sites identified by the Crow Culture Committee as a result of PacifiCorp's future operations, or as a result of any further cultural survey conducted by the Tribe, which have been adversely affected by PacifiCorp's operations, PacifiCorp shall promptly take all reasonable mitigation measures required under Federal law (for sites which are determined eligible for listing in the National Register), or as may be required under Tribal law or reasonably requested by the Crow Tribe (for archeological sites and cultural artifacts which are not eligible for listing in the National Register, but are of objectively demonstrable significance to the Crow Tribe).

10.04 Cap on PacifiCorp's Mitigation Costs. Notwithstanding any other provisions of this Agreement, and subject to the terms of this Section, the maximum amount that PacifiCorp shall be required to expend for inspection, testing, mitigation and protection of cultural and archaeological sites affected by its operations prior to the Effective Date ("Mitigation Costs") shall not exceed Five Hundred Thousand Dollars (\$500,000). Such amount is in addition to all payments to the Crow Tribe under this Agreement.

If the actual Mitigation Costs required under the Federal law (including the NHPA) or Tribal law exceed such amount, the Crow Tribe shall pay or reimburse PacifiCorp the excess amount up to a maximum of the settlement amount paid by PacifiCorp to the Crow Tribe pursuant to Section 3.07 of

this Agreement; provided, that the Crow Tribe's obligations under this Section shall be conditioned upon PacifiCorp providing to the Crow Tribe: (a) at least ninety (90) days' notice before committing or expending any such excess amounts, (b) notice and the opportunity to assume control of and/or perform the work on which the excess Mitigation Costs are to be expended, and (c) records of and supporting documents for all PacifiCorp's actual past Mitigation Costs and proposed excess Mitigation Costs.

PacifiCorp shall remain responsible for Mitigation Costs which exceed the combined total of the initial \$500,000 obligation by PacifiCorp and the Crow Tribe's obligations under this Section (the "Combined Total Obligation") only to the extent that the sum of all Mitigation Costs required under Federal law utilizing the most cost-effective means of compliance exceeds the Combined Total Obligation. The parties intend and do hereby agree that PacifiCorp shall alone bear the risk that that Federally-mandated Mitigation Costs exceed the Combined Total Obligation, and the Crow Tribe shall alone bear the risk that any additional testing or mitigation mandated or requested by the Crow Tribe beyond that required under Federal law shall cause the Mitigation Costs to exceed the Combined Total Obligation.

10.05 Confidentiality for Protection of Sites. To the extent allowed in order to comply with Federal and Tribal laws, PacifiCorp agrees to treat the location of Native American cultural sites on the Reservation as confidential, proprietary Tribal information.

ARTICLE 11: GATEKEEPING RIGHT OF TRIBE AS TO THIRD PARTIES.

As to all persons or entities other than PacifiCorp, and the agents, representatives, contractors and employees of PacifiCorp, the Crow Tribe specifically intends herein to reserve and retain the right to exercise a gatekeeping right as to all Trust Land and Tribal fee land included within the rights-of-way hereby consented to and/or granted to PacifiCorp by the Crow Tribe. It is the intent of the Crow Tribe to hereby retain, as to all Trust Lands and Tribal fee land, the right to exclude from the rights-of-way hereby consented to and/or granted by the Crow Tribe all persons or entities other than PacifiCorp, and the agents, representatives, contractors and employees of PacifiCorp, and to retain all forms of

jurisdiction that the Tribe would otherwise have over Tribal or Trust Lands located on the Reservation that are not subject to rights-of-way or easements.

ARTICLE 12: ENACTMENT OF LAWS; REGULATION OF PACIFICORP'S OPERATIONS.

12.01 PacifiCorp's operations under this Agreement, and on the Renewed Rights-of-Way and Designated Access Roads shall comply with all applicable Federal laws and regulations, including but not limited to 25 U.S.C. §§ 323-328, 25 C.F.R. Part 169, and those of the Federal Energy Regulatory Commission. PacifiCorp agrees to operate and maintain the Transmission Facilities in accordance with the most recent version of the National Electrical Safety Code (the "Code"), currently published by the Institute of Electrical and Electronics Engineers, Inc.

12.02 PacifiCorp shall comply with all current and future applicable Tribal Law prior notice of which has been provided to PacifiCorp, except where such Tribal Law conflicts with the terms of this Agreement, or where such a future or uncodified Tribal Law not specifically referred to in this Agreement would materially expand the obligations or otherwise impair PacifiCorp's rights under this Agreement or materially reduce the economic benefits to PacifiCorp, in which case the terms of this Agreement shall control and Tribal approval of this Agreement shall constitute a waiver, as to PacifiCorp, of the Tribal Law to the extent of the conflict or to the extent that the expansion of PacifiCorp's obligations, the impairment of its rights, or the reduction of its economic benefits is material.

