

CROW TRIBAL LEGISLATURE

NOVEMBER 15, 2023 SPECIAL SESSION

JOINT ACTION RESOLUTION NO. 23-05

Introduced by Frank Whiteclay, Chairman
Crow Tribal Executive Branch

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

**“A RESOLUTION TO AUTHORIZE THE EXECUTIVE BRANCH TO ACCESS FUNDS
IN THE ENERGY DEVELOPMENT PROJECTS ACCOUNT ESTABLISHED BY THE
CROW TRIBAL WATER RIGHTS SETTLEMENT ACT OF 2010 FOR THE TRIBE’S
YELLOWTAIL AFTERBAY HYDROELECTRIC PROJECT.”**

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 of Indians in negotiation with Federal, State and local governments and other agencies, corporations, associations, or individuals in matters of welfare, education, recreation, social services and economic development affecting the Crow Tribe of Indians; and

WHEREAS, the Crow Legislature has the authority and responsibility pursuant to Article V, Section 2(a) of the Constitution and Bylaws of the Crow Tribe of Indians Section 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, Section 412 (b) of the Crow Tribe Water Rights Settlement Act, P.L. 111-291 (Dec. 8. 2010) (the “Act”) recognizes the Crow Tribe’s exclusive right to develop and market hydro power on the Yellowtail Afterbay Dam; and

WHEREAS, Section 411 (c) (2), 411 (e) (3)(C) and 414 (d) of the Act established the Energy Developments Project account (the “Account”) within the Crow Settlement Fund, and appropriated \$20,000,000, subject to adjustments, to reflect changes in appropriate cost indices, for expenditures by the Tribe for, among other purposes, to develop and market hydro power generated at the Yellowtail Afterbay Dam (the “Project”); and

WHEREAS, the Crow Tribe previously engaged with Sorenson Engineering, Inc. for preliminary engineering for the Project but has ended that engagement; and

WHEREAS, the Bureau of Indian Affairs, Office of Energy and Minerals, introduced the Crow Tribe to Canadian Hydro, a Canadian Company with expertise in the development of hydro power plants in the United States and Canada; and

WHEREAS, pursuant to the Article IV, Section 3(a) of the Constitution and Bylaws of the Crow Tribe of Indians the Executive Branch, in accordance with sole source procurement requirements, has engaged with Canadian Hydro (CH) in a design-build contract to develop the Project at the Yellowtail Afterbay Dam and CH has completed preliminary engineering that minimizes interference with the BOR's operation of the Afterbay Dam; mitigates the negative impact of aeration on the Big Horn River fishing industry; and will provide a sustainable revenue stream for the Tribe.

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

Section 1. That the entire balance of funds in the Energy Development Projects Account within the Crow Settlement Fund established by the Crow Tribe, Water Rights Settlement Act is hereby designated for and allocated to the development of the Yellowtail Afterbay Hydroelectric Project; and

Section 2. That the Executive Branch is hereby authorized to submit a request for expenditures from the Account for such purpose in accordance with 25 USC Ch. 24, the Indian Trust Reform Act of 1994 which requires submission of an annual expenditure plan to the Bureau of Trust Funds Administration for review and approval prior to authorization of expenditures; and

Section 3. That the Bureau of Indian Affairs, Bureau of Trust Funds Administration (BTFA), is hereby authorized to utilize the entire balance of the Energy Development Projects Account for expenditures submitted by the Executive Branch as authorized by this Resolution for third party payment directly from BTFA to vendors; and

Section 4. That the engagement with Canadian Hydro is a design-build contract (attached hereto and incorporated by reference) is hereby approved to complete final design and construct the Project; and.


Section 5. That the Executive Branch shall provide the Project Expenditure Reports for all Project expenditures from the Account to the Chairs of the Legislative Branch Finance and Natural Resources Committees on a quarterly basis; and.

Section 6. That the Executive Branch is authorized to seek any additional financing necessary for completion of the Project beyond the available funds in the Account for final Legislative approval by Joint Action Resolution; and.

