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**ATTORNEY FOR DEFENDANT WHITE CLAY**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

FIRST INTERSTATE BANCSYSTEM, INC.  
and FIRST INTERSTATE BANK,

Plaintiff,

and

ALVIN NOT AFRAID, JR., CARLSON GOES  
AHEAD, RUDOLPH KNUTE OLD CROW,  
RONALD ARNESON, FRANK WHITE CLAY,  
SHAWN BACK BONE, and CROW TRIBE OF  
INDIANS,

Defendants

No. CV 19-10-BLG-SPW-TJC

**AFFIDAVIT OF FRANK WHITE CLAY  
IN OPPOSITION TO DEFENDANT  
NOT AFRAID'S MOTION FOR  
TEMPORARY RESTRAINING ORDER**

AFFIDAVIT OF FRANK WHITE CLAY  
SPEAKER OF THE CROW LEGISLATURE

I, FRANK WHITE CLAY, hereby declare as follows:

1. I am a member of the Crow Tribe of Indians, and am named as a Defendant in this action in my elected role as Speaker of the Crow Tribe Legislature.
2. As elected Speaker of the Crow Tribe Legislature, I lead the body tasked with approving tribal budgets, ensuring fiscal responsibility, and making laws.
3. Defendants NOT AFRAID and OLD CROW are not lawfully elected representatives of

**RESPONSE TO DEFENDANT NOT AFRAID'S MOTION FOR  
TEMPORARY RESTRAINING ORDER**

1 the Crow tribe, in any capacity, and therefore cannot lawfully expend Crow Tribe funds.

2 4. The Crow Legislature has made many laws, particularly in regard to fiscal responsibility.  
3 Most prominently, the Crow Tribe passed in 2007 the Fiscal Management Act (CLB 07-08).  
4 Defendant NOT AFRAID had continually flaunted Crow law by not reporting under the Fiscal  
5 Management Act as required. A true and correct copy of the Fiscal Management Act is attached  
6 as Exhibit 1.

7 5. As a result of the actions of Defendant NOT AFRAID, and his reluctance to be  
8 transparent with the Crow Legislature and Crow People, the Crow took the extraordinary step of  
9 voting No Confidence in Defendant NOT AFRAID and Defendant OLD CROW. A true and  
10 correct copy of the Legislative Resolution is attached as Exhibit 2.

11 6. In addition to Defendant NOT AFRAID's reluctance to disclose the finances of the Crow  
12 Tribe to the Legislature and the Crow People, the Legislature found numerous other violations  
13 of Crow law and the Constitution. See Exhibit 2.

14 7. Defendants GOES AHEAD and BACK BONE, in their elected capacities, executed a  
15 removal of Defendants NOT AFRAID and OLD CROW pursuant to the Crow Constitution. The  
16 only applicable law to the removal is the Crow Constitution. There are no other laws at Crow  
17 that apply to removal of Executive officials under Article VII, Section 1 of the Crow Constitution.  
18 In addition, the Crow Constitution does not vest *any* court with jurisdiction over the removal  
19 process. A true and correct copy of the Crow Constitution is attached as Exhibit 3.

20 8. The removal was accomplished with all protections to the civil rights of the Crow voters  
21 despite NOT AFRAID's attempts to restrain the election through actions in the Crow Tribal  
22 Court.

23 9. The removal election resulted in a record voter turnout and overwhelming agreement  
24  
25

1 that NOT AFRAID and OLD CROW were removed from office. The Crow Constitution, Article  
2 VII Section 1, makes clear those results are *final*. The language of the Constitution divests this  
3 court, and *any court*, from the collateral challenges Defendant NOT AFRAID makes in an effort  
4 to frustrate the will of the Crow People. See Exhibit 4, Letter to Bureau of Indian Affairs.

5 10. The Crow Legislature, because of the actions of Defendants NOT AFRAID and OLD  
6 CROW, and in its Constitutional role as the maker of laws on the Crow reservation, adopted a  
7 Legislative Resolution affirming the vote of the Crow people and the subsequent swearing in of  
8 Defendants GOES AHEAD and BACK BONE as Chairman and Secretary. A true and correct  
9 copy of the legislation is attached as Exhibit 5.

10 11. In addition, and pursuant to Title 21 of the Crow Tribal Code, and in the only place other  
11 than the Constitution where removal elections are mentioned, a Special Election has been set  
12 for March 23 to fill the seats vacated by the removal of NOT AFRAID and OLD CROW.

13 12. Therefore, the harms complained of by NOT AFRAID and OLD CROW are without merit  
14 and are not immediate, as elders, programs, and staff at the Crow Tribe have continued to go  
15 without pay, some for many months. NOT AFRAID is attempting to color the narrative as if he  
16 is the source of hope for the many problems that trouble the Crow Tribe, whereas the truth is his  
17 actions and failure of leadership have cost him his job as Chairman, and based upon his two  
18 years as Chairman, there is no reason to believe he would use the funds interpleaded here to  
19 pay bills that have languished for months.

20 13. Instead, NOT AFRAID tries to paint a picture where it is everyone's fault but his own,  
21 and that he can be trusted with the funds, where he in truth has created this scenario by his own  
22 actions, and those actions are contrary to the Crow Constitution.

23 14. The Legislature did not move lightly by asking Plaintiff to sequester funds. The  
24  
25

1 Legislature, in its Constitutional role, has determined there will be more harm by the unfettered  
2 spending of tribal resources than any temporary delay in payments. The Legislature has  
3 contacted its constituents, the Crow people, and continues to do so, to apprise them of the  
4 continuing frustration of their will by NOT AFRAID and OLD CROW.

5 15. NOT AFRAID and OLD CROW have no discernable authority to expend moneys of the  
6 Crow people in the pendency of the internal dispute.  
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8 SIGNED this 8th day of February 2019.  
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12 Frank White Clay  
13 Speaker, Crow Legislature  
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## EXHIBITS LIST:

### Exhibit 1.

CLB 07-08 Crow Tribal Fiscal Management Act

### Exhibit 2.

LR 19-01 A Resolution of the Crow Tribal Legislature for a Vote of No Confidence in Chairman “AJ” Alvin Not Afraid, JR.

### Exhibit 3.

2001 Crow Tribal Constitution

### Exhibit 4.

Letter to Bureau of Indian Affairs Acting Director Darryl LaCounte and Acting Regional Director Susan Messerly from Chairman Carlson Goes Ahead and Secretary Shawn Backbone

### Exhibit 5.

LR 19-08 A Resolution of the Crow Tribal Legislature to Recognize the Validity of the Removal of Alvin “AJ” Not Afraid and Knute Old Crow by the Crow People and the Subsequent Swearing in of Carlson “Duke” Goes Ahead and Shawn Backbone as the Rightful and Legitimate Executive of the Crow Tribe

## EXHIBIT 1.

CLB 07-08 Crow Tribal Fiscal Management Act

EXHIBIT

**APRIL 2007 CROW TRIBAL LEGISLATURE**

**BILL NO. CLB07-08**

INTRODUCED BY CARL E. VENNE, CHAIRMAN  
CROW TRIBAL EXECUTIVE BRANCH

A BILL FOR AN ACT ENTITLED:

**"THE CROW TRIBAL FISCAL MANAGEMENT ACT"**

**WHEREAS**, pursuant to Article IV, Section 3(d) of the 2001 Crow Constitution, the Executive Branch shall exercise the power and responsibility to

Administer any funds within the control of the Tribe and make expenditures from, available funds for tribal purposes, including salaries and expenses of Tribal Officials or employees and prepare an annual budget for the operation of the Tribal Government, including separate budgets for the Legislative and Judicial Branches;

**WHEREAS**, pursuant to Article IV, Section 4(b) of the 2001 Crow Constitution, the Executive Branch has the duty to

Provide for the fiscal management of the Executive Branch and prepare complete financial reports for the Crow Legislative Branch on a quarterly basis and biannual reports for the Crow Tribal General Council [and to] set the financial budget for the Legislative and Judicial Branches;

**WHEREAS**, pursuant to Article V, Section 2(e) of the 2001 Crow Constitution, the Legislative Branch has the power and duty "to grant final approval or disapproval of an annual budget prepared by the Executive Branch of Government."

**WHEREAS**, the Executive and Legislative Branches agree to perform their respective duties under the 2001 Crow Constitution with respect to fiscal and budgetary matters;

**WHEREAS**, the Executive and Legislative Branches of the Crow Tribal Government desire to work together to draft, adopt, and implement fiscal and budgetary legislation in order to continue making progress toward economic development, governmental stability, and transparency of fiscal management of the Crow Tribal budget; and

**WHEREAS**, this Act implements the agreement between the Executive and Legislative Branches set forth in Joint Action Resolution JAR 06-10, which was enacted at the August 10, 2006 Special Session of the Crow Tribal Legislature; and

**WHEREAS**, the Legislature passed an act CLB07-01 entitled the "Crow Tribal Fiscal Management Act" during its January 2007 Session, but such act did not reflect the full and final agreement of the Legislative and Executive Branches, was not approved by the Chairman of the Executive Branch, and has therefore been deemed vetoed pursuant to CLB06-08 (veto and veto override process); and

**WHEREAS**, the Legislative and Executive Branches have now reached a full and final agreement, and the revised Fiscal Management Act herein shall supersede and replace the previous act (CLB07-01) in its entirety, and the previous act having been deemed vetoed, shall be of no force and effect;

**NOW THEREFORE, BE IT ENACTED BY THE CROW TRIBAL LEGISLATURE:**

**Section 1. *ADOPTION.*** That "The Crow Tribal Fiscal Management Act," attached hereto and incorporated herein by reference, is approved and shall be codified in the Crow Law and Order Code.

**Section 2. *EFFECTIVE DATE.*** That this Act shall be effective immediately upon its enactment and approval by the Chairman of the Executive Branch.



## **CROW TRIBAL FISCAL MANAGEMENT ACT**

### **Section 1. PURPOSE**

The Crow Tribal Government has a fiduciary responsibility to account for public funds, to manage finances wisely and to plan for the adequate funding of services for the Crow people. This Crow Tribal Fiscal Management Act ("Act") is designed to establish policies and procedures for the preparation, adoption, and implementation of the annual Crow Tribal Comprehensive Budget.

### **Section 2. DEFINITIONS**

For the purpose of the Act, the following definitions shall apply:

- A. **"Appropriations"** means the act of designating funds for a specific purpose in accordance with applicable budgeting principles, policies, and procedures set forth herein.
- B. **"Branch"** refers to the Branches of the Crow Government, Executive, Legislative and Judicial.
- C. **"Branch Chief"** refers to the head of the three branches of the Crow Tribal Government: the Tribal Chairman, the Speaker of the Legislature, and the Chief Judge of the Crow Tribal Court.
- D. **"Budget Impact Analysis"** means an assessment by the Tribe's Certified Public Accountant ("CPA") of the fiscal consequences of funding or failing to fund a particular branch, division, department, program, office, entity or activity.
- E. **"Budget Modification"** means any modification or change to the budget within a particular department/program.
- F. **"Budget Reallocation"** means the re-designation of appropriated or budgeted funds from one department/program to another department/program or to a newly created department/program for a different use or purpose. A transfer of funds from one program, division, department, or branch to another shall constitute a budget reallocation.
- G. **"Crow Tribal Funds and Federal Funds"** mean all funds within the Crow Tribe's accounting system, including but not limited to general funds, special revenue funds, capital projects funds, enterprise funds and federal funds.
- H. **"Program Budget"** means an account or series of accounts, related to a specific function, objective or purpose.

### **Section 3. OVERALL BUDGET POLICIES**

- A. Comprehensive Budget.** The Crow Tribal Government shall operate pursuant to an annual comprehensive budget including separate budgets for the Legislative and Judicial Branches prepared by the Executive Branch, with assistance by the Comptroller and CPA, and approved by the Crow Tribal Legislature.
- B. Budget Impact Analysis.** All substantial requests for appropriation of Crow Tribal funds, including the annual Crow Tribal comprehensive budget, shall be subject to a budget impact analysis by the CPA, which shall include, but is not limited to, an analysis of needs and costs, based on objective criteria. The objective criteria shall be drafted and presented to the Legislature as proposed regulations
- C. Long-Term Fiscal Viability.** The Crow Tribe shall prepare each annual budget to ensure the long-term ability of the Crow Tribe to provide services at levels set by the Crow Tribal Government.
- D. Receipt of Additional Revenues.** Funds received in excess of the initial or current revenue projection individually greater than Four Hundred Thousand Dollars (\$400,000) shall be budgeted by amendment to the current FY comprehensive budget, approved by the Legislature and administered by the Crow Tribal Executive Branch in accordance with Article IV, Section 3(d) of the 2001 Crow Constitution. All excess revenue funds received shall be reported in the following quarterly financial session with the Legislature.
- E. District Appropriations.** Any and all tribal funds designated for use by a particular district must be included in the annual comprehensive budget, if funds available and designated specifically by the Executive Branch.
- F. CPA.** The CPA shall be responsible for the consolidation and preparation of all phases of the annual Crow Tribal comprehensive budget upon final approval by the Legislature. At the request of either the Executive branch or the Legislative branch, the CPA shall perform a budget impact analysis prior to the expenditure of monies for an approved appropriation.