12.03 The Crow Tribe agrees that it shall enact no law, ordinance or regulation ("Tribal Law") applicable to PacifiCorp which would make illegal or improper any activity otherwise permitted under the terms of this Agreement and under the laws of the United States and the Code. If a conflict should arise between Tribal Law and Federal law or the Code with regard to PacifiCorp's rights and/or duties under this Agreement, PacifiCorp need only comply with Federal law or the Code; provided, however, that if the Tribal Law does not conflict with Federal Law or the Code, and the net additional obligations, economic burden, or impairment of rights imposed by the Tribal Law is not material, PacifiCorp shall comply with the Tribal Law.

12.04 PacifiCorp's compliance with applicable Federal law and this Agreement, or State law as it applies to the same transmission lines located outside the Trust Lands or the Reservation, whether now in effect or hereafter promulgated, orders, judgments and decrees of State and Federal courts of competent jurisdiction, and rules, orders and regulations of State and Federal administrative agencies, boards or commissions purporting to act under authority of law, shall not constitute a violation or breach of any of the terms and conditions of this Agreement, nor shall such compliance be or constitute cause for the termination of this Agreement or forfeiture of any rights or interests granted herein; provided, however, that nothing in this Agreement shall be construed as the Crow Tribe's consent to the extension of any State's jurisdiction or regulatory authority within the Reservation including the Trust Lands.

12.05 If the Crow Tribe believes that PacifiCorp is in violation of any Tribal Law, it shall provide PacifiCorp reasonable notice of the alleged infraction, which notice shall specify the activity being complained of and the Tribal Law allegedly violated, and shall afford PacifiCorp a reasonable time without penalty within which to cure, or take steps to begin curing, the alleged infraction.

12.06 Any dispute between PacifiCorp and the Crow Tribe as to whether any Tribal Law conflicts with the terms of this Agreement, materially expands PacifiCorp's obligations, impairs its rights under this Agreement, or reduces the economic benefits to PacifiCorp shall be determined exclusively in accordance with the Dispute Resolution provisions in Exhibit "A" hereto, and the Crow Tribe's actual or proposed enforcement of such Tribal Law as against PacifiCorp shall constitute a "Noncompliance" pursuant to Section 1.2 of Exhibit "A" hereto; provided, however, that if enforcement of the Tribal Law is in response to an imminent threat of serious bodily harm or injury and the Tribal Law does not conflict with Federal law or the Code, PacifiCorp shall comply with the Tribal Law pending exhaustion of the Dispute Resolution procedure provided therein.

ARTICLE 13: COOPERATION & COMMUNICATION.

13.01 PacifiCorp acknowledges and respects the Crow Tribe's right to self-government, and recognizes the Crow Tribe's endeavors to provide for the safety, health, education, and well being of its members.

13.02 The Crow Tribe recognizes PacifiCorp as a responsible corporate citizen, which endeavors to support the communities within which it operates, while at the same time fulfilling its duties to its shareholders and its obligations under the law.

13.03 The Parties desire a long-term, mutually beneficial relationship, and to further such relationship, do hereby agree to the following:

13.03.01 PacifiCorp shall designate an official who shall be available at all times to respond to an Emergency, and who shall be available during normal business hours to respond to less urgent safety, environmental, or other concerns that may arise. Upon request, PacifiCorp will make responsible officials available at reasonable times and intervals to the Crow Tribal Chairman and Legislature to address concerns that may arise. The Crow Tribe shall also designate an official who shall be available during normal business hours to receive notices and to respond to concerns that PacifiCorp may have.

13.03.02 The Parties shall cooperate with each other to achieve the purposes of this Agreement, and shall attempt to resolve any differences that may arise through discussion and informal negotiation prior to pursuing arbitration under Article 14 or other remedies available at law.

13.03.03 PacifiCorp will notify the Crow Tribe before entering Tribal Lands for non-emergency purposes as provided in Paragraph 4.10.01, and will not disturb the land any more than necessary in accomplishing its purposes.

ARTICLE 14: DISPUTE RESOLUTION/LIMITED WAIVER OF IMMUNITY.

