

OCTOBER 2016 CROW TRIBAL LEGISLATURE

JOINT ACTION RESOLUTION NO. JAR16-10

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:

“A JOINT ACTION RESOLUTION GRANTING FINAL APPROVAL OF THE RIGHT- OF-WAY CONSENT AND SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE AND WBI ENERGY TRANSMISSION.”

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, WBI Energy Transmission, Inc. (formerly Williston Basin Interstate) (hereinafter “WBI”) was granted a renewal of a 50’ wide right-of-way for the Worland-Cabin Creek 12” Natural Gas Pipeline by the Bureau of Indian Affairs in 1990, which pipeline supplies natural gas to the towns of Pryor, Hardin and Crow Agency; and

WHEREAS, the WBI right-of-way expired at the end of its 20-year term in March 2010; and

WHEREAS, since June 2009, the Crow Tribal Executive Branch has negotiated with WBI on compensation for another 20-year renewal of the pipeline right-of-way, additional compensation for the use of road access routes to access the pipeline right-of-way, and additional compensation for the period since the right-of-way expired to the time of the new renewal grant by the Bureau of Indian Affairs (the “unauthorized use period”); and

WHEREAS, the Chairman of the Executive Branch reached an agreement in principle for the above items with WBI in December 2015, which agreements have been memorialized in the Right-of-Way Consent and Settlement Agreement attached hereto and incorporated by reference (the “Agreement”); and

WHEREAS, from the beginning of the negotiations with WBI, the Chairman has insisted that, while the Tribe is not authorized to negotiate on behalf of individual allotment owners, WBI offer to individual allotment owners at least the same terms for the right-of-way renewal, access route rights-of-way, and compensation for the unauthorized use period, which are estimated to be

several times as much as WBI initially offered, and which in turn are several times as much as the BIA's appraised value for the rights-of-way; and

WHEREAS, WBI has offered the same terms negotiated by the Tribe to individual allotment owners, and has obtained consents from hundreds of individual allotment owners according to such terms; and

WHEREAS, in addition to the compensation for the pipeline right-of-way renewal, the access route rights-of-way, and the unauthorized use period, the Agreement also includes provisions for payment of a lump-sum amount for Tribal member scholarships to be administered by the Tribal Education Department; for extension of natural gas service for up to forty (40) Pryor area Tribal member residents; for payment of all Tribal Utility Taxes; and for compliance with the Workforce Protection Act and the Apsaalooke Cultural Resource Protection Act (including THPO policies); and also contains a limited waiver of the Crow Tribe's sovereign immunity to allow WBI to enforce the terms of the Agreement; 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, renewal of the WBI rights-of-way on the terms as negotiated in the Agreement is in the best interests of the Crow Tribe, and the limited waiver of sovereign immunity is necessary for the business purpose of entering into the Agreement ; and

WHEREAS, after approval by the Legislature and Executive Branch of the Crow Tribe, the Right-of-Way Consent and Settlement Agreement is subject to approval by the Secretary of the Interior or her designee pursuant to Federal law;

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


Section 1. That the "Right-of-Way Consent and Settlement Agreement" between the Crow Tribe and WBI Energy Transmission, Inc., including the limited waiver of sovereign immunity contained therein, attached hereto and incorporated by this reference, is 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 Agreement 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.

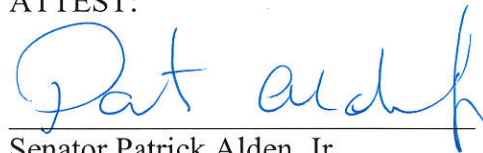
CERTIFICATION

I hereby certify that this Joint Action granting “**A JOINT ACTION RESOLUTION GRANTING FINAL APPROVAL OF THE RIGHT-OF-WAY CONSENT AND SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE AND WBI ENERGY TRANSMISSION**” was duly approved by the Crow Tribal Legislature with a vote of 12 in favor, 3 opposed, and 0 abstained and that a quorum was present on this 20th day of October, 2016.



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

ATTEST:



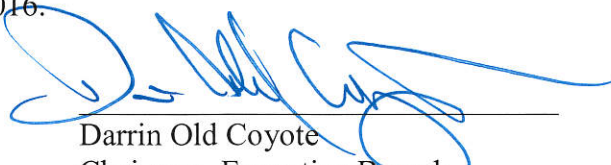
Senator Patrick Alden, Jr.
Secretary of the House
Crow Tribal Legislature



EXECUTIVE ACTION

I hereby
X approve,
_____ veto

this Joint Action Resolution granting “**A JOINT ACTION RESOLUTION GRANTING FINAL APPROVAL OF THE RIGHT-OF-WAY CONSENT AND SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE AND WBI ENERGY TRANSMISSION**” 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 26 day of October, 2016.



Darrin Old Coyote
Chairman, Executive Branch
Crow Tribe of Indians

JAR "A JOINT ACTION RESOLUTION GRANTING FINAL APPROVAL OF THE RIGHT-OF-WAY CONSENT AND SETTLEMENT AGREEMENT BETWEEN THE CROW TRIBE AND WBI ENERGY TRANSMISSION."

Bill or Resolution: JAR16-10 **Introduced by:** Chairman Darrin Old Coyote **Date of Vote:** 10/20/2016
Number

Representative:	Yes	No	Abstained
G. Three Irons	<u> X </u>	<u> </u>	<u> </u>
B. Rogers	<u> X </u>	<u> </u>	<u> </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> </u>	<u> </u>
V. Nomee	<u> </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> </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>
B. Good Luck	<u> </u>	<u> X </u>	<u> </u>
H. Male Bear, Jr.	<u> </u>	<u> X </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> 3 </u>	<u> 0 </u>

Result of Vote:

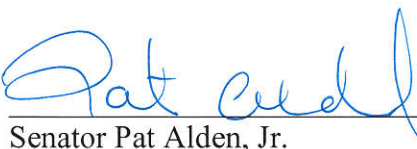
Passed

Not Passed

Tabled

Veto-Override

 10-20-16
 Senator R. Knute Old Crow, Sr. Date
 Speaker of the House

 10-26-16
 Senator Pat Alden, Jr. Date
 Secretary of the House