**Section 4. BUDGET PLANNING AND PREPARATION**

- A. Long-Term Revenue Projection.** The CPA shall prepare a Long-Term Revenue Projection for General and 107<sup>th</sup> funds used by the Crow Tribal Government, which shall include all sources of funds and revenues that the CPA is fully aware of and is substantially certain will be available to the Crow Tribe for the next three fiscal years. A written narrative describing the methodology utilized to estimate revenues, including assumptions made, shall be included, as well as a delineation of federal versus tribal funds. The Long-Term Revenue Projection shall be attached to the annual proposed budget prior to approval of the budget by the Legislature. The Long-Term Revenue Projection may be adjusted by the CPA, as economic circumstances change, and any adjustments to the projections shall be provided to the Branch Chiefs when requested.
- B. Annual Revenue Projection.** The CPA shall prepare an Annual Fiscal Year Revenue Projection for all revenue generating sources for all General, 107<sup>th</sup> and Indirect Cost funds of the Crow Tribe. The Annual Fiscal Year Revenue Projection shall serve as the official revenue estimate at the beginning of the annual budget process for the next fiscal year. A written narrative describing the methodology utilized to estimate revenues, including assumptions made, shall be included, as well as a delineation of federal versus tribal funds. The Annual Fiscal Year Revenue Projection shall be attached to the annual proposed budget prior to approval of the budget by the Legislature.
- C. Preparation of Budget.** On or before January 31, of each year, each branch, department, and program using General, 107<sup>th</sup> and Indirect Cost funds of the Crow Tribal Government shall prepare for the upcoming fiscal year a budget, which shall be submitted to the Executive Branch and to the CPA for review and preparation of a Budget Impact Analysis. If budget is not submitted, the CPA will prepare the budget based on history, known future needs and available funds. The proposed budget requests, along with the Budget Impact Analysis, will be reviewed by the Executive Branch, who along with the CPA and Comptroller, shall prepare the annual Crow Tribal comprehensive budget based on projected revenues and other fiscal considerations. The budget shall include budget justifications for each expenditure of requested funds based on current and previous branch's/department/program preferences and objectives for the upcoming fiscal year. The budget prepared by the Executive Branch shall then be submitted to the Legislature for approval.

**Section 5. BUDGET APPROVAL AND ADOPTION**

- A. Revenue Committee Review and Approval.** Immediately following submission of the proposed budget by the Chairman to the Legislature, the Revenue Committee shall meet and review the proposed budget. If the Revenue Committee believes any changes should be made to the proposed budget, it shall propose these changes to the Executive Branch.
- B. Legislature Budget Deliberations and Adoption.** From the time of the closing of the annual regular April Legislative session and during the annual July legislative session, the Crow Tribal Legislature shall review and consider for adoption the annual comprehensive budget for the next fiscal year. The Speaker, on behalf of the Legislature, is authorized to request the attendance of any Crow Tribal Government employee, including officials, to provide information to assist the Legislature in its deliberations. The adoption of the annual comprehensive budget shall be enacted by Formal Bill of the Crow Tribal Legislature, with final approval or veto of the resolution by the Chairman pursuant to the Chairman's authority under the 2001 Crow Constitution. The Legislature shall vote on whether or not to adopt the comprehensive budget at the annual July legislative session or as soon thereafter as possible and practicable.

**Section 6. BUDGET MONITORING AND CONTROL**

- A. Budget Monitoring and Expenditure Control.** The CPA shall monitor actual expenditures versus budgeted expenditures and report to the Branch Chiefs with regard to their respective branches. Such reports shall delineate federal versus tribal funds, and shall be provided to the Legislature on a quarterly basis for consideration and review at each regular quarterly session of the Legislature. Audited financial reports shall also be made available annually for the Crow Tribal General Council for consideration during the month of September of each year.
- B. Budget Performance Measures.** The Branch Chiefs shall establish a system for periodic policy review and program performance within their respective branches. The purpose of a program performance evaluation is to determine and recommend program improvement and whether a program warrants continuation at its current level of activity or if it should be modified. The program performance evaluations for each fiscal year shall be reviewed by the Executive Branch and the CPA and shall be utilized for developing the budget for the upcoming fiscal year. The performance evaluations shall be attached to the proposed budget for the upcoming fiscal year.



## **Section 7. BUDGET MODIFICATION AND REALLOCATIONS**

After approval of the annual comprehensive budget for the General, 107<sup>th</sup> and Indirect Cost funds by the Crow Tribal Legislature, the following guidelines shall apply to any and all modifications of the budget.

- A. Substantial monetary budget reallocations from one department/program to another, individually exceeding Two Hundred Thousand Dollars (\$200,000) or fifty percent (50%) of the department/program budget (whichever is less) shall be submitted by the Chairman to the Legislature for approval through joint action resolution.
- B. Budget Modifications may be accomplished upon request by a Program Director and/or CPA, with concurrence by the appropriate Branch Chief (for the Legislature, Budget Modifications may be performed by the Revenue Committee) (for the Executive Branch, Budget Modifications may be performed by the CPA). Thereafter, the request shall be reviewed by the CPA and the Comptroller. If funds are available, the Budget Modification shall be implemented without further action from the Legislative or Executive branches.
- C. Any funds budgeted for the Legislative Branch for a particular fiscal year that are not expended during that fiscal year shall be rolled over into the budget for the next fiscal year.

## **Section 8. APPROPRIATIONS TO DISTRICTS**

- A. A department shall be established for each district.
- B. Districts may make annual funding requests to the Executive Branch during the budget preparation process (see Section 4(C)).
- C. Funds appropriated to districts in the annual comprehensive budget shall be utilized by the districts as follows:
  - 1. When funds have been appropriated for a specific purpose, a district may not utilize the funds for any other purpose, except upon re-designation of the stated purpose pursuant to the procedure set forth in Section 7(B).
  - 2. When funds have been appropriated for a district, but the funds have not been designated for a specific purpose, the district is authorized to expend the funds for various purposes using the following protocol:

- a. A district budget meeting shall take place with at least ten (10) days advance notice to the district members. Notice shall be accomplished by written notices posted throughout the district. At least two (2) of the district Legislators and four (4) of the Crow Tribal General Council members, who are registered in the district, must be in attendance at the meeting in order to have a quorum.
- b. Expenditures requested for a specific purpose or for re-designation of a purpose shall be voted on by the district members in attendance and must be approved by a majority of those present.
- c. One of the District Legislative Representatives shall preside over the meeting. The rules of order to be followed at such district meetings shall be established by the district at their first district budget meeting. Minutes at all meeting shall be maintained.
- d. Upon district designation of a specific project to be funded and the amount of funds to be utilized for the project, a District Legislative Representative shall formalize the expenditure request in writing to the CPA. Official meeting minutes must be attached.
- e. The CPA shall review whether the requested expenditure complies with applicable financial guidelines. If the expenditure requires payment to a contractor, the CPA shall require certification that the district has complied with all procurement and contracting guidelines.

#### **Section 9. *SEPARATION OF FINANCES***


Upon final approval of the annual comprehensive budget, each of the three separate branches of the Apsáalooke Nation will assume control over its own budget. Signature authority will be granted to each Branch Chief: Executive Branch (Chairman), Legislative Branch (Speaker of the House), and the Judicial Branch (Chief Judge).

#### **Section 10. *APPLICABLE LAW***

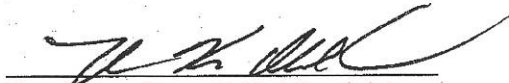
Applicable Tribal and Federal laws shall apply, as well as, the internal established Financial Policies.

### CERTIFICATION

I hereby certify that "THE CROW TRIBAL FISCAL MANAGEMENT ACT" was duly enacted by the Crow Tribal Legislature with a vote of 17 in favor, 0 opposed, and 0 abstaining, and that a quorum was present on this 10th day of April, 2007.

  
Speaker of the House  
Crow Tribal Legislature

ATTEST:

  
Secretary, Crow Tribal Legislature



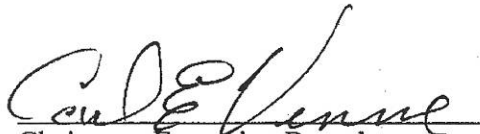
### EXECUTIVE ACTION

I hereby

☒ approve

☐ veto

"THE CROW TRIBAL FISCAL MANAGEMENT ACT" 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 12 day of April, 2007.

  
Chairman, Executive Branch  
Crow Tribe of Indians



Bill or Resolution Number CLB07-08 Introduced by Executive Branch Date of Vote April 10, 2007

Representative:	Yes	No	Abstained
L. Plain Bull	<input checked="" type="checkbox"/>		
O. Costa	<input checked="" type="checkbox"/>		
V. Crooked Arm	<input checked="" type="checkbox"/>		
M. Not Afraid	<input checked="" type="checkbox"/>		
R. Iron	<input checked="" type="checkbox"/>		
B. House	<input checked="" type="checkbox"/>		
E. Fighter	<input checked="" type="checkbox"/>		
L. Costa	<input checked="" type="checkbox"/>		
L. Hogan	<input checked="" type="checkbox"/>		
S. Fitzpatrick	<input checked="" type="checkbox"/>		
K. Real Bird	<input checked="" type="checkbox"/>		
M. Covers Up	<input checked="" type="checkbox"/>		
L. Not Afraid	<input checked="" type="checkbox"/>		
B. Shane	<input checked="" type="checkbox"/>		
J. Stone	<input checked="" type="checkbox"/>		
D. Wilson			
R. Old Crow <i>Secretary of the House</i>	<input checked="" type="checkbox"/>		
D. Goes Ahead <i>Speaker of the House</i>	<input checked="" type="checkbox"/>		
Totals:	<u>17</u>	<u>0</u>	<u>0</u>

Result of Vote:

Passed

Not Passed

Tabled

Veto Override

Signature Officer: Carlson Darsah Date: 4-10-07

EXHIBIT 2.

LR 19-01 A Resolution of the Crow Tribal Legislature for a  
Vote of No Confidence in Chairman “AJ” Alvin Not  
Afraid, JR.

EXHIBIT 2.