14.01 Except as otherwise expressly provided in this Agreement, any dispute, controversy or claim, of whatever nature, arising out of or in any manner pertaining to this Agreement, or the breach thereof, shall be resolved exclusively in accordance with the dispute resolution provisions set forth in Exhibit "A" attached hereto and incorporated herein (the "Dispute Resolution Provisions"). The Parties agree to participate in and be bound by the proceedings set forth in the Dispute Resolution Provisions.

14.02 It is the intent of the Parties, and the Parties do hereby agree, that the Dispute Resolution Provisions shall apply to any dispute, controversy or claim between PacifiCorp and the Crow Tribe (the "Parties") regarding the rights, duties, adequacy of performance, breach, or liabilities of a Party under any provision of this Agreement, or otherwise arising out of or relating to this Agreement, including without limitation:

14.02.01 Declaring, determining or enforcing the rights, duties or liabilities of a Party under this Agreement or in connection with any activities or actions undertaken by the Parties pursuant to the Agreement or any other agreement entered into pursuant to or in conjunction with the Agreement

14.02.02 Determining whether and the extent to which a Tribal law, ordinance or regulation materially conflicts with the terms of this Agreement, materially reduces the economic benefits to PacifiCorp, and/or materially expands the obligations or impairs PacifiCorp's rights under this Agreement.

14.02.03 Reviewing all administrative rulings, orders and determinations by the Tribal Employment Rights Office, Tribal Historic Preservation Office, or any other Tribal administrative agency that would result in a fine or penalty, a materially adverse impact on PacifiCorp's rights under this Agreement, or the loss, seizure or forfeiture of PacifiCorp's property.

14.03 The Crow Tribe hereby specifically and unequivocally grants a limited waiver of its sovereign immunity for the limited purpose of participating in arbitration proceedings, judicial proceedings instituted for the purpose of compelling participation in arbitration proceedings, and judicial proceedings for the enforcement of arbitration Decisions, all in accordance with the Dispute Resolution Provisions as set forth in Exhibit A; provided, that the Crow Tribe's only monetary liability pursuant to this limited waiver of immunity shall be limited to: (a) its share of the costs of the arbitration as awarded by the arbitrators according to the provisions of Paragraph 2.4.7 of Exhibit A; (b) recovery from the Crow Tribe of amounts previously paid by PacifiCorp under Section 3.07 to reimburse PacifiCorp for

excess Mitigation Costs pursuant to Section 10.04 of this Agreement; and (c) compensatory damages not exceeding one-half of the future Tribal taxes payable by PacifiCorp under Article 7 of this Agreement, to be recouped by PacifiCorp as such taxes become due by halving the amount of Tribal taxes otherwise payable to the Tribe. This limited waiver shall extend only to PacifiCorp, its successors and assigns, and shall not result in the encumbrance of any other Tribal lands outside the Renewed Rights-of-Way or Designated Access Roads.

ARTICLE 15: OBLIGATIONS UPON TERMINATION OF AGREEMENT

15.01. Restoration of Lands and Option to Purchase. Within one hundred eighty (180) days after termination or surrender of this Agreement, PacifiCorp shall remove all of its Transmission Facilities from Tribal Lands and restore said lands to as near their original condition as is reasonably practical. Within such 180 day period, PacifiCorp shall be entitled to use the Renewed Rights of Way and the ingress and egress routes provided for herein, for the purpose of removing said Transmission Facilities. Alternatively, the Crow Tribe may assume ownership of some or all of the Transmission Facilities upon termination or surrender of this Agreement, provided that within 30 days of termination or surrender of this Agreement both Parties have agreed in writing to all terms and conditions of such a transfer, and PacifiCorp has been reimbursed for the fair market value (excluding any value for any right-of-way across Tribal Land) for those Transmission Facilities to be transferred to the Crow Tribe.

15.02 Release of Fee Easements. Upon the Tribe's request at any time within two (2) years after the termination of this Agreement, PacifiCorp will execute duly recordable releases or other reasonably necessary documents releasing and relinquishing all of its rights, title and interest in and to all easements and rights-of-way of any nature whatsoever for the Transmission Facilities on Tribal fee lands; provided, that such releases shall not be effective until the later of effective termination date of this Agreement or the effective termination date of any further extension of the Renewed Rights-of-Way pursuant to a further written agreement between the Parties.

ARTICLE 16: MISCELLANEOUS.

16.01 Notices. Except as otherwise provided in this Agreement, all notices required or permitted to be given hereunder shall be in writing and shall be delivered by first class, or registered mail through the postal service of the United States of America, with postage prepaid to the addresses shown below, or to such other address as the Parties may designate from time to time. Notice given hereunder shall be deemed to be effective three (3) days after mailing. Any Party may change the address or phone/facsimile number to which notices are to be directed to it by notice to the other Party in the manner specified above.

