

MAY 24, 2012 SPECIAL SESSION OF THE CROW TRIBAL LEGISLATURE

LR No. 12-07

Introduced by Senator Conrad J. Stewart
Black Lodge District

A Legislative Resolution Titled:

A Resolution of the Crow Tribal Legislature to Protest the Legality of Executive Branch Chairman Cedric Black Eagle's April 27th, 2012 Waiver and Release of Claims on Behalf of the Crow Tribe, and to Protest the Waiver and Release of Crow Allottee Claims by the Secretary of the Interior

Legislative Findings:

WHEREAS, Article V, Section 2(a) of the 2001 Crow Constitution provides that the Crow Tribal Legislature ("Legislature") is vested with the power and duty to promulgate and adopt laws, resolutions, ordinances, codes, regulations, and guidelines in accordance with this Constitution and federal laws for the governance of the Crow Tribe of Indians and for providing for the manner of the sale, disposition, lease or encumbrance of tribal lands, interests in land, or other assets of the Crow Tribe of Indians; and

WHEREAS, Article V, Section 2(c) of the 2001 Constitution provides that the Legislature is vested with the power and duty 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 provided that a process for such approval or disapproval may be established by legislation; and

WHEREAS, CLB 05-11 (codified at Title 1 of the Crow Law and Order Code) provides that Crow tribal joint action resolutions are authorized to be used when the 2001 Crow Constitution requires final approval of items negotiated by the Crow Tribal Executive Branch (hereinafter "Executive Branch"); and

WHEREAS, on March 19th, 2011 the Crow Tribal General Council voted to approve and ratify the Crow Tribe Water Rights Settlement Act (hereinafter "Settlement Act") and Crow Tribe-Montana Water Compact (hereinafter "Compact"); and

WHEREAS, Article VII(C) of the Compact provides that in consideration of the rights confirmed to the Crow Tribe in the Compact, and of performance by the State of Montana and the United States of all actions required by this Compact, including entry of a final order issuing the decree of the reserved water rights of the Crow Tribe held in trust by the United States as quantified in the Compact and displayed in Appendix 1, the Crow Tribe and the United States as trustee for the Crow Tribe and Crow tribal members hereby waive, release, and relinquish any and all claims to water rights or to the use of water within the State of Montana existing on the

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date this Compact is ratified by the State, the Crow Tribe, and Congress and conditional upon a final decree, whichever date is later; and

WHEREAS, Article VI(A)(4) of the Compact provides that the Crow Tribe agrees that the State of Montana's contributions and agreements in the Compact are full and adequate consideration for the Crow Tribe's agreements as set forth in this Compact, and that the State's contributions, together with any other agreements that may be set forth in a separate coal severance tax settlement agreement between the State and the Crow Tribe, are full and adequate consideration for the release of all claims by the Crow Tribe and the United States in the civil action captioned *Crow Tribe of Indians v. State of Montana*, Cause No. CV-78-110-BLG-JDS (D. Mont.) and the Crow Tribe further agrees that in consideration of the State's contributions and other agreements set forth in a separate coal severance tax settlement agreement, the Crow Tribe will provide releases of all claims, including any pleadings or proposed orders necessary to implement or otherwise give effect to the releases, in that action in a form acceptable to the Montana Attorney General; and

WHEREAS, Section 410(a)(1) and Section 410(a)(3) of the Settlement Act requires the Crow Tribe to waive and release all claims to water in the State of Montana not otherwise provided for in the Settlement Act along with certain historic water-related claims against the United States of America as trustee for the Crow Tribe; and

WHEREAS, neither the State of Montana nor the United States have performed all actions required by the Compact, including the fact that as of yet no entry of a final order has been made issuing the decree of the reserved water rights of the Crow Tribe as provided for in the Compact and Appendix 1 to the Compact and no separate coal severance tax settlement agreement between the State of Montana and the Crow Tribe has been negotiated and, accordingly, absolutely no Crow tribal waivers are appropriate at this time; and

WHEREAS, on April 27th, 2012 the current Executive Branch Chairman, Cedric Black Eagle, traveled to Washington, D.C., and signed a document which purported to waive and release all such claims as identified in the Settlement Act against the United States on behalf of the Crow Tribe, effective on the Enforceability Date of the Settlement Act; and

WHEREAS, the four elected Executive Branch officials, much less the Executive Branch Chairman acting unilaterally, have absolutely no tribal constitutional or tribal statutory authority to waive and release such claims on behalf of the Crow Tribe.

**NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CROW TRIBAL
LEGISLATURE IN SPECIAL SESSION:**

The Crow Tribal Legislature protests the attempted waivers and releases of claims signed by Crow Tribal Executive Branch Chairman Cedric Black Eagle on April 27th, 2012 in Washington, D.C. Accordingly, the Executive Branch Chairman's purported waivers and releases of claims shall have absolutely no validity, weight, or bearing whatsoever to the Crow Tribal Legislature.