**JANUARY SESSION 2019  
CROW LEGISLATIVE BRANCH**

**LR No. 19-01**

Introduced by the Crow Tribal Legislative Branch

A Legislative Resolution Titled

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE FOR A VOTE OF NO  
CONFIDENCE IN CHAIRMAN AJ (ALVIN) NOT AFRAID, JR.**

Legislative Findings:

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

**WHEREAS**, The Legislature has attempted to work with the Chairman of the Crow Tribe repeatedly, asking for meetings, budgets, and plans for all aspects of tribal government. Financial reporting to the Legislature and the Crow Tribal General Council is a constitutional, and a statutory requirement with an explicit duty to the Crow Tribal Executive Branch and, to assist Executive Branch in sustaining and providing accountability and transparency to Crow Tribal members;

**WHEREAS**, the Legislature has repeatedly been stymied by the Chairman, as he has failed to show to meetings, some called by the Chairman himself, failed to provide detailed budgets for the Legislature to consider, and has refused to identify to the Legislature, and the Crow people, his plans for the growth and success of the Crow Tribe;

**WHEREAS**, the Chairman signed and negotiated an easement extension for Ok-A-Beh road, and access to the marina, without consultation and approval from the Legislature, in violation of the Tribe's trust rights and in violation of Article IV, section 3 (f);

**WHEREAS**, the Chairman has failed to have payroll taxes paid so that now the Crow Tribe has incurred Internal Revenue Service tax liabilities with no plan to pay them, to the detriment of the Crow people, employees of the Crow Tribe, and the services that otherwise could be provided to the Crow people, in violation of Article IV, section 3 (d) of the Crow Constitution;

**WHEREAS**, the Legislature has continued to put forth solutions for the Executive's consideration, including plans for the payment of the Tribe's liabilities, development of the Tribe's resources, and creation of new jobs for Tribal members. Those plans have all been rejected by the Chairman without discussion, contrary to Article IV, section 3 (c) of the Crow Constitution;



**WHEREAS**, the Chairman sold the Crow Tribe buffalo, a trust resource, without legislative approval, in accordance with Article IV, section 3 (j) and (f) of the Crow Constitution;

**WHEREAS**, the Chairman has not had, and currently does not have, a Comptroller as required by Article IV, section 5 (a) of the Crow Constitution;

**WHEREAS**, the Chairman has never reported to the Legislature as required by Article IV, section 4 (b) of the Crow Constitution;

**WHEREAS**, the Chairman has not followed the Fiscal Management Act, in violation of Article IV, section 3 (g) of the Crow Constitution;

**WHEREAS**, the Chairman willfully violated Crow tribal law by not following the pay schedule passed by the Crow Tribe Legislature in JAR 18-04, an act which included paying vendors and tribal branches, in violation of Article IV, section 3 (g) of the Crow Constitution;

**WHEREAS**, the Chairman failed to have the Indian Community Development Block Grant for the Crow Tribe Housing submitted timely, costing the Crow Tribe valuable dollars needed for community housing;

**WHEREAS**, the Chairman failed to have the Crow Tribe Housing plan adopted and submitted timely, costing the Crow Tribe valuable dollars needed for community housing;

**WHEREAS**, the Chairman has handed Indian Health Service third-party billing to Rocky Mountain Tribal Leaders, removing an enormous source of income from the Crow Tribe;

**WHEREAS**, the Chairman has failed to utilize funds earmarked for the Crow Tribe from the State of Montana Community Block Grant funds and Montana State Commerce department, costing the Crow Tribe revenue, employment, program dollars and a loss of indirect moneys, in violation of Article IV, section 3 (a);

**WHEREAS**, the Chairman has failed to act upon, follow up with, and provide a solution to the three Office of Inspector General audits on the Crow Tribe, placing the Crow Tribe, Crow tribal members, and services provided to those members in jeopardy, in violation of Article IV, section 3 (a) of the Crow Constitution;

**WHEREAS**, the Chairman has not prevented buffalo hunting by non-tribal members on Crow lands, in violation of Article IV, section 3 (j) of the Crow Constitution;

**WHEREAS**, the Chairman has not reported back to the Legislature the expenditures of the Executive office despite requests made directly to the Executive and the auditors, including reporting on travel expenses and the purpose of those travels;

**WHEREAS**, the Chairman has not appointed members to various committees, including the TERO board, to the detriment of Crow members, and in violation of Article IV, section 5 (b) of the Crow Constitution.

**WHEREAS**, the Chairman has failed to see the trash removed from the Reservation causing serious health problems for Tribal members. The Chairman's failure to have the trash removed is in violation of Article IV, section 3 (b) of the Crow Constitution.

**WHEREAS**, the Chairman has a duty to delegate responsibilities. The Chairman improperly delegated his authority under the Crow Constitution to his attorney, whereas the Crow Constitution requires delegation to the Comptroller and other Executive officers pursuant to Article IV, section 5 of the Crow Constitution.

**WHEREAS**, the Chairman has repeatedly slandered and libeled the elected officials of the Crow Tribe as elected by the Crow members, as found in Exhibit A, attached to this Resolution, as was sent to Tribal Elders in their Elder's benefit check.

**NOW THEREFORE**, the Crow Legislature, for the above reasons and other good cause shown, does determine and find it has **NO CONFIDENCE** in Chairman Alvin Not Afraid and his abilities to govern as Chairman of the Crow Tribe and asks the remaining Executive members to act accordingly.

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


The Crow Tribal Legislature disapproves of Chairman A.J (Alvin) Not Afraid, Jr's current fiscal management of the Crow Tribal Governments assets, and how Crow Tribal funds have been expended without complete and lawful financial reporting. The Crow Tribal Legislature gives notice to Crow Tribal General Council members that any and all tribal funds expended without complete and proper reporting to the Crow Tribal Legislature and the Crow Tribal General Council are unlawful.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**




**CERTIFICATION**

I hereby certify that this Resolution titled **A RESOLUTION OF THE CROW TRIBAL LEGISLATURE FOR A VOTE OF NO CONFIDENCE IN CHAIRMAN AJ (ALVIN) NOT AFRAID, JR.** was duly approved by the Crow Tribal Legislature with a vote of 11 in favor, 3 opposed, and 1 abstained and that a quorum was present on this 10<sup>th</sup> day of January 2019.

  
\_\_\_\_\_  
Senator Frank White Clay  
Speaker of the House  
Crow Tribal Legislature

ATTEST:

  
\_\_\_\_\_  
Senator Lawrence DeCrane  
Secretary of the House  
Crow Tribal Legislature



**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE FOR A VOTE OF  
NO CONFIDENCE IN CHAIRMAN AJ (ALVIN) NOT AFRAID, JR.**

**Bill or Resolution:** LR19-01 **Introduced by:** Crow Tribal Legislative Branch **Date of Vote:** 1/10/2019  
**Number**

<b>REPRESENTATIVE:</b>	<b>Yes</b>	<b>No</b>	<b>Abstained</b>
M. White Clay	<u>X</u>	<u>                    </u>	<u>                    </u>
D. Spotted	<u>X</u>	<u>                    </u>	<u>                    </u>
L.Hogan, III	<u>X</u>	<u>                    </u>	<u>                    </u>
B. Brown	<u>                    </u>	<u>X</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>X</u>
M. Not Afraid	<u>                    </u>	<u>X</u>	<u>                    </u>
G. Bouyer	<u>                    </u>	<u>X</u>	<u>                    </u>
J. Demontaine	<u>X</u>	<u>                    </u>	<u>                    </u>
B. Hugs	<u>                    </u>	<u>                    </u>	<u>                    </u>
N. Old Crow, Jr.	<u>                    </u>	<u>                    </u>	<u>                    </u>
B. Good Luck	<u>X</u>	<u>                    </u>	<u>                    </u>
H. Male Bear-Stone, Jr.	<u>X</u>	<u>                    </u>	<u>                    </u>
L. DeCrane, Secretary	<u>X</u>	<u>                    </u>	<u>                    </u>
F. White Clay, Speaker	<u>X</u>	<u>                    </u>	<u>                    </u>
<b>Total:</b>	<u>11</u>	<u>3</u>	<u>1</u>

Result of Vote:

**Passed**

**Not Passed**

**Tabled**

**Veto-Override**

*Frank White Clay*

Senator Frank White Clay  
Speaker of the House  
Crow Tribal Legislative Branch

Date

*Lawrence DeCrane 1-10-19*

Senator Lawrence DeCrane  
Secretary of the House  
Crow Tribal Legislative Branch

Date

## CROW TRIBE EXECUTIVE BRANCH

Bacheeitché Avenue  
P.O. Box 159  
Crow Agency (Baaxuwuashé), Montana 59022

Alvin Not-Afric Jr.

CHAIRMAN

Carlson Goes Ahead

VICE-CHAIRMAN

Rudolph Old Crow, Sr.

SECRETARY

Shawn Backbone

VICE-SECRETARY

### EXHIBIT A

November 5, 2018



Dear Crow Elder,

I would like to take this opportunity to apologize to you for the delay in mailing your October and November Benefit check. However, you will find your October Benefit enclosed.

As you know, the Tribe faces heavy economic obstacles that cannot be corrected overnight, including:

- **Debt** – We remain over-burdened with debt payments, which run in the millions, from decades of mismanagement;
- **Revenue** – The War on Coal has devastated the Tribe's revenue, directly leading to reduced sales of coal – which serves as our main source of Tribal income. This has resulted in Westmoreland's recent bankruptcy filing and the volatility of their contracts with coal buyers makes future revenue uncertain. I will continue to update you on this topic as we move forward with Westmoreland.
- **Loans** – Funds from the 107<sup>th</sup> Settlement Account that were supposed to provide steady, reliable Benefit Payments to Elders was used again and again, throughout the 1990s and 2000s to pay for loans. Very little money remains from our monthly 107<sup>th</sup> Settlement Funds to provide these benefits to you; and
- **Legislature** – Instead of passing the FY2019 Annual Budget Bill, the Legislature has passed an Unconstitutional bill that not only breaks our Nation's laws, but it also directs me to move money from Elder payments to the Legislative payroll account. I cannot legally or morally accept this bill. (Please see attachment for more detail.)

Though we may not approve of these actions, leadership requires that we face the consequences directly. In doing so, I make the following commitments to you:

- **Elder Benefits** – I make a commitment to you that I will not sign a budget bill that jeopardizes Elder Benefits, no matter the pressure I receive from the Legislature to do so.

*The Great Apsáalooke Nation: "Teepee Capital of the World"*



Letter to Tribal Elders – October Obligation  
Page 2 of 2

- Youth Funds – I promise to safeguard funds for Youth activities.
- December Per Cap – I have hired Gusena Howe to manage the Enrollment Department, and I am confident in her experience and ability to successfully disburse the December Per Capita payments. Please contact her at (406) 665-7135 or (406) 679-3218 with questions.

Though these times are painful, there are good and positive things occurring everyday. I am frustrated that it has taken years to uncover decades of mismanagement, but I am optimistic that if we stay the course, together, and follow the wisdom of our ancestors, we will overcome all of these challenges. And I truly believe that our sovereignty and our government will be stronger for it. I ask you to pray for the Tribe and all of our Members: through your prayers, your guidance and your support, our Great Nation can stand tall and proud.

Sincerely,



Alvin "A.J." Not Afraid, Jr.  
Chairman, Crow Tribe of Indians

## COMPARISON OF PRIORITIES - ANNUAL BUDGET BILL

The Legislature's Budget Priorities	Chairman Not Afraid's Budget Priorities
<p>Their Own Salaries: The Average Senator Makes \$262 Per Hour</p>	<p>He Cut His Travel To Zero, And Cut His Salary - To Safeguard Full Benefits For Every Elder</p>
<p>Their Own Travel: \$90,000 For Travel And Mileage</p>	<p>He Secures Funds For Education And Our Youth</p>
<p>Their Own Benefits: \$49,080 For A "Legislative Benefits Package"</p>	<p>He Pays Off Debts And Works To Increase Per Cap Payments To Members</p>
<p><i>They Work For Themselves</i></p>	<p><i>He Works Hard To Protect What's Important To Us!</i></p>

EXHIBIT 3.

2001 Crow Tribal Constitution

EXHIBIT 3.

Constitution  
**Constitution**  
**and**  
**By-Laws**  
**OF THE CROW TRIBE OF INDIANS**  
ADOPTED JULY 14<sup>TH</sup>, 2001



*APPROVED BY:*  
*SECRETARY OF THE INTERIOR*  
*NEAL McCaleb*  
*SIGNED: DECEMBER 4<sup>TH</sup>, 2001*

**Table of Contents – Crow Constitution**

PREAMBLE .....	1
ARTICLE I — GOVERNING BODY.....	1
ARTICLE II — TERRITORY .....	2
ARTICLE III — MEMBERSHIP.....	2
Section 1. Membership Criteria	
Section 2. Dual Membership Prohibited	
Section 3. Enrollment Ordinance	
ARTICLE IV — EXECUTIVE BRANCH OF GOVERNMENT.....	2
Section 1. Executive Officers	
Section 2. Executive Officer Compensation	
Section 3. Enumerated Powers	
Section 4. General Duties.	
Section 5. Chairman's Duties and Authorities	
Section 6. Secretary's Duties.	
ARTICLE V — LEGISLATIVE BRANCH OF GOVERNMENT .....	5
Section 1. Membership	
Section 2. Powers and Duties	
Section 3. Meetings	
Section 4. Speaker of the House	
Section 5. Secretary of the Legislature	
Section 6. Proposed Legislation	
Section 7. Executive Branch Chairman's Proposed Legislation	
Section 8. Approval and Veto of Legislation	
Section 9. Conflict of Interest	
ARTICLE VI — ELECTIONS .....	7
Section 1. Executive Branch Elections	
Section 2. Legislative Branch Elections	
Section 3. Eligible Voters	
Section 4. Candidate Requirements	
Section 5. Election Ordinance	
ARTICLE VII — VACANCIES .....	8
Section 1. Executive Branch	
Section 2. Legislative Branch	
ARTICLE VIII —REMOVAL AND RECALL.....	9
Section 1. Executive Branch	
Section 2. Legislative Branch	
Section 3. Recall.	
ARTICLE IX — REFERENDUM AND INITIATIVE .....	10
Section 1. Referendum	
Section 2. Initiative	
ARTICLE X — JUDICIAL BRANCH OF GOVERNMENT .....	11
ARTICLE XI — BILL OF RIGHTS.....	11
Section 1.	
Section 2.	
Section 3.	
Section 4.	
ARTICLE XII — AMENDMENTS.....	12
ARTICLE XIII — ADOPTION .....	12
ARTICLE XIV — SEVERABILITY .....	12
ARTICLE XV— APPROVAL.....	13



**CONSTITUTION  
AND BYLAWS  
OF THE  
CROW TRIBE OF INDIANS  
CROW INDIAN RESERVATION, CROW AGENCY**

**PREAMBLE**

We, the adult members of the Crow Tribe of Indians located on the Crow Indian Reservation as established by the Fort Laramie Treaties of 1851 and 1868, in an effort to enforce and exercise our treaty rights, our inherent sovereign rights, to secure certain privileges and retain inherent powers do hereby adopt this Constitution to create a governing body to represent the members of the Crow Tribe of Indians, to promote the general welfare of the Crow Tribe and to provide for the lawful operation of government.