If to the Tribe:

Crow Tribe of Indians
Attention: Tribal Chairperson
P. O. Box 159
Crow Agency, MT 59022

With Copy to:

Crow Tribe Legal Dept.
P.O. Box 340
Crow Agency, MT 59022
Facsimile: (406) 638-3898

If to Secretary:

Regional Director
Rocky Mountain Regional Office – Bureau of Indian Affairs
Federal Building
316 North 26th Street
Billings, MT 59101

With Copy to:

Superintendent
Crow Indian Agency
Crow Agency, MT 59022

If to PacifiCorp:

Manager, Right of Way
825 NE Multnomah, Suite 1000
PacifiCorp
Portland, Oregon 97232

16.02 Assignment. Each right and obligation hereunder shall extend to and be binding upon, and every benefit hereof shall inure to, the successors and/or assigns of the respective Parties and to the extent permitted by any applicable law, shall be construed as covenants running with the land. PacifiCorp's rights and obligations hereunder shall be freely assignable provided, however, that any assignment by PacifiCorp of its rights and interests under this Agreement shall be null and void unless the assignee of such assignments agrees to comply with the terms of this Agreement; and PacifiCorp shall also remain liable for such compliance unless the Tribe consents in writing to the release of its obligations. Such consent shall not be unreasonably withheld considering the financial stability and safety record of the assignee, and shall be given for no further consideration.

16.03 Right to Surrender. PacifiCorp shall have the right at any time during the term of this Agreement to surrender the Renewed Rights-of-Way, or any part thereof, upon the payment of any outstanding obligations then due and payable, and PacifiCorp will thereafter be released of all further obligations under this Agreement other than as provided in Article 15.

16.04 Federal Laws and Regulations. PacifiCorp agrees to comply with all requirements of 25 U.S.C. §§ 323-328 and with those Federal laws and regulations applicable to PacifiCorp, unless such regulations are waived by the Secretary.

16.05 Federal Trust and Supervision. While the lands covered by this Agreement are in trust or restricted status, all of PacifiCorp's obligations under this Agreement, and the obligations of its sureties (if any) are to the United States as well as to the Crow Tribe. Nothing contained in this Agreement shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the lands covered by this Agreement; however, such termination shall not serve to abrogate this Agreement. Should the Secretary, at any time during the term of this Agreement, relinquish supervision as to all or part of the lands covered by this Agreement, the relinquishment shall not bind PacifiCorp until it has received from the Secretary thirty (30) days written notice thereof.

16.06 Construction of Agreement. For the sole purpose of interpreting this Agreement, the Parties agree that the common law jurisprudence of United States shall apply. Any reference to therein

to the laws of any State is for purposes of contract construction only and such provision is not intended to authorize, sanction, or endorse the application of the laws of any State for any other purpose.

16.07 Legal Counsel. The Parties acknowledge and declare that this Agreement is the result of extensive negotiations between themselves. Each Party acknowledges that it has had the advice and representation of legal counsel with regard to this Agreement. Accordingly, in the event of any ambiguity in this Agreement, there shall be no presumption that this instrument was prepared solely by either Party and no rules of construction that would otherwise result in this Agreement being strictly construed against either party shall apply.

16.08 Waiver. The failure of any Party to insist in any one or more instance upon strict performance of any provision of this Agreement shall not be construed as a waiver or relinquishment of the right to require strict performance of the provision in the future, and the said provision shall continue and remain in full force and effect.

16.09 Severability. If one or more of the provisions contained herein are declared invalid, illegal, or unenforceable in any respect, the Parties shall undertake their best efforts to negotiate a replacement provision, and in the interim the remaining provisions shall remain in full force and effect. If the parties are unable to negotiate a replacement provision, the matter shall be submitted to arbitration in accordance with Article 14 hereto, and the arbitrators shall draft a replacement provision that effectuates the original intent of the parties. The replacement provision shall thereafter be binding on the Parties. Notwithstanding the foregoing, the Settlement of Past Claims in Article 3 shall be executed in accordance with its terms unless it is expressly held to be contrary to Federal law.

16.10 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and subsumes and incorporates all prior written and oral statements and understandings regarding such right-of-way.

