

**APSAALOOKE (CROW) TRIBAL LEGISLATURE
DECEMBER 14TH, 2006, SPECIAL SESSION
JOINT ACTION RESOLUTION NO. JAR06-13**

**INTRODUCED BY CARL E. VENNE, CHAIRMAN
APSAALOOKE (CROW) TRIBAL EXECUTIVE BRANCH**

**JOINT ACTION RESOLUTION OF THE APSAALOOKE (CROW)
TRIBAL LEGISLATURE AND THE APSAALOOKE (CROW)
TRIBAL EXECUTIVE BRANCH ENTITLED:**

**“A RESOLUTION GIVING FINAL APPROVAL TO THE TRIBAL
CHAIRMAN FOR A LOAN NOT TO EXCEED \$1.8 MILLION TO BE
USED BY THE APSAALOOKE (CROW) TRIBE TO HELP COVER
THE REPLACEMENT COSTS OF THE WATER AND WASTE WATER
SYSTEM OR SYSTEMS IN AND FOR THE COMMUNITY OF CROW
AGENCY, MONTANA, AND THE ESTABLISHMENT OF A FOUR (4)
MEMBER AD HOC LEGISLATIVE WATER/SEWER CONSTRUC-
TION COMMITTEE**

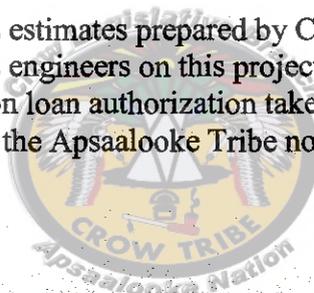
WHEREAS, the Apsaalooke (Crow) Tribal Legislature by a vote of 16 in favor and 0 opposed passed **JAR 06-07** on the 21 day of April, 2006, and **JAR 06-07** was signed into law by Chairman Carl E. Venne on the 17 day of May, 2006, (See **JAR 06-07** dated 4/21/06);

WHEREAS, **JAR 06-07** authorized or gave authority to the Chairman to borrow up to \$750,000.00 from the USDA to be used by the Apsaalooke (Crow) Tribe to help cover the costs of the replacement of the water and waste water system or systems in and for the community of Crow Agency, Montana, Crow Indian Reservation, the capital and headquarters of the Apsaalooke (Crow) Tribe;

WHEREAS, **JAR 06-07** required that the loan package be brought back to the Legislative Branch for final review and approval;

WHEREAS, since the passage of **JAR 06-07** on April 21, 2006, to the present construction costs (materials, labor and other related costs) have increased from 30 to 50 % and these construction costs increases are due to the war in Iraq and Katrina and these costs increases necessarily have to be factored into the total loan authorization request;

WHEREAS, the attached costs estimates prepared by Carl Anderson of Morrison and Maierle, the Apsaalooke Tribe's engineers on this project, estimate a total project cost of \$6.5 million, and the \$1.8 million loan authorization takes into consideration a worse case scenario and is a direct result of the Apsaalooke Tribe not being awarded the \$750,000 TSEP



grant that it applied for and the \$3.0 million STAG grant applied for and this left a shortfall of \$3.75 million dollars;

WHEREAS, there is still a possibility that the Apsaalooke (Crow) Tribe could receive some funds pursuant to the TSEP and STAG/WRDA and discussions between representatives of the Tribe and representatives of Senator Baucus' office and Senator elect John Tester have been held and will continue to be held;

WHEREAS, the Apsaalooke (Crow) Tribe's other funding sources such as the Rural Development, USDA, EPA and IHS require that this project be sufficiently capitalized or funded, prior to committing their respective grant and loan funds and, therefore, to be safe or to insure that there is sufficient capital or funds to build this project the loan authorization should be increased by \$1.05 million and capped at \$1.8 million instead of \$750,000;

WHEREAS, as set forth in JAR 06-07 the overall project consists of two phases with Phase I. being the water works and the interceptor line and Phase II. is the lagoon system;

WHEREAS, the four (4) cell lagoon is 33 1/3 % complete which consisted of the moving of approximately 40,000 cubic yards of fill dirt to the new site, and this has been accomplished at a considerable monetary savings to the Tribe as the job was undertaken and done by the Navy Seabees and the Navy Seabees will return to complete the dirt work on the lagoon in the summer of 2007, and it is estimated that the monetary costs savings is in the area of \$350,000;

WHEREAS, the loan details worked out with the lender, USDA, are set forth in the loan documents;

