

**CROW TRIBAL LEGISLATURE
SEPTEMBER 6, 2016 SPECIAL SESSION**

JOINT ACTION RESOLUTION NO. JAR16-07

INTRODUCED BY DARRIN OLD COYOTE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH

JOINT ACTION RESOLUTION OF THE CROW TRIBAL LEGISLATURE AND THE
CROW TRIBAL EXECUTIVE BRANCH ENTITLED:

**“RESOLUTION APPROVING AMENDMENTS TO WESTMORELAND RESOURCES,
INC. COAL LEASES TO REDUCE TRIBAL PAYMENTS IN ORDER TO MAINTAIN
THE ECONOMIC VIABILITY OF THE ABSALOKA MINE.”**

WHEREAS, the Chairman of the Executive Branch has authority and responsibility pursuant to the “enumerated powers” in Article IV, Section 3(a) of the Constitution and Bylaws of the Crow Tribe of Indians (the “Constitution”) to represent the Crow Tribe in negotiations in matters of economic development, in Article IV, Section 3(f) 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

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

WHEREAS, the Crow Tribe owns extensive coal resources held in trust by the United States of America and located within the Reservation, and north of the surface boundary of the Crow Reservation in the “Ceded Area,” which coal resources were restored to the Crow Reservation by the 1958 Indian Restoration Act (Pub. L. 85-420); and

WHEREAS, Westmoreland Resources, Inc. (“WRI”) is a wholly-owned subsidiary of Westmoreland Coal Company, and currently operates the Absaloka Mine in the Ceded Area pursuant to an amended coal mining lease with the Crow Tribe dated November 26, 1974 (the “Tract III Lease”) and within the surface boundary of the Reservation pursuant to a coal mining lease dated February 13, 2004 (the “South Extension Lease”); and

WHEREAS, on March 25, 2013, the Crow Tribe entered into another Coal Lease with WRI for mining the Tribe’s coal resources located in Tract I in the Ceded Area in order to extend the life of the Absaloka mine (the “Tract I Lease”), which coal has not yet been developed, but the Tract I Lease includes provisions for certain advance royalty payments to the Tribe in 2016 and 2017; and

WHEREAS, the Absaloka Mine is the single largest private employer of Crow Tribal members on the Reservation, and the mining jobs there provide high pay rates and good benefits for Tribal members and their families; and

WHEREAS, due to Federal environmental regulations and the low price of natural gas as an alternative fuel, the Absaloka Mine is under extreme economic pressure in terms of coal prices and demand, and it is critical for the Mine to be able to obtain new coal sales contracts in the diminishing market for Northern Powder River Basin coal; and

WHEREAS, WRI has urgently requested the Crow Tribe's assistance in enabling it to effectively compete for new coal sales contracts for 2017 and 2018, by making concessions in the amounts of Tribal Royalty and Severance/Gross Proceeds Taxes to be paid to the Tribe; and

WHEREAS, in order to maintain the economic vitality of the Absaloka Mine and employment of Tribal members, the Chairman of the Executive Branch has negotiated with WRI the attached "Agreement to Amend Coal Leases" (the "WRI Coal Lease Amendments"), whereby the per-ton Tribal Royalty and Severance/Gross Proceeds Taxes otherwise payable on Crow coal produced under the South Extension and Tract III Leases will be reduced during the period October 1, 2016 through December 31, 2018, and the Advance Royalty payable under the Tract I Lease payable in 2016 and 2017 will be deferred until 2018 and 2019; and

WHEREAS, the WRI Coal Lease Amendments provide the opportunity for maintaining the economic viability of the Absaloka Mine, and continuation of the substantial economic benefits that the Crow Tribe has realized from the Absaloka Mine since 1974, while providing good-paying skilled jobs and other economic development opportunities for the long-term benefit of the Crow Tribe and Tribal members; and

WHEREAS, without the WRI Coal Lease Amendments and the new coal sales contracts that such amendments will facilitate, the Absaloka Mine will likely be closed permanently at the end of 2017, resulting in the permanent loss of Tribal revenues from this coal resource and the loss of more than 100 good Tribal member jobs; and

WHEREAS, after approval by the Legislature and Executive Branches of the Crow Tribe, the WRI Coal Lease Amendments may be subject to approval by the Secretary of the Interior or her designee, pursuant to the Indian Mineral Development Act of 1982 (25 U.S.C. § 2101, *et seq.*) and/or other applicable Federal law;

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

Section 1. That the "Agreement to Amend Coal Leases" between the Crow Tribe and Westmoreland Resources, Inc., which is attached hereto and incorporated by this reference, is hereby granted final approval pursuant to Article V, Section 2(d) of the Constitution and Bylaws of the Crow Tribe.

Section 2. That the Chairman of the Executive Branch is authorized to sign and execute on behalf of the Crow Tribe the above-referenced WRI Coal Lease Amendments and such other agreements and documents as are necessary for implementation of the WRI Coal Lease Amendments, and to take such further actions as are necessary to administer the WRI Coal Leases as so amended.

Section 3. That the Legislative and Executive Branches of the Crow Tribe will expressly agree upon the allocation of the reductions in Tribal payments, between the Tribal Royalty (per capita distributions) and the Severance/Gross Proceeds Taxes (Tribal General Fund). Such agreement shall be set forth in an amendment to this Joint Action Resolution to be enacted and approved on or before October 1, 2016, and promptly communicated to WRI and the Bureau of Indian Affairs.

