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IN THE CROW COURT OF APPEALS

IN AND FOR THE CROW INDIAN RESERVATION
CROW AGENCY, MONTANA

CIV. APP. DOCKET NO. 012-214

In Re the Matter of:

**Janine Pease-Pretty On Top,
Plaintiff/Appellant,**

vs.

**Vera Jane He Does It, Walter Old Elk, Lana Three Irons, Loretta Three Irons, Edward
Whiteman, Marlon Goes Ahead, Garlon Williamson, Sharon Perogoy, Kennard Real Bird,
and Henry Real Bird,
Defendants/Appellees.**

Issued May 1, 2001

[Cite as 2001 CROW 4]

Before Watt, J

ORDER REQUESTING AMICUS CURIAE BRIEF

[¶1](#) Pursuant to the court's Order Governing Conduct of Appeal dated January 25, 2001, the parties to this appeal have filed their appellate briefs addressing, *inter alia*, the effect of the amendment to the Crow Tribal Constitution enacted at a special Council meeting on December 9, 2000, which created a new Article X providing for the "separation of powers" among the judicial, legislative and executive branches of the Tribal Government.

[¶2](#) In their briefs, all parties have acknowledged the existence of the constitutional amendments passed on December 9, 2000. See Appellant's Brief at pp. 9-10; Appellees' Brief at 4. However, Appellees have taken the position that the separation of powers is "not yet in existence," because the "enforceability of that amendment depends upon the future approval by the Department of Interior." Appellees' Brief at 4. In support of their position, the Appellees have relied on Article VIII, Section 1 of the Constitution, which (prior to December 9, 2000), provided that "no amendment shall become effective until is shall have been approved by the Commissioner of Indian Affairs or his authorized representative." (This requirement for Interior Department approval of amendments to the Crow Constitution was also eliminated by the amendments enacted on December 9, 2000.)

[¶3](#) Because of the potential importance of this issue to the disposition of this case, it is appropriate for the court, pursuant to Rule 11 of the Crow Rules of Appellate Procedure, to request the U.S. Department of Interior to file an *amicus curiae* (“friend of the court”) brief explaining its position regarding approval of the Tribal Constitutional amendments enacted on December 9, 2000. In its brief, the Department is requested to state its position and applicable authorities with respect to:

(1) Whether or not the Department (or any of its officers) has authority and intends to exercise any such authority under Federal law to approve or disapprove the amendment;

(2) If so, whether or not such approval has been given or denied, and if the amendment has not yet been approved or denied:

(a) when the Department intends to act on the matter;

(b) what considerations will govern the timing of the Department’s review; and

(c) what considerations could lead to the disapproval of the amendment.

(3) If not, what action the Department has taken or will take to notify the Tribe that it does not intend to review the amendment; and

(4) Any other Federal legal considerations pertinent to the effectiveness of the amendment.

[¶4](#) The Department is requested to file and serve its brief on or before May 27, 2001. The Clerk of the Court of Appeals is directed to serve a copy of this Order on the Superintendent of the Crow Indian Agency and the Interior Department Regional Solicitor’s Office in Billings, Montana.

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