16.11 Secretarial Oversight. It is understood and agreed by the Parties hereto that so long as the Tribal Lands covered by this Agreement remain in trust or restricted status, the Secretary has supervisory authority over the Renewed Rights-of-Way and the Designated Access Road easement in

accordance with provisions of 25 C.F.R. Part 169. In the event of a dispute, it is the intent of the Parties that the Secretary withhold his or her exercise of supervisory authority pending completion of arbitration as provided herein, except to the extent deemed necessary to in the event of a violation of Federal law or to protect Tribal trust assets or interests from irreparable harm, including prior to the availability of an arbitration panel to award interlocutory relief pursuant to the procedures in Article 14 and Exhibit A.

16.12 Amendment of Agreement. This Agreement shall only be amended with the consent of both the Crow Tribe and PacifiCorp. Any amendment of this Agreement must be in writing and duly executed by both Parties. Tribal consent to the Amendment must be evidenced by an appropriate resolution of the Crow Tribe Legislature. So long as the Tribal Lands covered by this Agreement remain in trust or restricted status, prior to any amendment having any force or effect, the amendment will also be submitted to the Secretary, who must either approve the amendment or determine that no such approval is required.

16.13 Further Documents. The Parties agree to execute all further documents and do all further things as may be necessary to give full force and effect to the terms and conditions of this Agreement and the intentions of the Parties as expressed herein.

16.14 Heading. The captions of Articles used herein are for convenience of reference and are not to be used to interpret any provision of this Agreement.

16.15 Tribal Ratification. The Crow Tribal Legislature has passed on _____, 2006, and the Chairman of the Executive Branch has approved on _____, 2006, Joint Action Resolution JAR06-____ granting final approval of this Agreement, ratifying and confirming the terms and conditions herein, specifically including the limited waiver of sovereign immunity, and authorizing the execution of this Agreement by the Tribal Chairman. A true and correct copy of Joint Action Resolution JAR06-____ is attached hereto as Exhibit "B" and incorporated herein by reference.

16.16 Tribal Authorization. The Crow Tribe warrants that the execution of this Agreement has been validly authorized by the Crow Tribe in accordance with governing laws of the Crow Tribe, and that the execution by the officer or officers who have affixed their name or names to this Agreement

for and on behalf of the Crow Tribe have been so authorized and empowered, and an attorney for the Crow Tribe will deliver to PacifiCorp, within five (5) working days following the execution of this Agreement by the Parties, an opinion that this Agreement is duly authorized and validly executed by the Crow Tribe in accordance with the governing laws of the Crow Tribe.

16.17 Corporate Authorization. PacifiCorp warrants that this Agreement has been duly and validly authorized and executed in accordance with the requirements of applicable law and that the execution by the officer or officers who have affixed their name or names to this Agreement for and on behalf of PacifiCorp have been so authorized and empowered; an attorney for PacifiCorp will deliver to the Crow Tribe, within five (5) working days following the execution of this Agreement by the Parties, an opinion that this Agreement is duly authorized and validly executed by PacifiCorp in accordance with the laws of the State of Oregon.

16.18 Memorandum of Agreement. The Parties hereto intend to execute a Memorandum of Agreement for purposes of recordation in the county or counties wherein lands affected by this Agreement are located. In the event of any inconsistency between the Memorandum of Agreement and the terms of this Agreement, the terms of this Agreement shall govern.

16.19 Emergency Notification. In the event of any Emergency associated with PacifiCorp's Transmission Facilities within the rights-of-way herein granted and/or consented to by the Crow Tribe, PacifiCorp shall contact the following officials as soon as possible after the discovery of the Emergency to inform them of the nature and location of the Emergency:

- a. Crow Tribal Chairman, c/o Tribal Security 406.638.3775
- b. Superintendent, Bureau of Indian Affairs 406.638.2672
- c. Chief of Police, Crow Police Department 406.638.2631

16.21 Binding Effect. This Agreement shall be binding on the Parties, their successors and assigns. The Crow Tribe recognizes and agrees that this Agreement shall be binding on the current and all future Crow Tribe governments for the term of the Agreement.

16.22 Approval by Secretary. Approval of this Agreement by the Secretary evidences that the Secretary has determined that this Agreement is in the best interests of the Crow Tribe. Upon approval of this Agreement, the Secretary shall issue the right-of-way hereby consented to by the Crow Tribe. The failure of the Secretary to approve the Settlement of Past Claims set forth in Article 3 of this Agreement shall not affect or relieve PacifiCorp of its obligations under Article 3 if the Secretary has approved the Renewed Right-of-Way and Designated Access Road easement substantially in accordance with the other terms of this Agreement.

16.23 Payment Procedures and Interest on Late Payments. (a) The parties agree that payments made directly to the Crow Tribe under this Agreement shall be made by electronic funds transfer with appropriate instructions for such transfer to be provided by the Tribal Finance Department to PacifiCorp in a timely fashion in order to allow for such payments to be made. If no such instructions are received, then payment shall be made by delivery of a certified check to the Crow Tribal Chairman's Office of any payments due.

