

AUGUST 29TH, 2012 SPECIAL SESSION OF THE CROW TRIBAL LEGISLATURE

LR No. 12-08

Introduced by the Sen. Carlson Goes Ahead, Surface Land Committee Chairman

A Legislative Resolution Titled:

A Resolution of the Crow Tribal Legislature to Authorize an Administrative Appeal of the Bureau of Indian Affairs Approval of Illegal Grazing Permits in the Big Horn Mountains Issued by Executive Branch Chairman Black Eagle

Legislative Findings:

WHEREAS, the Crow Tribal Legislature ("Legislature") has the power and duty under Article V, Section 2 of the 2001 Crow Constitution to promulgate and adopt resolutions in accordance with the 2001 Constitution and federal laws for the governance of the Crow Tribe; and

WHEREAS, during the July 2009 quarterly legislative session the Legislature enacted with a 15-0 vote CLB 09-04 (Crow Tribal Leasing Ordinance), which was introduced and signed into law by Chairman Cedric Black Eagle and which repealed and rescinded all prior existing Crow tribal ordinances and resolutions governing the lease, encumbrance, and/or disposition of Crow tribal lands; and

WHEREAS, Section I(6) of the Crow Tribal Leasing Ordinance (hereafter "2009 Lease Ordinance") provides that the Ordinance shall apply to "all lands under the jurisdiction of the Crow Tribe of Indians including Tribally owned trust lands and Tribally owned fee lands;" and

WHEREAS, Section II(13)(a) of the 2009 Lease Ordinance defines Crow Tribal Lands as "all Tribal lands held in trust or restricted status by the United States for the benefit of the Crow Tribe or individual Indian owners located within the exterior boundaries of the Crow Indian Reservation, including the 'ceded area', and all lands owned in fee or unrestricted status by the Crow Tribe of Indians;" and

WHEREAS, Section V(1) of the 2009 Lease Ordinance requires that "all Crow Tribal lands, except Tribal fee lands, will be advertised by the Bureau of Indian Affairs (BIA) with the minimum bid rates per acre for grazing lands, for dry farm lands, and for irrigated farm lands clearly and prominently stated in an initial

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advertisement, including notice that tribal member preference for Certified Crow Operators shall govern lease allocation priorities” and this advertisement requirement clearly includes all Crow tribal trust lands, including the Big Horn Mountains; and

WHEREAS, Section XIV of the 2009 Lease Ordinance is reserved for “range unit regulations” which are intended to be added by future amendment to the Ordinance and, as such, there is currently no Crow tribal law which legally authorizes the issuance of grazing permits on any tribally-owned lands; and

WHEREAS, Title 25 of the United States Code, Section 3712 provides that the Secretary of the Interior shall conduct all land management activities on Indian agricultural land in accordance with all tribal laws and ordinances, except in specific instances where such compliance would be contrary to the trust responsibility of the United States and unless otherwise prohibited by federal law and that the Secretary shall comply with tribal laws and ordinances pertaining to Indian agricultural lands and all laws or ordinances adopted by the tribal government to regulate land use or other activities under tribal jurisdiction and that the Secretary shall provide assistance in the enforcement of such tribal laws; and

WHEREAS, Article IV, Section 3(j) of the 2001 Constitution vests the Executive Branch with the power and responsibility to “protect and preserve the property, wildlife, and natural resources including air and water of the Tribe in accordance with ordinances adopted by the Legislative Branch;” and

WHEREAS, Article IV, Section 4(a) of the 2001 Constitution provides that the general duties of the Executive Branch includes the duty “to implement all laws, codes, resolutions, and policies duly adopted by the Legislative Branch;” and

WHEREAS, Article IV, Section 3 of the 2001 Crow Tribal Constitution subjects the authority of the Executive Branch to any limitations imposed by the statutes and laws of the United States; and

WHEREAS, federal law requires Executive Branch and Bureau of Indian Affairs compliance with all terms of the 2009 Lease Ordinance; and

WHEREAS, the Crow Tribe owns a large amount of land held in trust by the United States in the Big Horn Mountains on the Crow Reservation which has agricultural value as productive rangeland; and

WHEREAS, in July of 2012 the Executive Branch Chairman, Cedric Black Eagle, authorized grazing permits to the Tongue River Cattlemen’s Association for 3,900

animal unit months (AUMs) for the tribal trust lands of the Big Horn mountains and also attempted to close off the Big Horn Mountains to any access by Crow tribal members without special permission; and