Section 7. That this Joint Action Resolution shall supersede and replace all previous Joint Action Resolutions relevant to the Yellowtail Afterbay Dam Project, including JAR's relevant to engineering services, and that such legislation shall be null and void.


CERTIFICATION

I hereby certify that this Joint Action Resolution “**A RESOLUTION TO AUTHORIZE THE EXECUTIVE BRANCH TO ACCESS FUNDS IN THE ENERGY DEVELOPMENT PROJECTS ACCOUNT ESTABLISHED BY THE CROW TRIBAL WATER RIGHTS SETTLEMENT ACT OF 2010 FOR THE TRIBE’S YELLOWTAIL AFTERBAY HYDROELECTRIC PROJECT**”, 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 17 in favor, 0 opposed, and 0 abstained and that a quorum was present on this 15th day of November, 2023.



Senator Sampson DeCrane
Speaker of the House
Crow Tribal Legislature

ATTEST:

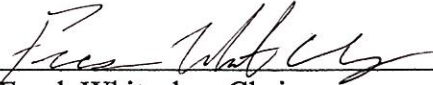

Senator Charla Takes Enemy
Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby

✓ approve or
_____ veto.

This Joint Action Resolution entitled “**A RESOLUTION TO AUTHORIZE THE EXECUTIVE BRANCH TO ACCESS FUNDS IN THE ENERGY DEVELOPMENT PROJECTS ACCOUNT ESTABLISHED BY THE CROW TRIBAL WATER RIGHTS SETTLEMENT ACT OF 2010 FOR THE TRIBE’S YELLOWTAIL AFTERBAY HYDROELECTRIC PROJECT**” 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 15 day of Nov, 2023.



Frank Whiteclay, Chairman
Crow Tribal Executive Branch

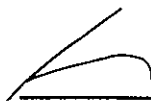


A RESOLUTION TO AUTHORIZE THE EXECUTIVE BRANCH TO ACCESS FUNDS IN THE ENERGY DEVELOPMENT PROJECTS ACCOUNT ESTABLISHED BY THE CROW TRIBAL WATER RIGHTS SETTLEMENT ACT OF 2010 FOR THE TRIBE'S YELLOWTAIL AFTERBAY HYDROELECTRIC PROJECT

Bill or Resolution: JAR 23-05 Introduced by: Chairman White Clay Date of Vote Nov. 15, 2023

<u>REPRESENTATIVE:</u>	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
V. Pickett	<u>X</u>		
D. Spotted	<u>X</u>		
C. Other Medicine	<u>X</u>		
Y. Little Light, Jr	<u>X</u>		
L. Hogan III	<u>X</u>		
C. Meeks	<u>X</u>		
D. Don't Mix	<u>X</u>		
H. Small	<u>X</u>		
T. Gros Ventre	<u>X</u>		
P. Alden, Jr	<u>X</u>		
T. Plainfeather	<u>X</u>		
J. Kills Pretty Enemy	<u>X</u>		
B. Hugs	<u>X</u>		
N. Old Crow, Jr	<u>X</u>		
B. Good Luck			
H. MaleBear-Stone	<u>X</u>		
S. DeCrane <i>Speaker of the House</i>	<u>X</u>		
C. Takes Enemy <i>Secretary of the House</i>	<u>X</u>		
TOTAL	17	0	0

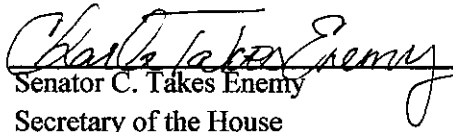
Result of Vote: **Passed** Not Passed Tabled Veto-Override



 Senator S. DeCrane
 Speaker of the House
 Crow Tribal Legislative Branch

11/15/23

 Date



 Senator C. Takes Enemy
 Secretary of the House
 Crow Tribal Legislative Branch

11-15-23

 Date