(b) Any payments not made by PacifiCorp on or before the due date specified in this Agreement shall bear interest at the Prime rate of interest plus six percent (6%) per annum (fixed as of the due date for the payment) from the due date until actually received by the Crow Tribe. A late payment shall be deemed incomplete unless accompanied by the interest payment as provided above.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

CROW TRIBE OF INDIANS

By _____
Title _____

PACIFICORP

By _____
Title _____

STATE OF MONTANA)
) ss:
County of _____)

This instrument was acknowledged before me on _____, 20____, by

[Name(s) of Person(s)]
as _____
[Type of Authority, e.g., officer, trustee, partner, attorney-in-fact]
of _____
[Name of Party on Whose Behalf Document Executed]

[Signature of Notary]

[Printed Name of Notary]
Notary Public for the State of Montana
Residing at _____
[City of Residence]
My commission expires: _____ 20____
[Month Day Year]

(NOTARIAL SEAL)

STATE OF MONTANA)
) ss:
County of _____)

This instrument was acknowledged before me on _____, 20____, by

[Name(s) of Person(s)]
as _____
[Type of Authority, e.g., officer, trustee, partner, attorney-in-fact]
of _____
[Name of Party on Whose Behalf Document Executed]

[Signature of Notary]

[Printed Name of Notary]
Notary Public for the State of Montana
Residing at _____
[City of Residence]
My commission expires: _____ 20____
[Month Day Year]

(NOTARIAL SEAL)

APPROVED: _____

UNITED STATES DEPARTMENT OF THE
INTERIOR – BUREAU OF INDIAN AFFAIRS

By _____
Title _____

Date _____

EXHIBIT "A"**DISPUTE RESOLUTION**

*Attached to and Made a Part of that Certain
Right-of-Way Consent and Settlement Agreement Between
PacifiCorp and the Crow Tribe
Dated _____*

SECTION 1. EXCLUSIVE REMEDIES, STANDARDS, NOTICE.

Any dispute, controversy or claim between PacifiCorp and the Crow Tribe (the "Parties") regarding the rights, duties, adequacy of performance, breach, or liabilities of a Party under any provision of the Right-of-Way Consent and Settlement Agreement (the "Agreement"), or otherwise arising out of or relating to the Agreement subject to the provisions of Article 14, shall be resolved exclusively by proceedings conducted in accordance with the provisions of this Exhibit "A" ("Remedial Proceedings"). Remedial Proceedings shall consist exclusively of Arbitration Proceedings under Section 2 of this Exhibit "A", enforceable by Judicial Proceedings as provided in Section 3 of this Exhibit.

1.1 Standards for Relief. All Decisions rendered by the arbitrators shall be determined in light of the nature of the Noncompliance, the circumstances surrounding the Noncompliance, and the rights and interests of the Parties, so as to do substantial justice to both Parties. No order in Remedial Proceedings may cancel or terminate the Agreement except upon: (a) a determination that the Noncompliance on which the order is based constitutes a major and material default under the Agreement, or (b) a determination of repeated Noncompliance sufficient to indicate callous indifference to PacifiCorp's obligations under this Agreement, provided that PacifiCorp has received timely notice of such previous events of Noncompliance, whether or not they have been the subject of previous arbitration proceedings, and in the event of either determination, (c) concurrence in the termination by the Secretary. No order in Remedial Proceedings shall result in the assessment of punitive damages against either Party.

1.2 Notice of Noncompliance. If a Party ("Complaining Party") concludes that the other Party ("Responding Party") has failed to comply with, or is proposing to take action which is inconsistent or will breach any term or condition of this Agreement ("Noncompliance"), the Complaining Party may give written notice to the Responding Party ("Notice of Noncompliance"), which specifies: (a) the Noncompliance; (b) the corrective action which must be taken to remove, or, where appropriate, to commence removal of, the Noncompliance ("Corrective Action"); and (c) a reasonable time limit within which the Corrective Action must be taken ("Time Limit"). No Remedial Proceedings on a claimed Noncompliance may be commenced by a Party unless prior Notice of Noncompliance and opportunity to take Corrective Action have been given as provided in this Subsection 1.2.