**ARTICLE I — GOVERNING BODY**

The traditional name of the government of the Crow Tribe of Indians of the Crow Indian Reservation shall be the Apsaalooke Nation Tribal General Council hereinafter known formally as the Crow Tribal General Council. The Crow Tribal General Council as governing body of the Crow Tribe of Indians hereby establishes three branches of government, the Executive, Legislative and Judicial Branches, which shall exercise a separation of powers. The Crow Tribal General Council shall consist of all adult enrolled members of the Crow Tribe of Indians eighteen (18) years of age or older who are entitled to vote. Descendant members of the Crow Tribe shall not be included in the Crow Tribal General Council of the Crow Tribe. The Crow Tribal General Council shall meet biannually for the purpose of receiving information from the Executive and Legislative Branches. The Crow Tribal General Council shall vote, by secret ballot, on all petitions forwarded by the Executive or Legislative Branches for removal of a Tribal Official or an Executive Branch member or to vote on a referendum or initiative in accordance with Article IX of this Constitution.

Any rights or powers heretofore vested in the Crow Tribe of Indians but not expressly referred to in this Constitution shall not be lost by reason of their omission from this Constitution but may be exercised by the Crow Tribal General Council through the adoption of appropriate amendments to this Constitution.

## ARTICLE II — TERRITORY

The jurisdiction of the Crow Tribal General Council shall extend to all lands within the exterior boundaries of the Crow Indian Reservation including those lands within the original boundaries of the Crow Indian Reservation as determined by federal statutes and case law and to such other lands as may hereafter be acquired by or for the Crow Tribe of Indians.

## ARTICLE III — MEMBERSHIP

**Section 1. Membership Criteria.** The Crow Tribal General Council shall have the inherent authority to determine membership of the Crow Tribe of Indians. Membership shall be determined as follows:

- a) all persons who possess one-quarter (1/4) Crow Indian blood or more; or
- b) all those persons who are enrolled as Crow Indians on the date of passage of this Constitution; or
- c) all descendants of such Crow Indians referred to above with the enrollment status and benefits of such descendants determined by the Crow Tribal Enrollment Ordinance.

**Section 2. Dual Membership Prohibited.** No person who is or becomes a member of another tribe, band or group of Indians shall be eligible for enrollment in the Crow Tribe of Indians unless he/she shall first relinquish in writing all rights to membership in such other tribe, band or group of Indians.

**Section 3. Enrollment Ordinance.** The Crow Tribal General Council shall have the power to adopt ordinances, consistent with this Constitution, governing future membership and loss of membership of members of the Crow Tribe of Indians.

## ARTICLE IV — EXECUTIVE BRANCH OF GOVERNMENT

**Section 1. Executive Officers.** The Crow Tribal General Council shall elect from its membership by secret ballot an Executive Branch of Government which shall consist of a Chairperson, Vice-Chairperson, Secretary and Vice-Secretary. Each Executive Officer shall be elected by the qualified voters in an election held in accordance with an Election Ordinance duly adopted by the Crow Tribe. The Executive Branch of the Crow Tribe shall operate as a separate and distinct branch of the Crow Tribal Government and shall exercise a separation of powers from the other branches of the Crow Tribal Government. Members of the Executive Branch shall serve a four (4) year term or until their successors are duly elected and installed. No person may serve as Tribal Chairman, Vice-Chairman, Secretary or Vice-Secretary for more than two (2) four (4) year terms. A person may not serve in other Executive Branch positions after serving two (2) four (4) year terms as Tribal Chairman. A person may serve two (2) four (4) year terms in the positions of Vice-Secretary, Secretary and Vice-Chairman and still serve in the



other Executive Branch positions of a higher level for up to two (2) terms. A person may not serve in lower level positions after completing terms in a higher level position.

**Section 2. Executive Officer Compensation.** The Executive Branch Officials shall serve the Tribe on a salaried, full-time basis with salaries commensurate with services and hours provided. Tribal Officials shall also be entitled to compensation for travel and expenses. Further, all Executive Branch Officials will receive no additional or personal benefits for their service to the Tribe.

**Section 3. Enumerated Powers.** The Executive Branch shall exercise the following powers and responsibilities herein provided, subject to any limitations imposed upon such powers by the statutes and laws of the United States:

- a) 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;
- b) administer and oversee all functions of the Executive Branch of the Crow Tribal Government including the hiring, firing, and staffing of all agencies, departments, and instrumentalities of the Executive Branch in accordance with established written policy;
- c) engage in any business that will further the economic well-being of the members of the Tribe and undertake any economic development activity which does not conflict with the provisions of the Constitution;
- d) administer any funds within the control of the Tribe and make expenditures from available funds for tribal purposes, including salaries and expenses of Tribal Officials or employees and prepare an annual budget for the operation of the Tribal Government, including separate budgets for the Legislative and Judicial Branches, for approval by the Legislative Branch of the government and the Secretary of the Interior;
- e) employ legal counsel for the protection and advancement of the rights of the Crow Tribe and its members;
- f) 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;
- g) enforce all laws, ordinances, resolutions, regulations or guidelines passed by the Legislative Branch providing for the levying of taxes and licensing of members and non-members for various purposes;

- h) exclude from the restricted lands of the Crow Tribe of Indians persons not legally entitled to reside therein, under ordinances which shall be adopted by the Legislative Branch;
- i) purchase, under condemnation proceedings in courts of competent jurisdiction, land or other property needed for public purposes, under ordinances which shall be adopted by the Legislative Branch;
- j) 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
- k) 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 this Constitution.

**Section 4. General Duties.** The general duties of the Executive Branch Officials shall be:

- a) to implement all laws, resolutions, codes and policies duly adopted by the Legislative Branch;
- b) to provide for the fiscal management of the Executive Branch and prepare complete financial reports for the Crow Legislative Branch on a quarterly basis and biannual reports for the Crow Tribal General Council. The Executive Branch shall set the financial budget for the Legislative and Judicial Branches.

**Section 5. Chairman's Duties and Authorities.** The specific duties and authorities of the Chairman shall be:

- a) to appoint Cabinet members including a Comptroller who shall be bonded, Chief Executive Officer and other such Cabinet positions adopted by Tribal Ordinance, Resolution or Policy who shall all serve in subordinate positions to the Tribal Officials;
- b) to appoint committee members to Executive Branch committees;
- c) to delegate, at his prerogative, his authority, in writing, to the Vice-Chairman when the Chairman is unavailable due to illness or death in the family. The Tribal Chairman may also, at his prerogative, delegate his authority to the Vice-Chairman in writing from time to time for specific purposes or projects and for specific periods of time. An automatic delegation of authority from the Chairman to the Vice-Chairman shall occur if the Chairman is unavailable or absent for a period of five working days.



**Section 6. Secretary's Duties.** The specific duties and authorities of the Secretary of the Executive Branch shall be:

- a) to keep records of all actions of the Executive Branch, insure proper reports in accordance with this Constitution are forwarded to the Crow Tribal General Council; and
- b) to delegate, at his prerogative, his authority, in writing, to the Vice-Secretary when the Secretary is unavailable due to illness or death in the family. The Secretary may also, at his prerogative, delegate his authority to the Vice-Secretary in writing from time to time for specific purposes or projects and for specific periods of time. An automatic delegation of authority from the Secretary to the Vice-Secretary shall occur if the Secretary is unavailable or absent for a period of five working days.

## **ARTICLE V — LEGISLATIVE BRANCH OF GOVERNMENT**

**Section 1. Membership.** The Crow Tribal General Council shall elect three members from each of the established districts within the Crow Reservation known as Valley of the Giveaway or Big Horn, Black Lodge, Valley of the Chiefs or Lodge Grass, Arrow Creek or Pryor, Center Lodge or Reno, and Mighty Few or Wyola, to serve as legislators comprising the Legislative Branch of the Crow Tribal government. The Legislative Branch of the Crow Tribe shall operate as a separate and distinct branch of the Crow Tribal Government and shall exercise a separation of powers from the other branches of the Crow Tribal Government. The initial election of the Legislative members shall be held within sixty (60) days of approval of this Constitution. Thereafter, the members of the Legislative Branch shall be elected by qualified voters in an election held in accordance with an Election Ordinance duly adopted pursuant to Article VI, Section 5 of this Constitution. One (1) representative from each district will serve an initial term of two (2) years and two (2) representatives shall serve initial four (4) year terms. After completion of the initial terms, election for members of the Legislative Branch shall occur after four (4) years from the commencement of each initial term, resulting in staggered terms for the Legislative Branch members.

**Section 2. Powers and Duties.** The powers and duties of the Legislative Branch shall be:

- a) 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; for providing for the levying of taxes, licensing of members and non-members for various purposes; for the exclusion of persons not legally entitled to reside or remain within the exterior boundaries of the Crow Indian Reservation;

- b) to adopt legislation, not inconsistent with this Constitution, which is necessary in exercising the duties conferred upon the three branches of government;
- c) to adopt legislation chartering instrumentalities of the Crow Tribe for the purposes of economic development, housing, education or other purposes not inconsistent with this Constitution;
- d) 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 provided that a process for such approval or disapproval may be established by legislation;
- e) to grant final approval or disapproval of an annual budget prepared by the Executive Branch of Government; and
- f) to grant final approval or disapproval of limited waivers of sovereign immunity by the Executive Branch of Government when waivers are necessary for business purposes provided that a process for such approval or disapproval may be established by legislation.

**Section 3. Meetings.** The Legislative Branch of the Crow Tribal Government shall meet quarterly during the second week of January, April, July and October at the Crow Tribal Administration Offices. The Legislative Branch shall be compensated on an hourly rate basis for their services and entitled to expenses in accordance with Tribal policy. The meetings of the Legislative Branch shall be conducted in accordance with the most current version of the Robert's Rules of Order and any rules of conduct duly adopted by the Legislature. A quorum for the Legislative Branch shall be twelve (12) members plus the Speaker of the House. Legislators may not vote by proxy. Upon a tie vote of the legislators, the Vice-Chairman of the Executive Branch shall vote to break the tie.

**Section 4. Speaker of the House.** At the initial session of the Legislature, the members shall select a Speaker of the House to serve until the following January. Thereafter elections for Speaker of the House shall be each January. The Speaker of the House shall be entitled to vote. The Speaker of the House shall conduct all sessions of the Legislative Branch. Upon the unavailability or absence of the Speaker, the members may select a Speaker of the House pro tem for the one session, or a portion of the session, only.

**Section 5. Secretary of the Legislature.** At the initial session of the Legislature, the members shall select a Secretary of the Legislature to serve until the following January. Thereafter elections for Secretary of the Legislature shall be each January. The Secretary of the Legislature shall be entitled to vote. The Secretary of the Legislature shall provide notices of meeting times, dates and location to all other members of the Legislative Branch in accordance with rules established and adopted by the Legislative Branch. The Secretary of the Legislature shall keep



minutes of all meetings and official records of the Legislative Branch. The Secretary of the Legislature shall prepare all proposed legislation for distribution to all members of the Legislative Branch.

**Section 6. Proposed Legislation.** Each member of the Legislature shall bring any proposed legislation to the legislative body for consideration at the initial session of the Crow Tribal Legislature. Thereafter, Members of the Legislature shall hold a District meeting at least thirty (30) days prior to the commencement of each legislative session. The District Representative shall provide notice of district meetings at least ten (10) days prior to the meeting and in accordance with policy established by the Legislature. At least fifteen (15) days prior to the commencement of the legislative session, each member may submit proposed legislation, with a petition bearing signatures, addresses and enrollment numbers of at least ten percent (10%) of the District's eligible voters, as recorded in the voter registration roles of each District, to the Secretary of the Legislature. The Secretary of the Legislature shall provide notice to all members of the Legislature, ten (10) days prior to the commencement of the session, with a list of proposed legislation for consideration by the Legislature as duly submitted by the members of the Legislature.

