

**MAY 7, 2013 CROW TRIBAL LEGISLATURE**

**JAR No. 13-11**

Introduced by Chairman Darrin Old Coyote  
Crow Tribal Executive Branch

A Joint Action Resolution Titled:

**A JOINT ACTION RESOLUTION OF THE CROW TRIBE TO PROVIDE NOTICE TO THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, OF THE CROW TRIBAL POLICY OF ASSERTING ABSOLUTE OWNERSHIP AND CONTROL OF THE OK-A-BEH ACCESS ROAD TO THE BIGHORN CANYON NATIONAL RECREATION AREA**

Legislative Findings:

**WHEREAS**, Article V, Section 2(a) of the Crow Tribal Constitution vests the Crow Tribal Legislature (hereinafter “Legislature”) with the power and duty to promulgate and adopt laws and resolutions in accordance with the Crow Constitution and federal law for the governance of the Crow Tribe; and

**WHEREAS**, Article IV, Section 4(a) of the Crow Tribal Constitution provides that the “general duties” of the Crow Tribal Executive Branch Officials shall include the duty to implement all laws, resolutions and policies duly adopted by the Legislature; and

**WHEREAS**, Article II of the 1868 Fort Laramie Treaty between the United States and the Crow Tribe recognized tribal title to all lands within the exterior boundaries of the Crow Indian Reservation and provided that all such lands shall be set apart for the absolute and undisturbed use and occupation of the Crow Tribe; and

**WHEREAS**, the Bighorn Mountains are the heart of the sacred modern homeland of the Crow Tribe and have remained un-allotted and held in common ownership by the Crow people; and

**WHEREAS**, the Bighorn Canyon National Recreation Area was established by Act of Congress in 1966 as Public Law 89-664 (“An Act to Provide for the Establishment of the Bighorn Canyon National Reservation Area, and for other purposes”); and

**WHEREAS**, Section 2 of the 1966 Act establishing the Bighorn Canyon National Recreation Area authorized the Secretary of the Interior to acquire lands and interests in lands within the boundaries of the National Recreation Area but that no part of the Crow Tribe’s mountain lands or any other Crow tribal lands shall be included within the recreation area unless

**A Joint Action Resolution of the Crow Tribe to Provide Notice to the United States Department of the Interior, National Park Service, of the Crow Tribal Policy of Asserting Absolute Ownership and Control of the Ok-a-Beh Access Road to the Bighorn Canyon National Recreation Area**

requested by the Crow Tribal General Council and that any such tribal lands so included may be developed and administered in accordance with the laws and rules applicable to the Recreation Area, subject to any limitation specified by the General Council and approved by the Secretary of the Interior; and

**WHEREAS**, the Crow Tribal General Council, by Tribal Resolution passed on May 20th, 1967 (Resolution 67-59) approved a proposed memorandum of agreement with the National Park Service providing for the Crow Tribe's participation in the Bighorn Canyon National Recreation Area, including inclusion of over 56,000 acres of Crow tribal land within the boundaries of the Recreation Area; and

**WHEREAS**, in December 1967 Crow Tribal Chairman Edison Real Bird signed a modified 50-year memorandum of agreement with Secretary of the Interior Stewart Udall and the Director of the National Park Service which, among other things, provided that Crow tribal land be included within the boundaries of the Bighorn Canyon National Recreation Area and allowed such tribal land to be administered, developed, and used by the National Park Service as part of the Recreation Area; and

**WHEREAS**, the Crow Tribal General Council, unanimously declared by Tribal Resolution 76-32 (titled "A Resolution of the Crow Tribal Council of the Crow Tribe of Indians to Reconsider Memorandum of Agreement Between National Park Service and Crow Tribe") that the 1967 memorandum of agreement was improperly modified from the original, approved version and was therefore invalid, that all Crow tribal lands were withdrawn from the Bighorn Canyon National Recreation Area, and that any and all proposals, plans, and requests by the National Park Service to attain a right-of-way for a highway, roadway, or access road across the tribal lands of the Bighorn Mountains are rejected and denied; and

**WHEREAS**, in 1979 the Secretary of Interior rejected Tribal Resolution 76-32 and sought to reaffirm the legal validity of the 1967 memorandum of agreement; and

**WHEREAS**, the Crow Tribe has never retreated from the position established by Tribal Resolution 76-32 and has long-acknowledged that no legal right-of-way exists across tribal lands on which the Ok-a-Beh Access Road was constructed; and

**WHEREAS**, in the mid-2000s the National Park Service proposed a land transfer with the Crow Tribe which, among other things, would have established a 200-foot federal right-of-way across three miles of tribal land in the Bighorn Mountains on which the Ok-a-Beh Access Road is located and conveyed all tribal right, title, and interest to 90 acres of tribal land upon which the Ok-a-Beh Marina and associated facilities are located; and

**WHEREAS**, the Crow Tribe now seeks to provide official notice to the United States Department of the Interior of tribal policy asserting absolute ownership and control of the Ok-a-Beh Access Road.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE EXECUTIVE BRANCH  
AND LEGISLATURE IN SPECIAL SESSION:**

It shall be the policy of the Crow Tribe to consider the 1967 *Memorandum of Agreement Between the Crow Indian Tribe of Montana and the National Park Service of the Department of the Interior to Facilitate Establishment, Development, Administration, and Public Use of the Bighorn Canyon National Recreation Area* as null and void due to not being authorized or approved by the Crow Tribal General Council as required by the 1948 Crow Tribal Constitution and the 1966 Act.