1.3 Further Proceedings. If, within the Time Limit, the Responding Party fails to take the Corrective Action then, with respect to the claimed Noncompliance, either Party may initiate Arbitration Proceedings under Section 2 of this Exhibit. If Arbitration Proceedings are not initiated within 30 days after the Time Limit (or within such different time period as the Parties may agree on in writing), the Notice of Noncompliance shall be deemed withdrawn without prejudice to the rights of the Complaining Party to subsequently re-initiate proceedings with respect to the claimed Noncompliance.

SECTION 2: ARBITRATION.

Subject to the requirements and limitations of Section 1 of this Exhibit, in the event of any dispute, controversy or claim between the Parties regarding the rights, duties, adequacy of performance, breach, or liabilities of a Party under any provision of the Agreement or otherwise arising out of or pertaining to the Agreement ("Dispute"), either Party shall have the right to have the Dispute decided by arbitration in the manner provided in this Section 2.

2.1 Notice of Intent. A Party intending to demand arbitration shall first serve written notice of that intent ("Notice of Intent"). A Notice of Intent shall specify: (a) the matters to be submitted to arbitration; (b) the nature of the relief to be sought in the arbitration; and (c) the name of the arbitrator to be appointed by the Party.

2.2 Response. Within 10 days after the service of a Notice of Intent, the other Party shall serve a written response ("Response") specifying: (a) any additional matters it intends to submit to arbitration; (b) the nature of any relief it may seek in the arbitration; and (c) the name of the arbitrator it will appoint.

2.3 Demand for Arbitration. At any time no more than 30 days after service of a Notice of Intent, either Party, or both Parties, may serve a written demand for arbitration ("Demand for Arbitration") with respect to any matter or matters submitted in the Notice of Intent or Response, unless the matter has been decided in, or is then the subject of pending, Remedial Proceedings, or has otherwise been resolved. All arbitrations shall be conducted in accordance with the following provisions of this Section 2.

2.4 Conduct of Arbitration. Upon service of a proper Demand for Arbitration, arbitration shall be considered commenced as to all matters properly submitted under Subsection 2.3 of this Exhibit ("Matters Submitted"), and shall thereafter be prosecuted with diligence in accordance with the following provisions, unless the Parties agree otherwise:

2.4.1 Arbitrators. There shall be three arbitrators: the first arbitrator shall be the person named in the Notice of Intent; the second arbitrator shall be the person named in the Response; and the third arbitrator shall be appointed by the first two arbitrators within 30 days after the service of the Response. All arbitrators shall be competent and professionally experienced in the matter being arbitrated. The Parties further agree that no arbitrator shall be a member or employee of the Crow Tribe, or an employee, stockholder or contractor of PacifiCorp. If a Party fails to appoint an arbitrator

in its Response, or fails to appoint a successor arbitrator within 10 days after the incapacity or resignation of its previously appointed arbitrator, or if the first and second arbitrators fail to appoint a third arbitrator within 30 days after the service of the Response, or fail to appoint a successor third arbitrator within 20 days after the incapacity or resignation of the previously appointed third arbitrator, then the arbitrator to be appointed shall be selected by the American Arbitration Association. All decisions, awards, orders and other rulings of the arbitrators regarding the Matters Submitted, relief awarded, or other substantive or procedural matters shall be made by majority vote, shall be in writing signed by the arbitrators constituting the majority, and shall include the findings of fact and conclusions of law on which the decision, award, order or ruling is based.

2.4.2 Place of Arbitration. All hearings and other proceedings in the arbitration shall be held at Billings, Montana, unless otherwise designated by the Parties.

2.4.3 Governing Law. Except as otherwise provided herein, the arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association and Title 9 of the United States Code (the "Federal Arbitration Act"); provided, however that nothing in the AAA Rules or the FAA shall be construed as effecting or enlarging any waiver of the Tribe's sovereign immunity beyond the limited waiver expressly provided in Article 14 of the Agreement.

2.4.4 Relief Available. With respect to the Matters Submitted, and under the standards set forth in Subsection 1.1 of this Exhibit, the arbitrators shall have authority to:

- a. issue appropriate Interlocutory Orders to mitigate damage or prevent irreparable injury to a Party;
- b. render a final decision ("Decision") which:
 - i. determines or declares the rights, duties, adequacy of performance, breach or liabilities of a Party under the Agreement;

ii. orders a Party to specifically perform its obligations under the Agreement; and

iii. awards appropriate injunctive, declaratory or compensatory monetary relief for the benefit of a Party; provided, however, that the Tribe's monetary liability under this Agreement shall be limited as further provided in Section 14.03 of the Agreement, and the arbitrators shall not have authority to assess punitive damages against either Party.