**Section 7. Executive Branch Chairman's Proposed Legislation.** The Chairman of the Executive Branch shall submit proposed legislation to the Secretary of the Legislature at least fifteen (15) days prior to the commencement of the Legislature.

**Section 8. Approval and Veto of Legislation.** All legislation passed by the Legislature must be approved by the Chairman of the Executive Branch to become effective. The Chairman has a right to veto any legislation passed by the Legislature. Upon a veto of any proposed legislation by the Chairman, the Legislature has the power to override the veto if the proposed legislation is approved by two-thirds (2/3) of the members of the Legislature. Upon an override of the Chairman's veto, the Chairman may submit the subject legislation to the Crow Tribal General Council for a referendum vote in accordance with Article IX, Section 1 of this Constitution.

**Section 9. Conflict of Interest.** Any member of the Legislature who stands to gain a personal benefit from any proposed legislation shall remove himself from all discussion and the vote on the legislation. Upon a member's recusal from consideration of proposed legislation due to a conflict of interest, the member shall not be counted for purposes of establishing a quorum.

## **ARTICLE VI — ELECTIONS**

**Section 1. Executive Branch Elections.** The current Tribal Officials, constituting the Executive Branch of the Crow Tribal Government, in office at the time of approval of this Constitution by the Secretary of the Interior or his authorized representative, shall remain in office until their successors are duly elected in November, 2004 and seated in December, 2004. Thereafter, elections for all Executive Branch positions shall be held every four (4) years in the month of November with inauguration into office in December.

**Section 2. Legislative Branch Elections.** The Crow Tribal General Council shall hold an election

of members of the Legislative Branch within sixty (60) days of approval of this Constitution by the Secretary of Interior or his authorized representative. The initial election of the Legislative Branch shall occur after eligible candidates file a written notice of candidacy with a \$250.00 filing fee with the Secretary of the Executive Branch within thirty (30) days of approval of this Constitution and after proper notice is posted in each Crow Reservation District. The election of members of the Legislative Branch of government shall be by secret ballot voting in each of the Crow Reservation Districts. The duly elected members of the Legislative Branch shall be officially seated thirty (30) days after election. Thereafter, all elections for members of the Legislative Branch of the Crow Tribal Government shall be in accordance with a duly adopted election ordinance.

**Section 3. Eligible Voters.** Crow Tribal General Council members who are eighteen (18) years of age or older at the time of election shall be entitled to vote in any election of the Executive Branch, Legislative Branch, committee elections and referendum votes. Descendant members of the Crow Tribe shall not be entitled to vote.

**Section 4. Candidate Requirements.** All candidates for all branches of the Crow Tribal Government must physically reside within the exterior boundaries of the Crow Reservation for at least one year and must be thirty (30) years of age for any Executive Branch position and twenty-five (25) years of age for any Legislative Branch position. Candidates must further possess a high school diploma or a General Equivalency Diploma, unless over 55 years of age and all candidates shall have no felony convictions. Candidates for the Legislative Branch cannot be employed by the Executive Branch and members of the Legislature are prohibited from employment by the Crow Tribe. No person elected into any position in any branch of the Crow Tribal Government may be employed by the United States Government Bureau of Indian Affairs, Indian Health Service or other federal agencies.

**Section 5. Election Ordinance.** The Legislative Branch of the Crow Tribal Government shall adopt a comprehensive election ordinance within six (6) months following the effective date of this Constitution. Such ordinance shall prescribe procedures for the conduct of elections, nominations, secret balloting, and resolving election disputes. Provisions shall also be included regarding the conduct of recall and referendum elections. Elections to amend this Constitution shall be conducted in accordance with Article XII of this Constitution.

## **ARTICLE VII — VACANCIES**

**Section 1. Executive Branch.** If an officer of the Executive Branch of the Crow Tribal Government shall die, resign, be removed or recalled, or be convicted of a felony while in office, the Chairman of the Executive Branch, or his official designee, shall immediately declare the office vacant and direct the Secretary of the Executive Branch, or his official designee, to hold an election within sixty (60) days of the declaration of vacancy to elect a successor to fill the unexpired term. The election shall occur in accordance with the duly adopted election ordinance. If the position of Chairman shall become vacant, the Vice-Chairman shall act as Chairman until the election of a new Chairman. If the position of Secretary shall become vacant, the Vice-Secretary shall act as Secretary until the election of a new Secretary.



**Section 2. Legislative Branch.** If an officer of the Legislative Branch of the Crow Tribal Government shall die, resign, be removed or recalled, or be convicted of a felony while in office, the Speaker of the House of the Legislative Branch, or his official designee, shall immediately declare the office vacant and direct the Secretary of the Executive Branch, or his official designee, to hold an election in the appropriate district within sixty (60) days of the declaration of vacancy to elect a successor to fill the unexpired term. The election shall occur in accordance with the duly adopted election ordinance.

## **ARTICLE VIII — REMOVAL AND RECALL**

**Section 1. Executive Branch.** An Executive Branch Official may submit a petition to expel any other member of the Executive Branch who is suspected of improper conduct or of gross neglect of duty as specifically defined by the Crow Tribal General Council, by its Legislative Branch, in adopted policy. Such policy shall include the following:

- a) indictment or charged with a felony crime;
- b) serious illness which interferes with the ability to fulfill Council responsibilities;
- c) misuse of tribal funds;
- d) abuse of authority; and
- e) abuse of drugs and/or alcohol.

The petition may not be submitted to the Crow Tribal General Council without the unanimous vote of the remaining officials not named in the petition. The properly submitted petition by the Executive Branch, with a complete statement of the charges against him/her, shall be provided to the subject Official at least ten (10) days before a scheduled hearing on the petition before the Crow Tribal General Council. The hearing before the Crow Tribal General Council on the removal petition shall be conducted by the Chairman of the Executive Branch or his designee. The hearing shall allow the Official named in the petition full opportunity to address allegations against him/her. Following the hearing, the Crow Tribal General Council shall vote upon the removal petition by secret ballot. The removal petition must pass by a two-thirds (2/3) majority vote. A removal petition election shall not be valid unless at least twenty-five percent (25%) of the Crow Tribal General Council vote in the removal petition election. The decision of the Crow Tribal General Council shall be final. No member of the Executive Branch shall preside over the meeting at which his removal is being considered.

**Section 2. Legislative Branch.** A Legislative Branch Official may submit a petition to expel any other member of the Legislative Branch who is suspected of improper conduct or of gross neglect of duty as specifically defined by the Crow Tribal General Council, by its Legislative Branch, in adopted policy. Such policy shall include the following:

- a) indictment or charged with a felony crime;
- b) serious illness which interferes with ability to fulfill Council responsibilities;
- c) misuse of Tribal funds;
- d) abuse of Authority; and
- e) abuse of Drugs and/or Alcohol.

The petition may not be submitted to the Crow Tribal General Council without a two-thirds (2/3) majority vote of the remaining legislators not named in the petition. The properly submitted petition by the Legislative Branch, with a complete statement of the charges shall be provided to the subject Legislator at least ten (10) days before a scheduled hearing on the petition before the Crow Tribal General Council. The hearing before the Crow Tribal General Council on the removal petition shall be conducted by the Chairman of the Executive Branch or his designee. The hearing shall allow the Legislative Member named in the Petition full opportunity to address allegations against him/her. Following the hearing, the Crow Tribal General Council shall vote upon the removal petition by secret ballot. The removal petition must pass by a two-thirds (2/3) majority vote. A removal petition election shall not be valid unless at least twenty-five percent (25%) of the Crow Tribal General Council vote in the removal petition election. The decision of the Crow Tribal General Council shall be final.

**Section 3. Recall.** Upon receipt of a petition signed by at least twenty-five percent (25%) of the Crow Tribal General Council demanding a recall of any member of the Executive or Legislative Branches of government, it shall be the duty of the Secretary of the Executive Branch to call a special election at a Crow Tribal General Council meeting on the question of the recall within thirty (30) days from the date of the filing of a valid petition. The person subject to the recall petition shall be provided ten (10) days notice of the petition prior to the Crow Tribal General Council meeting called to vote upon the recall petition. At the Crow Tribal General Council meeting, the officer or member subject to the recall petition shall be given an opportunity to answer any or all charges prior to the vote of the petition. The recall petition must pass by a two-thirds (2/3) majority vote. A recall petition election shall not be valid unless at least twenty-five percent (25%) of the total number of members of the Crow Tribal General Council vote in the recall petition election. The election shall be held in the manner prescribed by tribal ordinance.

## **ARTICLE IX — REFERENDUM AND INITIATIVE**

**Section 1. Referendum.** The Tribal Secretary of the Executive Branch shall, upon receipt of a petition signed by not less than twenty-five percent (25%) of the qualified voters, submit any enacted or proposed tribal legislation to a referendum of the Crow Tribal General Council. The Tribal Secretary also shall submit any legislation vetoed by the Chairman of the Tribe that has been overridden by the Legislature to a referendum of the Crow Tribal General Council only upon the Chairman's request. The decision of a two-thirds (2/3) majority of the voters voting in the referendum shall be final and binding, provided that at least twenty-five percent (25%) of the total number of members of the Crow Tribal General Council have voted in such election. The Tribal Secretary shall call the referendum within thirty (30) days from the date of receipt of a valid petition. The vote shall be by secret ballot.

**Section 2. Initiative.** Members of the Crow Tribal General Council reserve the power to independently propose tribal legislation. Any proposed initiative measure shall be presented to the Secretary of the Executive Branch accompanied by a petition signed by not less than twenty-five percent (25%) of the total number of members of the Crow Tribal General Council. Upon receipt of such a petition, the



Secretary of the Executive Branch shall call a special election for the purpose of allowing the Crow Tribal General Council to vote on the initiative measure. The election shall be held within thirty (30) days from the date of receipt of a valid petition. The decision of a two-thirds (2/3) majority of the voters voting in the initiative shall be final and binding, provided that at least twenty-five percent (25%) of the total number of members of the Crow Tribal General Council have voted in such election.

#### **ARTICLE X — JUDICIAL BRANCH OF GOVERNMENT**

A Judicial Branch of the Crow Tribal Government shall consist of all courts established by the Crow Law and Order Code and in accordance with this Constitution. The Judicial Branch shall have jurisdiction over all matters defined in the Crow Law and Order Code. The Judicial Branch shall be a separate and distinct branch of government from the Legislative and Executive Branches of Crow Tribal Government. The election process for the Judicial Branch judges shall be in accordance with the Crow Law and Order Code. Qualifications for the Judicial Branch Judges shall be established in the Crow Law and Order Code. The Judicial Branch shall have no power to review Executive Branch decisions made within the scope of the enumerated powers of the Executive Branch. The Judicial Branch shall have a limited review of legislation passed by the Legislative Branch to determine whether the subject legislation is consistent with or in conflict with this Constitution.

#### **ARTICLE XI — BILL OF RIGHTS**

**Section 1.** The rights to freedom of worship, conscience, speech, press, assembly and association of members of the Crow Tribe of Indians shall not be abridged or hindered without due process of law.

**Section 2.** This Constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the Crow Tribe of Indians as citizens of the United States.

**Section 3.** The individual property rights of any member of the Crow Tribe of Indians shall not be altered, abridged or otherwise affected except as specifically provided in this Constitution.

**Section 4.** In accordance with Title II of the Indian Civil Rights Act of 1968 (82 Stat. 77), the Crow Tribe of Indians in exercising its powers of self-government shall not:

- a) make or enforce any law prohibiting the full exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and to petition for a redress of grievances;
- b) violate the right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizure, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- c) subject any person for the same offense to be twice put in jeopardy;
- d) compel any person in any criminal case to be a witness against him/herself;

- e) take any private property for a public use without just compensation;
- f) deny to any person in a criminal proceeding the right to a speedy trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and, to have the assistance of counsel for his defense at his/her own expense;
- g) require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one (1) year or a fine of \$1000 or both;
- h) deny to any person within its jurisdiction the equal protection of its law or deprive any person of liberty or property without due process of laws;
- i) pass any bill of attainder or ex post facto law;
- j) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons.

#### **ARTICLE XII — AMENDMENTS**

This Constitution may be amended by a two-thirds (2/3) vote of the Crow Tribal General Council provided that at least thirty percent (30%) of the Crow Tribal General Council vote in an election called for the purpose of amending the Constitution. The process to propose amendments to this Constitution shall be defined by the Legislative Branch in legislation which complies with the requirements of this Article of the Constitution. No amendment shall become effective until approved by the Secretary of the Interior or his duly authorized representative.