Section 4. That the Executive Branch will keep the Legislature and/or its designated Committee(s) informed on a timely basis of formal notices issued pursuant to the WRI Coal Lease Amendments, and of WRI's progress in obtaining new coal sales contracts that will enable the continued operation of the Absaloka Mine; provided that any further material amendments to the WRI Coal Leases shall be subject to final approval by the Legislature.

Section 5. That in order to enable WRI to effectively compete for new coal sales contracts, the specific terms of the attached WRI Coal Lease Amendments shall be held strictly confidential by the Crow Tribe and its representatives, and the text of such Amendments shall not be published or posted in any public place or Tribal publication, including on the Internet.

Section 6. 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.

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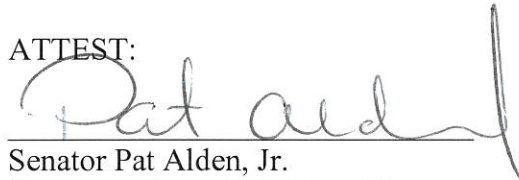
CERTIFICATION

I hereby certify that this Joint Action Resolution “**RESOLUTION APPROVING AMENDMENTS TO WESTMORELAND RESOURCES, INC. COAL LEASES TO REDUCE TRIBAL PAYMENTS IN ORDER TO MAINTAIN THE ECONOMIC VIABILITY OF THE ABSALOKA MINE.**” was duly approved by the Crow Tribal Legislature pursuant to Article V, Section 2(d) of the Constitution and Bylaws of the Crow Tribe with a vote of 12 in favor, 4 opposed, and 1 abstained and that a quorum was present on this 6th day of September, 2016.



Senator R. Knute Old Crow, Sr.
Speaker of the House
Crow Tribal Legislature

ATTEST:



Senator Pat Alden, Jr.
Secretary, Crow Tribal Legislature



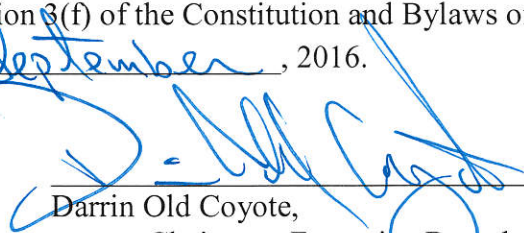
EXECUTIVE ACTION

I hereby

approve,

veto

this Joint Action Resolution “**RESOLUTION APPROVING AMENDMENTS TO WESTMORELAND RESOURCES, INC. COAL LEASES TO REDUCE TRIBAL PAYMENTS IN ORDER TO MAINTAIN THE ECONOMIC VIABILITY OF THE ABSALOKA MINE.**” pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 and Article IV, Section 3(f) of the Constitution and Bylaws of the Crow Tribe of Indians on this 6th day of September, 2016.



Darrin Old Coyote,
Chairman, Executive Branch
Crow Tribe of Indians

JAR "RESOLUTION APPROVING AMENDMENTSTO WESTMORELAND RESOURCES, INC. COAL LEASES TO REDUCE TRIBAL PAYMENTS IN ORDER TO MAINTAIN THE ECONOMIC VIABILITY OF THE ABSALOKA MINE."

Bill or Resolution: JAR16-7 **Introduced by:** Chairman Darrin Old Coyote **Date of Vote:** 9/6/2016
Number

Representative:	Yes	No	Abstained
G. Three Irons	<u>X</u>	<u> </u>	<u> </u>
B. Rogers	<u> </u>	<u> </u>	<u>X</u>
F. White Clay	<u>X</u>	<u> </u>	<u> </u>
P. Hill	<u> </u>	<u>X</u>	<u> </u>
E. Birdinground	<u>X</u>	<u> </u>	<u> </u>
S. Real Bird	<u> </u>	<u>X</u>	<u> </u>
V. Nomee	<u>X</u>	<u> </u>	<u> </u>
T. Gros Ventre	<u>X</u>	<u> </u>	<u> </u>
V. Crooked Arm	<u>X</u>	<u> </u>	<u> </u>
P. Spotted Horse, Sr.	<u>X</u>	<u> </u>	<u> </u>
L. DeCrane	<u> </u>	<u> </u>	<u> </u>
C. Goes Ahead	<u>X</u>	<u> </u>	<u> </u>
B. Hugs	<u> </u>	<u>X</u>	<u> </u>
G. Real Bird, Jr.	<u>X</u>	<u> </u>	<u> </u>
B. Good Luck	<u> </u>	<u>X</u>	<u> </u>
H. Male Bear, Jr.	<u>X</u>	<u> </u>	<u> </u>
P. Alden, Jr.	<u>X</u>	<u> </u>	<u> </u>
Secretary of the House	<u> </u>	<u> </u>	<u> </u>
R. Old Crow, Sr.	<u>X</u>	<u> </u>	<u> </u>
Speaker of the House	<u> </u>	<u> </u>	<u> </u>
Totals:	<u>12</u>	<u>4</u>	<u>1</u>

Result of Vote:

Passed


 Not Passed

 Tabled

 Veto-Override



 Senator R. Knute Old Crow, Sr. Date
 Speaker of the House



 Senator Patrick Alden, Jr. Date
 Secretary of the House