2.4.5 Limited Appeal. The Decision of the arbitrators may be appealed only to a second arbitration panel (the "Appeal Panel"), constituted in the same manner as the initial arbitration panel, and only on the grounds set forth below for the modification of a Decision. A Party must serve written notice of its intent to appeal ("Notice of Appeal") on the other Party within ten (10) days of receipt of any Decision. The Decision of the initial arbitration panel shall be final for all purposes if not appealed in the time and manner set forth herein.

The Notice of Appeal shall specify: (a) the matters to be appealed; (b) the grounds for the appeal; and (c) the name of the arbitrator to be appointed by the Party. Within 10 days after the service of a Notice of Appeal, the other Party shall serve a written response ("Response") specifying: (a) any additional matters to be appealed; (b) the grounds for such appeal; and (c) the name of the arbitrator it will appoint. The third arbitrator, and any successor arbitrators, shall be selected in the manner set forth in Section 2.4.1 above, and all arbitrators chosen shall be subject to the qualifications and limitations set forth in Section 2.4.1.

The Appeal Panel may adopt or modify the initial Decision, provided that the Appeal Panel shall not modify the Decision except upon the following grounds, which shall be proven by clear and convincing evidence:

- a. the award was procured by corruption, fraud, or other undue means;

b. there was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators, or misconduct wrongfully and materially prejudicing the rights of either Party;

c. the arbitrators exceeded their powers, or so imperfectly executed them that a final and definite award upon the subject matter submitted was not made.

2.4.6 Decision Binding; Enforcement. The Decision of the arbitrators shall become a "Final Decision" if not appealed in the time and manner provided in Section 2.4.5, and a Decision of the Appeal Panel shall be a "Final Decision" at the time rendered. All Final Decisions shall be conclusive and binding on the Parties with respect to the matters decided, and shall be complied with by the Parties. A Party may enter a Final Decision and institute Judicial Proceedings to enforce the Final Decision in accordance with Section 3 of this Exhibit "A". In such Judicial Proceedings, neither Party, without consent of the other Party, shall be entitled to contend that the Final Decision should be vacated, modified or corrected.

2.4.7 Costs of Arbitration. All costs of arbitration, including the fees and expenses of the arbitrators, shall initially be borne equally by the Parties, but ultimate responsibility for such costs shall be determined by the arbitrators in the course of their decision and/or award according to the extent to which each party prevailed on the issues subject to the arbitration. Each Party shall bear the costs and expenses for the presentation of its case, including the fees of its attorneys.

2.4.8 Survival of Remedy. Subsequent to any termination of the Agreement, this arbitration remedy shall remain available to the Parties with respect to disputes arising out of or relating to the Agreement prior or subsequent to the termination date.

SECTION 3. JUDICIAL PROCEEDINGS.

A Party may commence Judicial Proceedings only to compel the other Party to participate in Arbitration Proceedings which have been commenced by a Demand for Arbitration under Subsection

2.3 of this Exhibit, or to enforce a Final Decision as provided in Subsection 2.4.6 of this Exhibit. No court may vacate, modify or remand a Final Decision.

All Judicial Proceedings conducted pursuant to this Exhibit "A" shall be initially commenced in Crow Tribal Court. Any Judicial Proceedings conducted in Tribal Court pursuant hereto shall be conducted in accordance with the substantive law of the Federal Arbitration Act and the procedural law of the Crow Tribal Court, to the extent that such procedural law is not inconsistent with the Federal Arbitration Act and the dispute resolution procedures as expressly provided herein.

In the event that the Crow Tribal Court refuses to compel a Party to participate in Arbitration Proceedings or to enforce a Final Decision as written, or fails to perform said functions within 60 days after commencement of Judicial Proceedings, or such further time as the Parties may mutually agree, either Party may transfer ("remove") the Judicial Proceedings from Crow Tribal Court to the United States District Court for the District of Montana, or if it lacks jurisdiction, to any other court of competent jurisdiction. Removal of Judicial Proceedings from Crow Tribal Court may be accomplished by filing a notice of removal in Crow Tribal Court and filing an appropriate application in federal or state court (the "Deciding Forum") in accordance with the procedural rules of that forum. The notice of removal and application need be executed on behalf of only the removing Party, and such removal shall not be opposed or contested by the other Party. Upon removal, all proceedings in Crow Tribal Court shall be stayed pending final resolution in the Deciding Forum, and all Tribal remedies shall be deemed exhausted. Upon final resolution of the matter, the order or judgment of the Deciding Forum may be entered in Crow Tribal Court.

In all Judicial Proceedings each Party shall bear the costs and expenses for the presentation of its case, including fees of its attorneys.