**BE IT FURTHER RESOLVED:**

It shall be the policy of the Crow Tribe to keep the Ok-a-Beh Access Road open to free public use for all non-tribal members otherwise compliant with Crow tribal law until such time as the Crow Tribal Government determines it is in the best interest of the Crow Tribe to enact a closure or until December 1, 2017, whichever comes first.

**BE IT FURTHER RESOLVED:**

Nothing in this Tribal Resolution shall be construed as a limitation or restriction on the lawful ability of the Crow Tribe to exclude non-tribal members from the Crow Indian Reservation, including any such lands as particularly referenced herein this Resolution.

**BE IT FURTHER RESOLVED:**

The Executive Branch, consistent with the Crow Tribal Constitution, shall be authorized to negotiate agreements with the Department of the Interior, including any such agreements which would allow public and/or administrative use of the Ok-a-Beh Access Road, subject to final approval by the Legislature.

**BE IT FURTHER RESOLVED:**

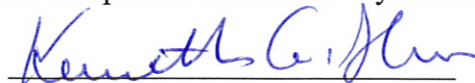
The Executive Branch shall take care that written notice of this tribal policy is made as soon as practical to the Department of the Interior, including the office of the Director of the National Park Service in Washington, D.C.

**BE IT FINALLY RESOLVED:**

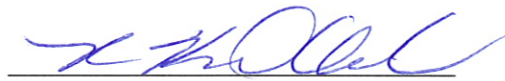
This Tribal Resolution shall become effective immediately upon becoming duly adopted by the Legislature and approved by the Executive Branch Chairman.

**CERTIFICATION**

I hereby certify that the Joint Action Resolution titled **A JOINT ACTION RESOLUTION OF THE CROW TRIBE TO PROVIDE NOTICE TO THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, OF THE CROW TRIBAL POLICY OF ASSERTING ABSOLUTE OWNERSHIP AND CONTROL OF THE OK-A-BEH ACCESS ROAD TO THE BIGHORN CANYON NATIONAL RECREATION AREA** was duly adopted by the Crow Tribal Legislature with a vote of 13 in favor, 0 opposed, and 0 abstained and that a quorum was present on this 7th day of May, 2013.

  
\_\_\_\_\_  
Senator Kenneth Shane  
Speaker of the House  
Crow Tribal Legislature

ATTEST:

  
\_\_\_\_\_  
Senator R. Knute Old Crow  
Secretary  
Crow Tribal Legislature

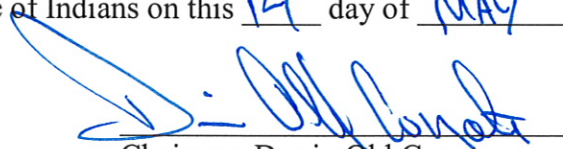


**EXECUTIVE ACTION**

I hereby:

approve  
 veto

The Joint Action Resolution titled **A JOINT ACTION RESOLUTION OF THE CROW TRIBE TO PROVIDE NOTICE TO THE UNITED STATES DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, OF THE CROW TRIBAL POLICY OF ASSERTING ABSOLUTE OWNERSHIP AND CONTROL OF THE OK-A-BEH ACCESS ROAD TO THE BIGHORN CANYON NATIONAL RECREATION AREA** pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians on this 14 day of MAY, 2013.

  
\_\_\_\_\_  
Chairman Darrin Old Coyote  
Crow Tribal Executive Branch

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**Bill or Resolution:** JAR13-11 **Introduced by:** Chairman Darrin Old Coyote **Date of Vote:** 5/7/2013  
**Number**

| <u>Representative:</u>                               | <b>Yes</b> | <b>No</b> | <b>Abstained</b> |
|------------------------------------------------------|------------|-----------|------------------|
| H. Two Leggins                                       | _____      | _____     | _____            |
| V. Pretty Paint                                      | _____      | _____     | _____            |
| C. J. Stewart                                        | X _____    | _____     | _____            |
| L. Other Medicine                                    | X _____    | _____     | _____            |
| A. Coyote-Runs, Sr.                                  | X _____    | _____     | _____            |
| L. Not Afraid.                                       | X _____    | _____     | _____            |
| M. Covers Up, Sr.                                    | X _____    | _____     | _____            |
| P. Alden, Jr.                                        | _____      | _____     | _____            |
| M. Not Afraid                                        | X _____    | _____     | _____            |
| V. Crooked Arm                                       | X _____    | _____     | _____            |
| L. DeCrane                                           | X _____    | _____     | _____            |
| C. Goes Ahead                                        | X _____    | _____     | _____            |
| B. Hugs                                              | X _____    | _____     | _____            |
| G. Real Bird, Jr.                                    | _____      | _____     | _____            |
| M. Backbone                                          | _____      | _____     | _____            |
| G. Stewart                                           | X _____    | _____     | _____            |
| R. K. Old Crow, Sr.<br><i>Secretary of the House</i> | X _____    | _____     | _____            |
| K. Shane<br><i>Speaker of the House</i>              | X _____    | _____     | _____            |
| <b>Totals:</b>                                       | <u>13</u>  | <u>0</u>  | <u>0</u>         |

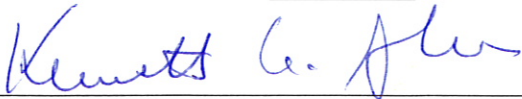
Result of Vote:

**Passed**

Not Passed

Tabled

Veto-Override

  
 \_\_\_\_\_  
 Senator Kenneth G. Shane                      Date  
 Speaker of the House

  
 \_\_\_\_\_  
 Senator R. Knute Old Crow, Sr.                      Date  
 Secretary of the House