

**CROW TRIBAL LEGISLATURE  
AUGUST 24<sup>th</sup>, 2017 SPECIAL SESSION**

**JOINT ACTION RESOLUTION NO. JAR17-20**

Introduced by Alvin Not Afraid, Jr., Chairman  
Crow Tribal Executive Branch

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

**"RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER  
PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE  
AND BIG METAL COAL CO. LLC."**

**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, and 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 in the southeastern portion of the Crow Indian Reservation; and

**WHEREAS**, on January 24, 2013, the Crow Tribe entered into an Option to Lease Agreement (the "Option Agreement") with Big Metal Coal Co. LLC, a wholly owned subsidiary of Cloud Peak Energy Inc. ("Big Metal"), granting Big Metal options to lease three (3) areas in the southeastern portion of the Reservation for mining the Tribe's coal resources pursuant to forms of Coal Leases incorporated therein, and the Option Agreement was approved by the Secretary of the Interior on June 14, 2013; and

**WHEREAS**, Joint Action Resolution JAR 13-01 (Jan. 17, 2013), approving the Big Metal Option Agreement, provided that "all material amendments to the Agreements shall be subject to further approval of the Legislature;" and

**WHEREAS**, since approval of the Option Agreement in 2013, Big Metal has completed additional exploration of the areas subject to the Agreement, paid in excess of \$10.5 million in option payments, scholarships, and Tribal regulatory fees to the Crow Tribe, and is in the process of completing other work that would enable it to exercise its Option to lease the "Upper Youngs Creek" area; and

**WHEREAS**, the form of Coal Lease for Upper Youngs Creek, Squirrel Creek, and Tanner Creek (the “Big Metal Coal Leases”) each contains an identical provision in Part I, Article 10, Section 10.2 that provides for a “Periodic Reopener” to revise the Tribal royalty rates in the event that the standard Federal coal royalty rate is revised; and

**WHEREAS**, recent Federal coal leasing policy has had the effect of discouraging coal development, and it is possible that any future increase in standard Federal coal royalty rate may result in no further leasing, and Big Metal has therefore requested the Crow Tribe to amend the Periodic Reopener provision so as to require that it would only be triggered if a “significant portion” of coal produced in Wyoming and Montana is subject to the revised standard Federal royalty rate; and

**WHEREAS**, the Chairman of the Executive Branch has negotiated with Big Metal an amendment to the Periodic Reopener provision in the Big Metal Coal Leases in order to facilitate Big Metal’s exercise of its options to lease and mine the Big Metal Coal Lease areas, a copy of which is attached hereto and incorporated by reference;

**WHEREAS**, the Crow Tribe and Tribal members will receive substantial long-term economic benefits from the development of the Big Metal Coal Leases;

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

**Section 1. That the Amendments to Part I, Article 10, Section 10.2 of the Big Metal Coal Leases that are part of the Option to Lease Agreement between the Crow Tribe and Big Metal Coal Co. LLC., in the form 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 upon Big Metal’s exercise of its options for the Big Metal Coal Leases, or any of them, the Chairman of the Executive Branch is authorized to sign and execute on behalf of the Crow Tribe the Big Metal Coal Leases as so amended, and to take such further actions as are necessary to administer the Big Metal Coal Lease as so amended.**

**Section 3. That this Action shall only be executed exclusively under the 2001 Constitution and Bylaws of the Crow Tribe of Indians. Actions taken outside the processes of the 2001 Constitution shall be without any force and effect and void on their face.**

**Section 4. 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 Resolution for the "**RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC**" was duly approved by the Crow Tribal Legislature with a vote of 13 in favor, 1 opposed, and 0 abstaining, and that a quorum was present on this 24<sup>th</sup> day of August, 2017.



Senator Eric Birdinground  
Speaker of the House  
Crow Tribal Legislature

ATTEST:



Senator Gordon Real Bird, Jr.  
Secretary  
Crow Tribal Legislature

**EXECUTIVE ACTION**

I hereby

\_\_\_\_\_ approve  
\_\_\_\_\_ veto

this Joint Action Resolution for the "**RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC**" 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 \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Alvin Not Afraid, Jr., Chairman  
Crow Tribal Executive Branch



**EXCERPT OF BIG METAL COAL LEASE  
UPPER YOUNGS CREEK, SQUIRREL CREEK AND TANNER CREEK LEASES**

**PART I  
ARTICLE 10 – PERIODIC REOPENER**

10.1 Reopener Date. The Tribe and Big Metal shall each have the right to cause the royalty rates and production taxes provided in Part I, Article 8 and Part I, Article 9.1 above to be renegotiated or recalculated as provided below:

- a. The royalty rates and production taxes provided in Part I, Article 8 and Part I, Section 9.1 above shall be subject to renegotiation or recalculation, upon the Tribe's written request as provided in Part I, Section 10.2 below, any time after the fifteenth (15<sup>th</sup>) anniversary of the Effective Date, and no more often than every fifteen (15) years thereafter (the date of the Tribe's request (s) hereinafter referred to as a "Tribe Reopener Date"), provided that a renegotiation or recalculation may occur only if a Triggering Event, as defined in Part I, Section 10.2 below, has occurred since the Effective Date or the last Tribe Reopener Date, as applicable.
- b. The royalty rates and production taxes provided in Part I, Article 8 and Part I, Section 9.1 above shall be subject to renegotiation or recalculation, upon Big Metal's written request as provided in Part I, Section 10.2 below, any time after the fifteenth (15<sup>th</sup>) anniversary of the Effective Date, and no more often than every fifteen (15) years thereafter (the date of Big Metal's request (s) hereinafter referred to as a "Big Metal Reopener Date"), provided that a renegotiation or recalculation may occur only if a Triggering Event, as defined in Part I, Section 10.2 below, has occurred since the Effective Date or the last Big Metal Reopener Date, as applicable.

10.2 Triggering Event. "Triggering Event(s)" are: (i) a change in the standard federal royalty rate for new surface sub-bituminous coal leases in the Powder River Basin which currently is 12.5% of gross proceeds (the federal minimum as of December 31, 2012) or a change in that rate in existence at the time of the previous Tribe Reopener Date or Big Metal Reopener Date, as applicable, solely if new, renewed, or extended federal coal lease(s) with the revised standard federal royalty rate have been executed by an Affiliate and/or other coal mines in Wyoming or Montana and the revised standard federal royalty rate applies to a significant portion of coal produced in Wyoming and Montana; or (ii) a change in the Montana state severance tax or gross proceeds tax from the respective tax rates established in Part I, Section 9.1 above or the tax rate(s) in existence at the time of the previous Tribe Reopener Date or Big Metal Reopener Date, as applicable. In the event of an occurrence of a Triggering Event on or before a Tribe Reopener Date, the Tribe may request in writing to Big Metal that the Parties renegotiate or recalculate the relevant royalty rates, severance tax, and/or gross proceeds tax, provided that the renegotiation or recalculation shall be limited to the rate or rates subject

to the Triggering Event. In the event of an occurrence of a Triggering Event on or before a Big Metal Reopener Date, Big Metal may request in writing to the Tribe that the Parties renegotiate or recalculate the relevant royalty rates, severance tax, and/or gross proceeds tax, provided that the renegotiation or recalculation shall be limited to the rate or rates subject to the Triggering Event. All other rates, terms and conditions shall remain the same unless otherwise agreed by the Parties. The Parties shall meet to commence negotiations within thirty (30) days after receipt of the request.



Crow Country

# LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

P.O. Box 309 – 144 MAKAWASHA Avenue  
Crow Agency, Montana 59022  
Phone: (406) 638-2023/2025 Fax: (406) 638-2030  
[www.ctlb.org](http://www.ctlb.org)

## Legislative Branch

### Pryor:

#### Arrow Creek

Jonny J. Demontiney  
Lawrence DeCrane  
Secretary of the House  
Bryce Hugs

### Big Horn:

#### Valley of the Give

Away  
Pat Alden, Jr.  
Speaker of the House  
Marlin Not Afraid  
Paul Spotted Horse, Jr.

### Dunmore:

#### Black Lodge

Frank White Clay  
Darwin Spotted  
Merritt White Clay

### Reno:

#### Center Lodge

Shawn Real Bird  
Benito Brown  
Lloyd Hogan, III

### Lodge Grass:

#### Valley of the Chief

Victor C. Nomee  
Tom Yellowtail  
Tyson Gros Ventre

### Wyola:

#### Mighty Few

Harold Male Bear -Stone, Jr.  
Brandon Good Luck  
Newton Old Crow, Jr.

### Staff

Dawn Gray  
Attorney

Jackie M. Blacksmith,  
Administrative Officer

Rachel Pretty on Top  
Accounts Payable Clerk/  
Travel Specialist

Sheri Chandler  
Public Relations/Editor

Celisa Jefferson  
Receptionist/Office Assistant

Kenny Pretty On Top  
Maintenance/Custodian  
Sergeant at Arms

## NOTICE OF VETO OVERRIDE

THIS IS AN OFFICIAL NOTICE AS AUTHORIZED BY CLB06-08 "AN ACT TO ESTABLISHED A TIME LIMIT FOR EXECUTIVE VETO, A VETO OVERRIDE PROCESS AND REFERENDUM PROCESS."