WHEREAS, the local Bureau of Indian Affairs Superintendent gave approval to the Chairman's grazing permits, with apparent non-recognition of the various requirements set out in the 2009 Lease Ordinance, federal law and the limitation on Executive Branch authority as contained in Article IV of the 2001 Constitution; and

WHEREAS, the 2009 Lease Ordinance requirement of preference in leasing to Crow tribal members and that all tribal lands be advertised for agricultural lease by the Bureau of Indian Affairs and competitively bid on with enforceable preference to certified Crow operators has been blatantly ignored and violated by the current Executive Branch Chairman and local BIA Superintendent; and

WHEREAS, the Legislature now seeks to challenge the approval of the Chairman's grazing permits by the Bureau of Indian Affairs in order to ensure Crow tribal member farmers and ranchers receive protection under tribal law and federal law.

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

Section 1. Authorization to Seek Administrative Appeal.

The Legal Office of the Crow Tribal Legislature is hereby authorized and directed to immediately take all necessary actions to file an administrative appeal of the local Bureau of Indian Affairs agency decision to approve unlawful grazing permits issued by the Chairman of the Executive Branch.

Section 2. Authorization to Seek Federal Court Review of Final Agency Action.

In the event there is not adequate relief provided by the United States Department of the Interior in the administrative appeal, the Legal Office of the Crow Tribal Legislature is hereby authorized and directed to immediately file a lawsuit in the United States District Court for the District of Montana to challenge the discretion of the Secretary of the Interior in violating Crow tribal law and federal law governing tribally-owned agricultural lands.

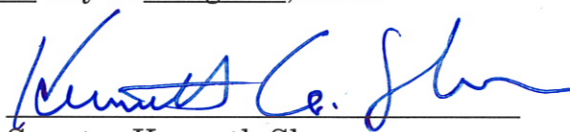
Section 3. Effective Date.

This tribal resolution shall take effect immediately upon being duly adopted by the Crow Tribal Legislature.

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CERTIFICATION

I hereby certify that this Legislative Resolution titled A Resolution of the Crow Tribal Legislature to Authorize an Administrative Appeal of the Bureau of Indian Affairs Approval of Illegal Grazing Permits in the Big Horn Mountains Issued by Executive Branch Chairman Black Eagle was duly approved by the Crow Tribal Legislature with a vote of 13 in favor, 0 opposed, and 1 abstained and that a quorum was present on this 29th day of August, 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 No: LR12-08 Introduced by: Legislature Date of Vote: 8/29/2012

<u>Representative:</u>	YES	NO	ABSTAINED
H. Two Leggins	<u> </u>	<u> </u>	<u> </u>
V. Pretty Paint	<u> X </u>	<u> </u>	<u> </u>
C.J. Stewart	<u> X </u>	<u> </u>	<u> </u>
S. Backbone, Sr.	<u> X </u>	<u> </u>	<u> </u>
A. Coyote Runs, Sr.	<u> </u>	<u> </u>	<u> </u>
L. Not Afraid	<u> </u>	<u> </u>	<u> X </u>
M. Covers Up, Sr.	<u> X </u>	<u> </u>	<u> </u>
P. Alden, Jr.	<u> X </u>	<u> </u>	<u> </u>
M. Not Afraid	<u> X </u>	<u> </u>	<u> </u>
V. Crooked Arm	<u> </u>	<u> </u>	<u> </u>
L. DeCrane	<u> X </u>	<u> </u>	<u> </u>
C. Goes Ahead	<u> X </u>	<u> </u>	<u> </u>
B. Hugs	<u> X </u>	<u> </u>	<u> </u>
G. Real Bird, Jr.	<u> X </u>	<u> </u>	<u> </u>
M. Backbone	<u> </u>	<u> </u>	<u> </u>
D. Wilson	<u> X </u>	<u> </u>	<u> </u>
R. Old Crow, Sr.	<u> X </u>	<u> </u>	<u> </u>
<i>Secretary of the House</i>			
K. Shane	<u> X </u>	<u> </u>	<u> </u>
<i>Speaker of the House</i>			
Totals:	<u> 13 </u>	<u> 0 </u>	<u> 1 </u>

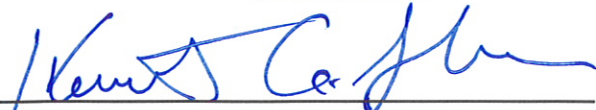
Result of Vote:

Passed

Not Passed


Tabled

Veto-Override



 Kenneth G. Shane
 Speaker of the House

Date



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

Date