BE IT FURTHER RESOLVED:

The Crow Tribal Legislature gives notice to the United States, through the Department of the Interior and the Department of Justice, that the proper lawful means by which the Crow Tribe is to waive and release claims as provided for in the Crow Tribe-Montana Water Compact and Crow Tribe Water Rights Settlement Act is through a legislatively authorized final approval to the Crow Tribal Executive Branch negotiated settlement language contained in the Crow Tribe Water Rights Settlement Act, which shall be filed by a Crow tribal attorney and incorporated into the stayed federal court litigation titled *U.S. v. Big Horn Low Line Canal Company, et al.*, No. CIV-75-34-BLG (filed April 17, 1975).

BE IT FURTHER RESOLVED:

The Crow Tribal Legislature gives notice to the Secretary of the Interior and the United States Attorney General that no future waivers or releases of Crow tribal claims shall be authorized or considered authorized when signed by a single Crow tribal member, even if the Executive Branch Chairman, unless specific Crow tribal constitutional or tribal statutory authority can be cited. The Crow Tribal Legislature further gives notice that absolutely no waivers or releases of Crow tribal rights and claims shall be considered unless proposed settlement terms are fully reviewed and deliberated by the Crow Tribal Legislature and the Crow Tribal General Council.

BE IT FURTHER RESOLVED:

The Crow Tribal Legislature protests the Secretary of the Interior's April 27th, 2012 waiver and release of claims held by Crow Allottees as premature given that no sufficient defense of Allottee water rights has yet been made so as to justify a waiver and release of historic claims to water rights.

BE IT FURTHER RESOLVED:

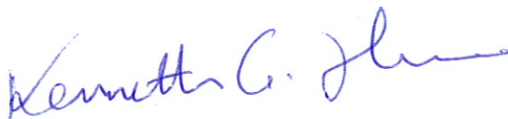
The Crow Tribal Legislature gives notice to the Secretary of the Interior and the United States Attorney General that ignorance of Crow tribal law will no longer be tolerated and continued disregard of Crow tribal law shall be considered contemptuous of Crow tribal sovereignty.

BE IT FINALLY RESOLVED:

The Secretary of the Crow Tribal Legislature shall immediately provide a certified copy of this tribal resolution to the Secretary of the Interior, United States Attorney General, United States Department of the Interior Field Solicitor for Billings, Montana, and the United States Department of Justice in Denver, Colorado.

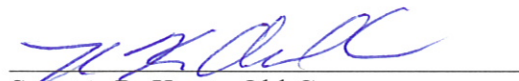
CERTIFICATION

I hereby certify that this resolution titled **A Resolution of the Crow Tribal Legislature to Protest the Legality of Executive Branch Chairman Cedric Black Eagle's April 27th, 2012 Waiver and Release of Claims on Behalf of the Crow Tribe** was duly approved by the Crow Tribal Legislature with a vote of 11 in favor, 0 opposed, and 2 abstained and that a quorum was present on this 24th day of May 2012.



Senator Kenneth Shane
Speaker of the House
Crow Tribal Legislature

Attest:



Senator R. Knute Old Crow
Secretary
Crow Tribal Legislature



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Bill or Resolution: LR12-07 **Introduced by:** Senator Conrad, J. Stewart **Date of Vote:** 4/24/2012
Number

<u>Representative:</u>	<u>Yes</u>	<u>No</u>	<u>Abstained</u>
H. Two Leggins	_____	_____	<u> X </u>
V. Pretty Paint	<u> X </u>	_____	_____
C. J. Stewart	<u> X </u>	_____	_____
S. Backbone	_____	_____	_____
A. Coyote-Runs, Sr.	<u> X </u>	_____	_____
L. Not Afraid.	_____	_____	_____
Covers Up, Sr.	<u> X </u>	_____	_____
P. Alden, Jr.	<u> X </u>	_____	_____
M. Not Afraid	<u> X </u>	_____	_____
V. Crooked Arm	<u> X </u>	_____	_____
L. DeCrane	<u> X </u>	_____	_____
C. Goes Ahead	<u> X </u>	_____	_____
B. Hugs	_____	_____	_____
G. Real Bird, Jr.	_____	_____	_____
M. Backbone	_____	_____	<u> X </u>
D. Wilson	_____	_____	_____
R. K. Old Crow, Sr. <i>Secretary of the House</i>	<u> X </u>	_____	_____
K. Shane <i>Speaker of the House</i>	<u> X </u>	_____	_____
Totals:	<u> 11 </u>	<u> 0 </u>	<u> 2 </u>

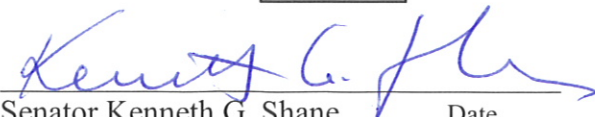
Result of Vote:

Passed

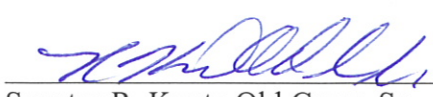
Not Passed

Tabled

Veto-Override


 Senator Kenneth G. Shane
 Speaker of the House

Date


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

Date

5/29/12