THE CROW LEGISLATURE IN REGULAR SESSION ON **JANUARY 18<sup>th</sup>, 2018** TOOK THE FOLLOWING VETO OVERRIDE ACTION RELATIVE TO

**JOINT ACTION RESOLUTION JAR17-20**  
**"RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC."**

**BILL IS ATTACHED IN REFERENCE AND INCORPORATED HERETO.**

Done and dated this 18<sup>th</sup> day of January 2018

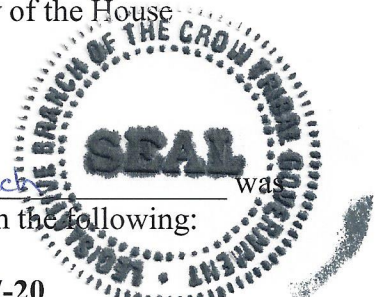
\_\_\_\_\_  
Senator Pat Alden, Jr.

\_\_\_\_\_  
Senator Lawrence DeCrane  
Secretary of the House

Speaker of the House

## CERTIFICATE OF SERVICE

Rosalie Bear Don't Walk Staff for the Executive Branch was served from Legislative Branch Staff member Jackie M. Blacksmith the following:



**JOINT ACTION RESOLUTION JAR17-20**  
**"RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC."**

I, Rosalie Bear Don't Walk received as stated above. Done and Dated this 25 day of January 2018.

**~TO BE COMPLETED BY LEGISLATIVE STAFF MEMBERS ONLY~**

I, the undersigned Legislative Branch Staff member hand delivered the above to Rosalie Bear Don't Walk or designee for the Executive Branch at Approximately 4:53 a.m.  
Done and dated this 25<sup>th</sup> day of January, 2018.

\_\_\_\_\_  
Jackie M. Blacksmith  
Administrative Officer  
Crow Tribal Legislative Branch

**-VETO-OVERRIDE-**

**“JOINT ACTION RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC.”**

**Bill or Resolution:** JAR17-20 **Introduced by:** Chairman Alvin Not Afraid, Jr. **Date of Vote:** 1/18/2018  
**Number**

<b>REPRESENTATIVE:</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>
M. White Clay	X		
D. Spotted	X		
F. White Clay	X		
L.Hogan, III			
B. Brown	X		
S. Real Bird			
V. Nomee			
T. Yellowtail			
T. Gros Ventre	X		
M. Not Afraid	X		
P. Spotted Horse, Sr.	X		
J. Domontiney	X		
B. Hugs			
N. Old Crow, Jr.	X		
B. Good Luck		X	
H. Stone, Jr.	X		
L. DeCrane, <i>Secretary of the House</i>	X		
P. Alden, Jr., <i>Speaker of the House</i>	X		
<b>Total:</b>	<b>12</b>	<b>1</b>	<b>0</b>

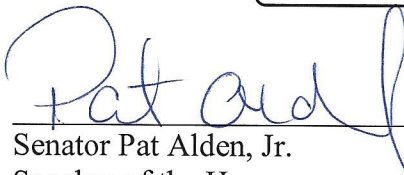
Result of Vote:

**Passed**

Not Passed

Tabled

**Veto-Override**

  
\_\_\_\_\_  
Senator Pat Alden, Jr.  
Speaker of the House

1-25-18  
Date

  
\_\_\_\_\_  
Senator Lawrence DeCrane  
Secretary of the House

1-25-2018  
Date





Crow Country

# LEGISLATIVE BRANCH OF THE CROW TRIBAL GOVERNMENT

P.O. Box 309 – 144 MAKAWASHA Avenue  
Crow Agency, Montana 59022  
Phone: (406) 638-2023/2025 Fax: (406) 638-2030  
[www.ctlb.org](http://www.ctlb.org)

## Legislative Branch

**Pryor:**  
**Arrow Creek**  
Bryce Hugs  
Lawrence DeCrane  
Jonny J. Demontiney

**Big Horn:**  
**Valley of the Give**  
**Away**  
Pat Alden, Jr.  
Paul Spotted Horse, Jr.  
Eugene Deputy

**Dunmore:**  
**Black Lodge**  
Bryson Rogers  
Greg Three Irons  
Frank White Clay

**Reno:**  
**Center Lodge**  
Eric Birdinground  
Speaker of the House  
Paul J. Hill  
Shawn Real Bird

**Lodge Grass:**  
**Valley of the Chief**  
Tyson Gros Ventre  
Victor C. Nomez  
Tom Yellowtail

**Wyola:**  
**Mighty Few**  
Gordon Real Bird, Jr.  
Secretary of the House  
Brandon Good Luck  
Harold Male Bear -Stone, Jr.