#### **ARTICLE XIII — ADOPTION**

This Constitution, when adopted by a majority vote of the qualified voters of the Crow Tribal General Council voting at an election called for that purpose shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval.

#### **ARTICLE XIV — SEVERABILITY**

If any provision of this Constitution shall in the future be declared invalid by a Court of competent jurisdiction, the invalid portion shall be severed and the remaining provisions shall continue in full force and effect.



**ARTICLE XV- APPROVAL**

I, Secretary of the Interior, or designee, do hereby approve this Constitution of the Crow Tribe of Indians in accordance with Article XV of this Constitution. It is effective as of July 14, 2001 provided, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to federal law.

  
Secretary of Interior or Designee  
Washington, D.C.

Date: DEC 04 2001

EXHIBIT 4.

Letter to Bureau of Indian Affairs Acting Director Darryl LaCounte and Acting Regional Director Susan Messerly from Chairman Carlson Goes Ahead and Secretary Shawn Backbone

## EXHIBIT 4

# CROW TRIBAL EXECUTIVE BRANCH OF GOVERNMENT

### **Carlson "Duke" Goes Ahead**

Vice-Chairman of the Crow Tribe

### **Shawn Back Bone**

Vice-Secretary of the Crow Tribe

159 Bacheeitché Avenue  
Crow Agency, Montana 59022  
(406) 638-3708

[www.crow-nsn.gov](http://www.crow-nsn.gov)



January 23, 2019

Darryl LaCounte, Acting Director  
Bureau of Indian Affairs  
1849 C. Street NW  
Washington, D.C.

Susan Messerly, Acting Regional Director  
Rocky Mountain Region  
2021 4<sup>th</sup> Avenue North  
Billings, Montana 59101

RE: Statement of Compliance with the Constitution of the Crow Tribe adopted in 2001 to  
Remove A.J. Not Afraid, Chairman and Knute Old Crow, Secretary from the Executive  
Branch of the Crow Tribal Government

Dear Mr. LaCounte and Ms. Messerly;

We, the Vice-Chairman and Vice-Secretary of the Executive Branch of the Crow Tribe, elected in 2016, complied with the 2001 Constitution of the Crow Tribe on the submission of a petition to the Crow Tribal General Council to remove A.J. Not Afraid, Chairman and Knute Old Crow, Secretary also elected in 2016. The Crow Tribal General Council voted on January 19, 2019 to remove A.J. Not Afraid as Chairman and Knute Old Crow as Secretary of the Crow Tribe. Following is a recitation of our actions and the actions of the Crow Tribal General Council to remove A.J. Not Afraid and Knute Old Crow in compliance with the Constitution of the Crow Tribe.



Constitution of the Crow Tribe Article VIII – Removal and Recall Section 1. Executive Branch states:

An Executive Branch Official may submit a petition to expel any other member of the Executive Branch who is suspected of improper conduct or gross neglect of duty as specifically defined by the Crow Tribal General Council, by its Legislative Branch in adopted policy. Such policy shall include the following:

- (a) Indictment or charged with a felony crime;
- (b) Serious illness which interferes with the ability to fulfill Council responsibilities;
- (c) Misuse of tribal funds;
- (d) Abuse of authority; and
- (e) Abuse of drugs and/or alcohol.

The petition may not be submitted to the Crow Tribal General Council without the unanimous vote of the remaining officials not named in the petition. The properly submitted petition by the Executive Branch, with a complete statement of the charges against him/her, shall be provided to the subject Official at least (10) days before a scheduled hearing on the petition before the Crow Tribal General Council. The hearing before the Crow Tribal General Council on the removal petition shall be conducted by the Chairman of the Executive Branch or his designee. The hearing shall allow the Official named in the petition full opportunity to address allegations against him/her. Following the hearing, the Crow Tribal General Council shall vote upon the removal petition by secret ballot. The removal petition must pass by a two (2/3) majority vote. A removal petition shall not be valid unless at least twenty-five (25%) of the Crow Tribal General Council vote in the removal petition election. The decision of the Crow Tribal General Council shall be final. No member of the Executive Branch shall preside over the meeting at which his removal is being considered.

Constitution of the Crow Tribe Article 1 – Governing Body states:

... The Crow Tribal General Council shall consist of all adult enrolled members of the Crow Tribe of Indians (18) years of age or older who are entitled to vote.

#### Petition for Removal

Based on the above section, we both executed a petition, dated January 3, 2019 for submission to the General Council to remove A.J. Not Afraid, Chairman and Knute Old Crow, Secretary of the Crow Tribe at a removal hearing scheduled for January 19, 2019. The petition complied with the provision in Article VIII, cited above, that a Petition for removal of an Executive Branch Official must not be submitted to the General Council without the unanimous vote of the remaining officials not named in the petition. The petition named A.J. Not Afraid, Chairman and Knute Old Crow, Secretary for removal and was signed by Carlson Goes Ahead, Vice Chairman and Shawn Backbone, Secretary; thus, satisfying the requirement that the petition must have the unanimous vote of the remaining officials in the Executive Branch not named in the petition.

#### Notice and Statement of Reasons

On January 8, 2019 we served A.J. Not Afraid and Knute Old Crow with the written notice that a Removal Hearing before the General Council would be held on January 19, 2019 at 9:00 a.m. The notice was hand-delivered in the presence of the Crow Tribal members attending a Black Lodge District meeting. The delivery of the notice on January 8, 2019 satisfies the requirement of at least ten (10) days' notice before the scheduled hearing. We also provided a statement of reasons for the removal that consisted of our letter adopting by reference the Legislative Resolution executed by the majority of the Crow Legislature, dated January 10, 2019, that listed the Chairman and Secretary's conduct arising to 20 violations of the Constitution of the Crow Tribe. The violations included misuse/mismanagement of Tribal funds evidenced by the large number of unpaid employees, vendors, service providers; the loss of critical programs due to non-compliance with federal contracts and the unlawful disposition of trust assets.

#### Public Notice/District Meetings

We organized meetings in each Crow Reservation District to inform the Crow Tribal members of the removal petition and scheduled removal hearing. The first such District meeting occurred at the Black Lodge Community Hall and was attended by 300 plus Crow Tribal members including A.J. Not Afraid and Knute Old Crow. The intended removal hearing and reasons for the removal were publicly discussed in the presence of both at the Black Lodge District meeting. A.J. Not Afraid discussed the scheduled removal hearing and vote on the KTVQ television station, the 95.5 Billings FM radio station and the Big Horn County Briefs; all indicating he acknowledged the receipt of notice of the scheduled hearing and removal vote.

#### Removal Hearing/Opportunity to Address Allegations

On January 19, 2019, we were locked out of the Tribe's Multi-purpose building to commence the Removal hearing as scheduled until shortly after 9:00 a.m. Upon entry, I, Carlson Goes Ahead, asked for an invocation to commence the removal process and stated to the Crow Tribal members the reasons for the removal petition. A.J. Not Afraid and Knute Old Crow arrived at 11:20 a.m. and subsequently provided reports to the Crow Tribal members that addressed the items listed in the removal petition. The fact both A.J. Not Afraid and Knute Old Crow addressed the Crow Tribal General Council for approximately 2 and a half hours satisfies the requirement that be afforded a full opportunity to address the allegations against them. Both left the Multi-Purpose building at 2:00 p.m.

#### Removal Vote by Crow Tribal Members

Tribal employees facilitated the removal voting process utilizing the enrollment book for the Crow Tribe and each reservation district enrollment book. Each voter signed a roster of voters and an election staff-person verified the voter's enrollment in the enrollment book. The voter was then directed to separate tables for verification of registration in each district and to obtain a printed ballot. Voters then went to a third un-manned table to mark the ballot and then stuff the ballot into a single ballot box.



### Removal Vote Results

The polls for the removal vote for A.J. Not Afraid and Knute Old Crow closed at 10:00 p.m. on January 19, 2019. The results were recorded and verified the following day, January 20, 2019, in a document signed by both of us and the Frank White Clay, Speaker and Lawrence DeCrane, Secretary of the Crow Legislature. The results of the total number of 1127 voters were:

1063 Yes Votes to Remove A.J. Not Afraid  
63 No Votes

894 Yes Votes to Remove Knute Old Crow  
107 No Votes

### Satisfaction of Required Percentages for Successful Removal Vote

The total number of ballots cast was 1127 which was 27.5% of the 4,171 number of registered voters who constitute the 'eligible voters of the Crow Tribe' as defined by Article I of the Crow Constitution which states the Crow Tribal General Council "shall consist of enrolled members over the age of 18 entitled to vote." The Crow Tribe mandates voter registration for all Tribal members to vote in Tribal elections and mandates that votes are cast on the Crow reservation in person. The Crow Tribe does not conduct mail-out ballot elections; thus, the 'eligible' voters of the Crow Tribe are those members that are registered to vote and that cast ballots on the reservation. The greatest number of votes cast in a Crow Tribal election since adoption of the 2001 Constitution of the Crow Tribe was 4,168 in the 2016 general election.

The 1127 ballots cast in the removal vote exceed the required 25% of the 4,141 eligible voters of the Crow Tribal General Council. The votes for removal of both A.J. Not Afraid and Knute Old Crow exceed the 2/3 majority of votes cast as required by Article VIII of the Constitution of the Crow Tribe.

### Conclusion

The Removal of A.J. Not Afraid and Knute Old Crow was the first removal of Crow Tribal Executive Branch Officials following adoption of the 2001 Constitution of the Crow Tribe. The required percentage of Crow Tribal members entitled to vote overwhelmingly voted for the removal of A.J. Not Afraid and Knute Old Crow. The Crow Constitution states that the decision of the Crow Tribal General Council is final.

The Crow Tribe, as a non-Indian Reorganization Act Tribe, and as a sovereign Tribal government, has the inherent authority to interpret its organic documents. The participation and vote of the Crow Tribal General Council in the removal of A.J. Not Afraid and Knute Old Crow must be recognized by the Bureau of Indian Affairs and other governmental agencies as immediately effective.

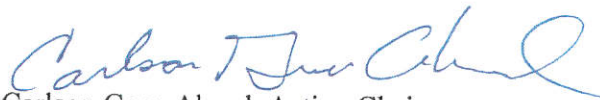
As Acting Chairman and Acting Secretary, we shall immediately declare the Chairman and Secretary positions of the Executive Branch vacant and to schedule an election for those



positions in coordination with the Crow Tribal Election Commission within 60 days of the declaration of vacancies.

Thank you for your prompt attention to this critical matter for the Crow Tribe of Indians. We look forward to meeting at your earliest convenience to discuss pending matters including the status of P.L. 93-638 contracts awarded to the Crow Tribe.

Respectfully,



Carlson Goes Ahead, Acting Chairman



Shawn Backbone, Acting Secretary

Attachments:

Notice of Removal Hearing

Statement of Reasons

Big Horn County Briefs (public notice of Chairman's awareness of pending removal hearing)

Verification of Election Results

# Crow Tribal Government

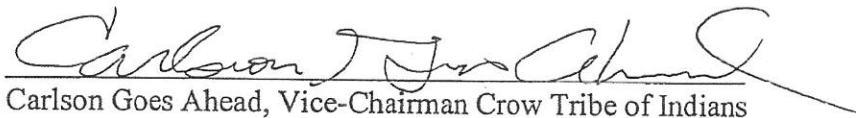


Crow Country

January 3, 2019

Petition for Removal for Alvin Not Afraid, Jr., and R. Knute Old Crow

Pursuant to 2001 Crow Constitution, Article VIII, Removal and Recall, Section 1, and Title 21 article X section 6,(1), (c), and (d) for misuse of funds and abuse of authority, for a removal meeting scheduled for January 19, 2019 at the Crow Multi-purpose Building at 9:00 A.M.

  
Carlson Goes Ahead, Vice-Chairman Crow Tribe of Indians

  
Shawn Backbone Vice-Secretary Crow Tribe of Indians

# CROW TRIBAL EXECUTIVE BRANCH OF GOVERNMENT

**Carlson "Duke" Goes Ahead**  
Vice-Chairman of the Crow Tribe

**Shawn Back Bone**  
Vice-Secretary of the Crow Tribe

159 Bacheeitchche Avenue  
Crow Agency, Montana 59022  
(406) 638-3708  
[www.crow-nsn.gov](http://www.crow-nsn.gov)

---



January 10, 2019

Honorable General Council,

We in the Executive concur with the action the Crow Legislature has undertaken and is attached to this letter.