## **Staff**

Dawn Gray  
Attorney

Jackie M. Blacksmith,  
Administrative Officer

Rachel Pretty on Top  
Accounts Payable Clerk/  
Travel Specialist

Sheri Chandler  
Public Relations/Editor

Celisa Jefferson  
Receptionist/Office Assistant

Kenny Pretty On Top  
Maintenance/Custodian  
Sergeant at Arms

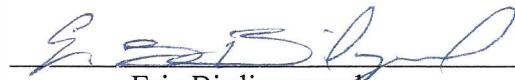
## NOTICE OF VETO OVERRIDE

THIS IS AN OFFICIAL NOTICE AS AUTHORIZED BY CLB06-08 "AN ACT TO ESTABLISHED A TIME LIMIT FOR EXECUTIVE VETO, A VETO OVERRIDE PROCESS AND REFERENDUM PROCESS."

THE CROW LEGISLATURE IN REGULAR SESSION ON OCTOBER 19<sup>th</sup>, 2017 TOOK THE FOLLOWING VETO OVERRIDE ACTION RELTIVE TO **JAR17-20 "RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC."**

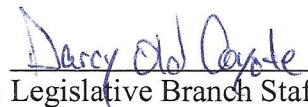
**BILL IS ATTACHED IN REFERENCE AND INCORPORATED REFERENCE HERETO.**

Done and dated this 19<sup>th</sup> day of October 2017

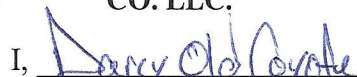
  
Eric Birdinground  
Speaker of the House

  
Shawn Real Bird  
Secretary of the House

## CERTIFICATE OF SERVICE


 Legal Staff for the Legal Council was served from Legislative Branch Staff member Jackie M. Blacksmith the following:

1. NOTICE OF VETO OVERRIDE ACTION REGARDING JAR17-20 "RESOLION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE BIG METAL COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC."

I,  received as stated above from Jackie M. Blacksmith

Done and dated this 27<sup>th</sup> day of October, 2017.

### ~TO BE COMPLETED BY LEGISLATIVE STAFF MEMBERS ONLY~

I, the undersigned Legislative Branch Staff member hand delivered the above to  or designee for the Crow Tribal Executive Branch at Approximately 10:49 a.m./p.m.  
Done and dated this 27<sup>th</sup> day of October, 2017.

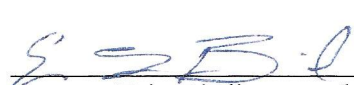
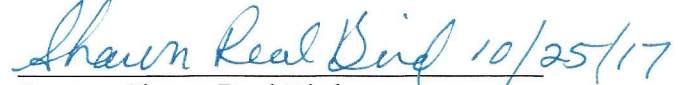
  
Jackie M. Blacksmith  
Administrative Officer  
Crow Tribal Legislative Branch

**“JOINT ACTION RESOLUTION APPROVING AMENDMENT TO ROYALTY REOPENER PROVISION IN THE COAL LEASES BETWEEN THE CROW TRIBE AND BIG METAL COAL CO. LLC.”**

**Bill or Resolution:** JAR17-20 **Introduced by:** Chairman Alvin NotAfraid, Jr. **Date of Vote:** 10/19/2017  
**Number**

<b>REPRESENTATIVE:</b>	<b>Yes</b>	<b>No</b>	<b>Abstained</b>
G. Three Irons	<u>    X    </u>	<u>          </u>	<u>          </u>
B. Rogers	<u>          </u>	<u>          </u>	<u>          </u>
F. White Clay	<u>    X    </u>	<u>          </u>	<u>          </u>
P. Hill	<u>    X    </u>	<u>          </u>	<u>          </u>
S. Real Bird	<u>    X    </u>	<u>          </u>	<u>          </u>
V. Nomee	<u>          </u>	<u>          </u>	<u>          </u>
T. Yellowtail	<u>    X    </u>	<u>          </u>	<u>          </u>
T. Gros Ventre	<u>    X    </u>	<u>          </u>	<u>          </u>
P. Alden, Jr.	<u>          </u>	<u>          </u>	<u>          </u>
E. Deputy	<u>    X    </u>	<u>          </u>	<u>          </u>
P. Spotted Horse, Sr.	<u>          </u>	<u>          </u>	<u>    X    </u>
L. DeCrane	<u>    X    </u>	<u>          </u>	<u>          </u>
J. Demontiney	<u>    X    </u>	<u>          </u>	<u>          </u>
B. Hugs	<u>          </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>
G. Real Bird, Jr.	<u>          </u>	<u>          </u>	<u>          </u>
<i>Secretary of the House</i>			
Eric Birdinground	<u>    X    </u>	<u>          </u>	<u>          </u>
<i>Speaker of the House</i>			
<b>Total:</b>	<u>    11   </u>	<u>    1    </u>	<u>    1    </u>

Result of Vote:


 10-25-17     
 
 10/25/17  
 Senator Eric Birdinground      Date      Senator Shawn Real Bird      Date  
 Speaker of the House           Secretary Pro-tem

**VETO OVERRIDE – 10/19/2017**