We are in troubling times, and we will together achieve the greatness the Crow People have known and will know again. The removal process will soon be complete and within the bounds of the Constitution, as adopted by the Crow People.

The Removal Meeting will be held at 9.00 a.m. on Saturday January 19, 2019 in the Multi-Purpose Building, Crow Agency.

Vice-Chairman, Crow Tribal Executive Branch

Carlson "Duke" Goes Ahead

Vice-Secretary, Crow Tribal Executive Branch

Shawn Backbone, Sr.



**JANUARY SESSION 2019  
CROW LEGISLATIVE BRANCH**

**LR No. 19-01**

Introduced by the Crow Tribal Legislative Branch

A Legislative Resolution Titled

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE FOR A VOTE OF NO  
CONFIDENCE IN CHAIRMAN AJ (ALVIN) NOT AFRAID, JR.**

**Legislative Findings:**

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

**WHEREAS**, The Legislature has attempted to work with the Chairman of the Crow Tribe repeatedly, asking for meetings, budgets, and plans for all aspects of tribal government. Financial reporting to the Legislature and the Crow Tribal General Council is a constitutional, and a statutory requirement with an explicit duty to the Crow Tribal Executive Branch and, to assist Executive Branch in sustaining and providing accountability and transparency to Crow Tribal members;

**WHEREAS**, the Legislature has repeatedly been stymied by the Chairman, as he has failed to show to meetings, some called by the Chairman himself, failed to provide detailed budgets for the Legislature to consider, and has refused to identify to the Legislature, and the Crow people, his plans for the growth and success of the Crow Tribe;

**WHEREAS**, the Chairman signed and negotiated an easement extension for Ok-A-Beh road, and access to the marina, without consultation and approval from the Legislature, in violation of the Tribe's trust rights and in violation of Article IV, section 3 (f);

**WHEREAS**, the Chairman has failed to have payroll taxes paid so that now the Crow Tribe has incurred Internal Revenue Service tax liabilities with no plan to pay them, to the detriment of the Crow people, employees of the Crow Tribe, and the services that otherwise could be provided to the Crow people, in violation of Article IV, section 3 (d) of the Crow Constitution;

**WHEREAS**, the Legislature has continued to put forth solutions for the Executive's consideration, including plans for the payment of the Tribe's liabilities, development of the Tribe's resources, and creation of new jobs for Tribal members. Those plans have all been rejected by the Chairman without discussion, contrary to Article IV, section 3 (c) of the Crow Constitution;

**WHEREAS**, the Chairman has failed to see the trash removed from the Reservation causing serious health problems for Tribal members. The Chairman's failure to have the trash removed is in violation of Article IV, section 3 (b) of the Crow Constitution.

**WHEREAS**, the Chairman has a duty to delegate responsibilities. The Chairman improperly delegated his authority under the Crow Constitution to his attorney, whereas the Crow Constitution requires delegation to the Comptroller and other Executive officers pursuant to Article IV, section 5 of the Crow Constitution.

**WHEREAS**, the Chairman has repeatedly slandered and libeled the elected officials of the Crow Tribe as elected by the Crow members, as found in Exhibit A, attached to this Resolution, as was sent to Tribal Elders in their Elder's benefit check.

**NOW THEREFORE**, the Crow Legislature, for the above reasons and other good cause shown, does determine and find it has **NO CONFIDENCE** in Chairman Alvin Not Afraid and his abilities to govern as Chairman of the Crow Tribe and asks the remaining Executive members to act accordingly.

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

The Crow Tribal Legislature disapproves of Chairman A.J (Alvin) Not Afraid, Jr's current fiscal management of the Crow Tribal Governments assets, and how Crow Tribal funds have been expended without complete and lawful financial reporting. The Crow Tribal Legislature gives notice to Crow Tribal General Council members that any and all tribal funds expended without complete and proper reporting to the Crow Tribal Legislature and the Crow Tribal General Council are unlawful.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE FOR A VOTE OF  
NO CONFIDENCE IN CHAIRMAN AJ (ALVIN) NOT AFRAID, JR.**

Bill or Resolution: LR19-01 Introduced by: Crow Tribal Legislative Branch Date of Vote: 1/10/2019  
Number

REPRESENTATIVE:	Yes	No	Abstained
M. White Clay	<u>X</u>	<u>          </u>	<u>          </u>
D. Spotted	<u>X</u>	<u>          </u>	<u>          </u>
L.Hogan, III	<u>X</u>	<u>          </u>	<u>          </u>
B. Brown	<u>          </u>	<u>X</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>X</u>
M. Not Afraid	<u>          </u>	<u>X</u>	<u>          </u>
G. Bouyer	<u>          </u>	<u>X</u>	<u>          </u>
J. Demontaine	<u>X</u>	<u>          </u>	<u>          </u>
B. Hugs	<u>          </u>	<u>          </u>	<u>          </u>
N. Old Crow, Jr.	<u>          </u>	<u>          </u>	<u>          </u>
B. Good Luck	<u>X</u>	<u>          </u>	<u>          </u>
H. Male Bear-Stone, Jr.	<u>X</u>	<u>          </u>	<u>          </u>
L. DeCrane, Secretary	<u>X</u>	<u>          </u>	<u>          </u>
F. White Clay, Speaker	<u>X</u>	<u>          </u>	<u>          </u>
<b>Total:</b>	<u>11</u>	<u>3</u>	<u>1</u>

Result of Vote:

**Passed**

Not Passed

Tabled

Veto-Override

Frank White Clay  
Senator Frank White Clay  
Speaker of the House  
Crow Tribal Legislative Branch

Date

Lawrence DeCrane 1-10-19  
Senator Lawrence DeCrane  
Secretary of the House  
Crow Tribal Legislative Branch

Date

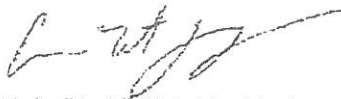


Letter to Tribal Elders – October Obligation  
Page 2 of 2

- Youth Funds – I promise to safeguard funds for Youth activities.
- December Per Cap – I have hired Gusena Howe to manage the Enrollment Department, and I am confident in her experience and ability to successfully disburse the December Per Capita payments. Please contact her at (406) 665-7135 or (406) 679-3218 with questions.

Though these times are painful, there are good and positive things occurring everyday. I am frustrated that it has taken years to uncover decades of mismanagement, but I am optimistic that if we stay the course, together, and follow the wisdom of our ancestors, we will overcome all of these challenges. And I truly believe that our sovereignty and our government will be stronger for it. I ask you to pray for the Tribe and all of our Members: through your prayers, your guidance and your support, our Great Nation can stand tall and proud.

Sincerely,



Alvin "A.J." Not Afraid, Jr.  
Chairman, Crow Tribe of Indians

# CROW TRIBAL EXECUTIVE BRANCH OF GOVERNMENT

**Carlson "Duke" Goes Ahead**  
Vice-Chairman of the Crow Tribe

**Shawn Back Bone**  
Vice-Secretary of the Crow Tribe

159 Bacheeitché Avenue  
Crow Agency, Montana 59022  
(406) 638-3708  
[www.crow-nsn.gov](http://www.crow-nsn.gov)



## PRESS RELEASE January 10, 2019

---

Chairman Not Afraid has been lawfully called to a vote on his removal.

Several legal experts were consulted during this unfortunate process and have validated the actions Vice-Chairman Goes Ahead and Vice-Secretary Back Bone were forced to take.

Chairman Not Afraid continues to push his unlawful positions in the press, rather than directly to the Crow people. Chairman Not Afraid must now answer to the people for fiscal mismanagement and gross incompetence.

The Crow people have gone without services, and paychecks. The Chairman continues to flaunt his position as Chairman to bully elected officials, tribal employees, and the Crow People.

As we move past this troubling time, the remaining Executive has plans to resolve our current financial issues, and plans to move the Crow people forward, and honor our elders and the burdens they have suffered.

We have a duty to act, and we have. We ask the Crow People to meet January 19 at 9.00 a.m. in the Multi-Purpose Building, Crow Agency.



## CROW TRIBE EXECUTIVE BRANCH

Bacheelche Avenue  
P. O. Bo x 159  
Crow Agency (Baaxuwaaashe), Montana 59022  
Phone: (406) 638-3732/ 638-3786  
Fa x: (406) 638-7301

Carlson Goes Ahead  
ACTING CHAIRMAN

Shawn Backbone  
VICE-SECRETARY

January 20, 2019

### FOR PUBLICATION THROUGH PUBLIC NOTICE AND DISTRIBUTION

Most Honorable Crow General Council, and

Alvin "A.J." Not Afraid

RE: Removal Election of Alvin "A. J." Not Afraid, Jr. and Rudolph Old Crow, Sr.

Dear Honorable Council and Mr. Not Afraid:

A public vote of the General Council of the Crow Tribe was properly noticed and held on January 19, 2019 at the Crow Agency Multipurpose Building. The election was held in strict conformance with the Crow Constitution; specifically, Article VIII, Section 1 (Removal of Executive).

The results of that removal election have been tallied. Those results are:

#### REMOVAL OF ALVIN "A.J." NOT AFRAID

1063 YES

63 NO

#### REMOVAL OF R. KNUTE OLD CROW

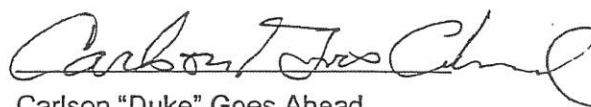
894 YES

107 NO



The Crow People have spoken. A.J. Not Afraid has been immediately removed as Chairman of the Crow Tribe. Vice Chairman Carlson "Duke" Goes Ahead assumes the acting Chairman position until an election to fill the remainder of the term is called, in accordance with Crow Tribal law.

R. Knute Old Crow has been removed as Secretary of the Crow Tribe. Vice Secretary Shawn Back Bone assumes the acting Secretary position until an election to fill the remainder of the term is called, in accordance with Crow Tribal law



Carlson "Duke" Goes Ahead  
Acting Chairman, Crow Tribe



Shawn Back Bone  
Acting Secretary, Crow Tribe

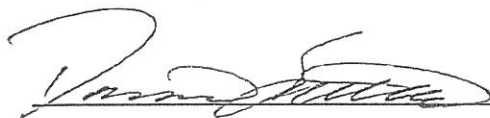
WITNESS BY:



Senator Frank White Clay  
Speaker of the House



Senator Lawrence DeCrane  
Secretary of the House



Senator Darwin Spotted  
Black Lodge District

# Crow Tribal Legislative Branch of Government

Speaker of the House  
Senator Frank White Clay

144 Makawasha Avenue  
Crow Agency, Montana 59022  
Phone: (406) 638-2023/2025  
Fax: (406) 638-2030  
CTLB.org



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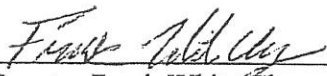
*The People's Branch of Government*

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January 23, 2019

I, Frank White Clay, do declare the following;

I swore in Carlson "Duke" Goes Ahead, as the Interim Chairman for the Crow Tribe of Indians and Shawn Backbone as the Interim Secretary of the Crow Tribe of Indians on January 22, 2019 at 1:30 P.M., at the Crow Tribal Legislative Branch Chambers.

  
\_\_\_\_\_  
Senator Frank White Clay  
Speaker of the House  
Crow Tribal Legislative Branch

# Crow Tribal Legislative Branch of Government

Speaker of the House  
Senator Frank White Clay

144 Makawasha Avenue  
Crow Agency, Montana 59022  
Phone: (406) 638-2023/2025  
Fax: (406) 638-2030  
CTLB.org



---

*The People's Branch of Government*

---

I, Frank White Clay, do declare the following;

1. the Legislature is the keeper of the rolls of registered voter,
2. The rolls contain 4,171.
3. The Legislative Branch used the numbered list of registered voters and checked signatures against the legislative rolls.
4. This is the highest voter turn-out the Crow Tribe has ever experienced.

Senator Frank White Clay  
Speaker of the House  
Crow Tribal Legislative Branch





*The Original Briefs*

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Page 1

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Volume 43

Number 0018 Friday January 18, 2019

## Sit Down With the Chairman

I had the opportunity to sit down with Crow Tribal Chairman AJ Not Afraid to talk to him about the upcoming General Council meeting and the push to oust him from office.

I asked the Chairman if he could say something to the Crow people what would it be. Chairman Not Afraid said "For them to think outside of the box." He went on to say that he was elected based on a platform and this is what he is doing, he is fulfilling what he said he would do when he asked the people to elect him.

He said that his goal is to bring Justice to the Crow People, the Tribe did not get into this mess in a year or two, it's been years and years of mismanagement. He said when the Office of the Inspector General came in he threw the doors wide open to let the sunshine in for the people.

When asked about the missing money, he stated that: it's unaccounted for money." He went on to explain that Federal money and Tribal funds are to be kept separately and not commingled. In the past the Federal Funds fronted the General Fund which is the reason or question of the 14.5 Million (continued pg 4)

### INSIDE

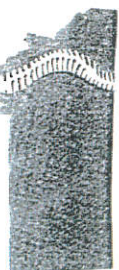
## USDA Offices

Crossword 2  
Thought for day 4  
Sudoku 6  
Menu 7  
Sudoku answer 10  
Birthdays 13  
Classifieds 14  
Horoscopes 20  
Weather 20

USDA to Reopen FSA Offices for Limited Services During Government Shutdown  
U.S. Secretary of Agriculture Sonny Perdue announced that many Farm Service Agency (FSA) offices will reopen temporarily in the coming days to perform certain limited services for farmers and ranchers. The U.S. Department of Agriculture (USDA) has recalled about 2,500 FSA employees to open offices on Thursday, (continued pg 4)

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## ***Sit Down cont.***

that is listed as unaccounted for. Prior to 2018 and the hiring of the CPA firm the funds were commingled, that is not the case now, the funds are set up correctly. This does cause the Tribe some hardship as Federal funds cannot front the General Fund. When the OIG report says that money is unaccounted for it's not necessarily missing or having walked out the door. He said there are proper procedures and policies that have to be followed to account for the Federal Funds. There lies the problem these procedures have either not been in place or not correctly followed. He used the analogy of, If the Briefs had done work for the Tribe and they were paid a million dollars but the proper paperwork and procedures were not followed (continued pg 5)

## ***USDA cont.***

January 17 and Friday, January 18, in addition to Tuesday, January 22, during normal business hours. The offices will be closed for the federal Dr. Martin Luther King, Jr. holiday on Monday, January 21. In almost half of FSA locations, FSA staff will be available to assist agricultural producers with existing farm loans and to ensure the agency provides 1099 tax documents to borrowers by the Internal Revenue Service's deadline.

"Until Congress sends President

Trump an appropriations bill in the form that he will sign, we are doing our best to minimize the impact of the partial federal funding lapse on America's agricultural producers," Perdue said. "We are bringing back part of our FSA team to help producers with existing farm loans. Meanwhile, we continue to examine our legal authorities to (continued pg 10)

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it  
and make the most of the  
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### *Sit Down cont.*

the OIG listed that as unaccounted for. The CPA firm conducting the Audit basically would have to come to the Briefs as a vendor and ask did you do the work. Gather the proper paperwork ensure the work was done and then account for that, that million dollars then comes off of the unaccounted funds.

Chairman Not Afraid pointed no fingers at any specific people, saying they have to let the process move forward and when complete the people will have their answers.

I asked the Chairman about the Casino and he said it would reopen again after the Audit was complete and proper Internal Controls were in place. He realizes the difficulty in having it shut down by not being able to make the payments on those (continued pg 6)

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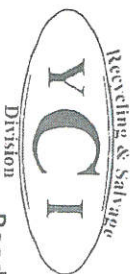
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*Sit Down cont.*

loans. He cited the Indian Gaming Commission when they came to him and said they were going to shut the Casino down that there were no Internal Controls in place. The Chairman said he asked them how they could have licensed them without those controls in place years prior to his election. Once again the process of the Audit has to be completed in order to reopen the Casino.

When asked about the removal of the Chief Judge and Associate Judge, he said that they were lawfully removed based on the Constitution. In the case of the Associate Judge she was charged with a felony assault and had pled guilty to a Domestic Assault charge. The Briefs then showed the Chairman a copy of two Court Documents that had been

The Original Briefs

Page 7

***Sit Down cont.***

me from another person. The documents were a Temporary Restraining Order that was issued out of the Kalispell Tribal Court, against Vice Secretary Shawn Back Bone, issued in August of 2018 and valid until August of 2019.

The order was issued pretrial for a physical domestic charge. The second document was for an arrest of Back Bone in Gallatin County on December 15, 2018 for a charge of Driving Under the Influence of Alcohol. The Chairman acknowledged that he was aware that these charges were out there.

When asked if that could mean the removal of Back Bone, he declined to get into the what if's. He said he prefers to focus on what he (continued pg 8)

**Hardin Senior Menu**

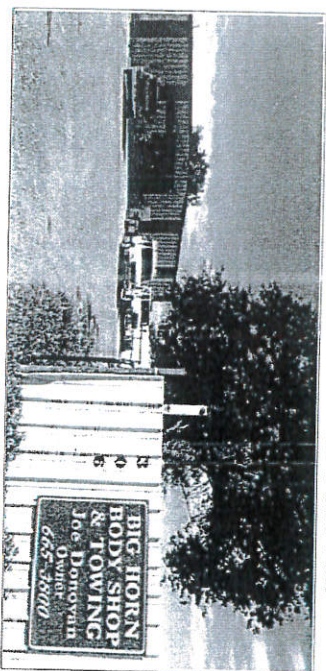
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Fries  
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Dessert

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***Sit Down cont.***

told the people he would do when he campaigned and what they elected him to do. He understands that people want answers like yesterday but in reality nothing with the Federal Government moves that fast. The Audit and the process must be allowed to come to a completion and then the people would have their answers.

As to the Buffalo being sold he said that this is the management plan that was put into effect in 2014-2015. Any Rancher or livestock manager knows you have to cull a herd and bring in new animals to avoid inbreeding, he is just following the Herd Management Plan.

Elder payments are being made just later in the month than previous because that is when those funds are received by the Federal Government.

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EXHIBIT 5.

LR 19-08 A Resolution of the Crow Tribal Legislature to Recognize the Validity of the Removal of Alvin “AJ” Not Afraid and Knute Old Crow by the Crow People and the Subsequent Swearing in of Carlson “Duke” Goes Ahead and Shawn Backbone as the Rightful and Legitimate Executive of the Crow Tribe

EXHIBIT 5.

**CROW TRIBAL LEGISLATURE**  
**FEBRUARY 5, 2019 SPECIAL SESSION**  
**LEGISLATIVE RESOLUTION NO. 19-08**

Introduced by Legislative Branch

A Legislative Resolution of the Crow Tribal Legislature titled

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE TO RECOGNIZE THE  
VALIDITY OF THE REMOVAL OF ALVIN "A.J." NOT AFRAID AND KNUTE OLD  
CROW BY THE CROW PEOPLE AND THE SUBSEQUENT SWEARING IN OF  
CARLSON "DUKE" GOES AHEAD AND SHAWN BACKBONE AS THE RIGHTFUL  
AND LEGITIMATE EXECUTIVE OF THE CROW TRIBE**

Statement of Legislative Findings:

**WHEREAS**, the Crow Tribal Legislative Branch (hereinafter "Legislature") has the power and duty pursuant to Article V, Section 2 of the Crow Tribal Constitution; and

**WHEREAS**, the Crow Executive Branch has certain powers given to it by the Crow People through the Crow Constitution, and

**WHEREAS**, the Crow Constitution, in Article VIII, Section 1, does describe the method of removal of one or more elected executive officers; and

**WHEREAS**, then Vice-Chairman Carlson "Duke" Goes Ahead and Vice-Secretary Back Bone executed a removal petition election as described in Article VIII, Section 1 of the Crow Constitution; and

**WHEREAS**, the removal petition election was held on January 19, 2019; and

**WHEREAS**, more than twenty-five percent (25%) of registered Crow voters voted for the removal of both Alvin Not Afraid and Knute Old Crow; and

**WHEREAS**, the final numbers were as follows: 4171 registered voters, 1127 votes cast (27.5% of registered voters), 1063 votes to remove Not Afraid, 63 to retain Not Afraid, 894 votes to remove Old Crow, 107 votes to retain Old Crow; and

**WHEREAS**, Article VIII, Section 1 of the Crow Constitution requires two thirds of the voters who vote to affirm a removal of an executive officer; and

**WHEREAS**, the vote totals for each exceeded the two thirds requirement; and

**WHEREAS**, Article VIII, Section 1 of the Crow Constitution makes the results immediately final.

FEBRUARY 5<sup>th</sup>, 2019 Special Session

**A RESOLUTION OF THE CROW TRIBAL LEGISLATURE TO RECOGNIZE THE VALIDITY OF THE REMOVAL OF ALVIN "A.J." NOT AFRAID AND KNUTE OLD CROW BY THE CROW PEOPLE AND THE SUBSEQUENT SWEARING IN OF CARLSON "DUKE" GOES AHEAD AND SHAWN BACKBONE AS THE RIGHTFUL AND LEGITIMATE EXECUTIVE OF THE CROW TRIBE**

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

That Carlson "Duke" Goes Ahead is the sworn Chairman of the Crow Tribe, and

Shawn BackBone is the sworn Secretary of the Crow Tribe, and

As the rightful executives of the Crow Tribe, each possesses the powers as described in Article IV of the Crow Constitution, and

Alvin "A.J." Not Afraid and Knute Old Crow have no authority as Executive officials of the Crow Tribe, and

Alvin "A.J." Not Afraid and Knute Old Crow have no authority to speak or act on behalf of the Crow Tribe and its People, and

Alvin "A.J." Not Afraid and Knute Old Crow have no authority to use the resources of the Crow Tribe except those that are afforded to all Crow members, in particular each has no authority over tribal financial resources.

**BE IT FURTHER RESOLVED**

Chairman Goes Ahead and Secretary Backbone have called for a Special Election as described in Article VII, Section 1 of the Crow Constitution to be held on March 23, 2019, and that election date is recognized by the Crow Legislature as the lawful action and proper action after the removal petition election.

**[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]**



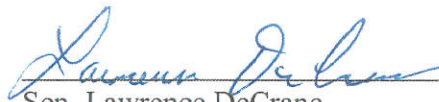
**CERTIFICATION**

I hereby certify that this Legislative Resolution Titled **A RESOLUTION OF THE CROW TRIBAL LEGISTATURE TO RECOGNIZE THE VALIDITY OF THE REMOVAL OF ALVIN "A.J." NOT AFRAID AND KNUTE OLD CROW BY THE CROW PEOPLE AND THE SUBSEQUENT SWEARING IN OF CARLSON "DUKE" GOES AHEAD AND SHAWN BACKBONE AS THE RIGHTFUL AND LEGITIMATE EXECUTIVE OF THE CROW TRIBE** was duly adopted by the Crow Tribal Legislature with a vote of 11 in favor, 0 opposed, 2 abstaining and that a quorum was present on this 5<sup>th</sup> day of February 2019.



Sen. Frank White Clay  
Speaker of the House  
Crow Tribal Legislature

ATTEST:



Sen. Lawrence DeCrane  
Secretary of the House  
Crow Tribal Legislature



A RESOLUTION OF THE CROW TRIBAL LEGISLATURE TO RECOGNIZE THE VALIDITY OF THE REMOVAL OF ALVIN "A.J." NOT AFRAID AND KNUTE OLD CROW BY THE CROW PEOPLE AND THE SUBSEQUENT SWEARING IN OF CARLSON "DUKE" GOES AHEAD AND SHAWN BACKBONE AS THE RIGHTFUL AND LEGITIMATE EXECUTIVE OF THE CROW TRIBE

**Bill or Resolution:** LR19-08 **Introduced by:** Crow Legislative Branch **Date of Vote:** 2/5/2019  
**Number**

<b>REPRESENTATIVE:</b>	Yes	No	Abstained
M. White Clay			
D. Spotted	X		
L.Hogan, III	X		
B. Brown			X
S. Real Bird	X		
V. Nomee	X		
T. Yellowtail	X		
T. Gros Ventre	X		
P. Alden, Jr.			
M. Not Afraid			
G. Bouyer			
J. Demontiney	X		
B. Hugs			
N. Old Crow, Jr.			X
B. Good Luck	X		
H. Male Bear-Stone, Jr.	X		
L. DeCrane, Secretary	X		
F. White Clay, Speaker	X		
<b>Total:</b>	<b>11</b>	<b>0</b>	<b>2</b>

Result of Vote:

**Passed**

**Not Passed**

**Tabled**

**Veto-Override**

Frank White Clay 2-5-19  
 Senator Frank White Clay Date  
 Speaker of the House  
 Crow Tribal Legislative Branch

Lawrence DeCrane 2-5-2019  
 Senator Lawrence DeCrane Date  
 Secretary of the House  
 Crow Tribal Legislative Branch