WHEREAS, if the funds are borrowed at the going interest rate (probably 4.25 %) and if this loan is repaid or amortized over a fifteen (15) year period the annual payment will be approximately \$156,000 and if the Apsaalooke (Crow) doesn't need to utilize the entire authorization of \$1.8 in borrowing capacity the annual loan payment will be less, and the principal and interest will be paid from the Apsaalooke (Crow) Tribe's gasoline tax revenue;

WHEREAS, USDA, the lender, requires that a source of unencumbered tribal income be used as collateral for the loan, and the borrower, Apsaalooke (Crow) Tribe, agrees to collateralize this loan with the unencumbered tribal income derived from the gasoline tax revenue, and this collateral will only be called upon in the event payment cannot and is not made;

WHEREAS, the State of Montana and the Apsaalooke (Crow) Tribe share the gasoline tax revenue and this sharing is based upon a Fuel Tax Cooperative Agreement, dated the November 8, 2000, as amended;

WHEREAS, the Apsaalooke (Crow) Tribe will use part of the revenue it derives from the



Fuel Tax Cooperative Agreement with the State of Montana to make the annual loan payment to Rural Development, USDA, in the amount of \$156,0000 or whatever annual payment is due depending upon the amount of the loan until said loan has been paid in full, as stated above and foregoing;

WHEREAS, the lender has requested that in the event the unencumbered tribal funds derived from the sharing of the gasoline tax revenue have to be called upon for repayment of the loan that the State of Montana make direct payment to the lender, USDA, provided however that a modification must be made to the Fuel Tax Cooperative Agreement;

WHEREAS, the Apsaalooke (Crow) Tribe by and through its law making branch or body, the Apsaalooke (Crow) Legislature, and the law enforcing branch or body, Executive, agreed to this modification or amendment to this Fuel Tax Cooperative Agreement;

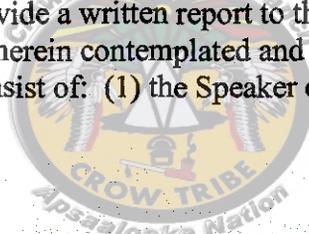
WHEREAS, this newly constructed water and waste water system or systems in and for the community of Crow Agency, Montana, Crow Indian Reservation including the water lines, the lift and booster stations, the interceptor line or lines, the four (4) cell lagoon, the outflow line and the right of way or easement from the lagoon to the Little Big Horn River, the water treatment plants located south and west and up river from Crow Agency, Montana,, and other infra structure related to or connect to this system or these systems shall be totally and completely owned by the Apsaalooke (Crow) Tribe and further, the Apsaalooke (Crow) Tribe shall take whatever steps are necessary to bring all the parts of this system under its management and ownership; and,

WHEREAS, due to the nature of the project and the many unknowns as to the loan terms and conditions including such things as the interest rate, the loan amount and other terms and conditions as well as changing circumstances relating to the acquisition of grants there exists a definite and real need for an ad hoc committee to work along with the Executive Branch on this water and waste water project; and,

WHEREAS, funds to build this project being derived from various grant and loan sources shall be properly accounted for within the Tribe's accounting system and programmed and budgeted in accordance with the Tribe's budgetary process.

NOW THEREFORE BE IT RESOLVED BY THE LEGISLATURE AND THE EXECUTIVE BRANCH OF THE APSAALOOKE (CROW) TRIBE:

1. That there is hereby established a four (4) member ad hoc Legislative Water/Sewer Committee that is authorized to duly consider and review all final loan documents and related documents and upon due consideration and review of said documents to authorize the Chairman to execute on behalf of the Apsaalooke (Crow) Tribe these documents; further, this ad hoc Legislative Water/Sewer Committee shall keep official records of all actions authorized and approved and shall provide a written report to the full Legislature upon the taking of and authorization of any action herein contemplated and authorized herein; further, this four (4) member committee shall consist of: (1) the Speaker of the House; (2) the Secretary of the



House; (3) the Chairman of the Infrastructure Committee and (4) the Chairman of the Revenue Committee; provided however, that a quorum for this committee shall require the attendance of all four members; all official action shall require three (3) affirmative votes for approval; and that the action taken by this Committee approving and authorizing the loan shall be set forth in writing and delivered to the Chairman.

2. That to the Crow Agency proposed Water/Sewer/Lagoon infrastructure improvement project, the Apsaalooke (Crow) Tribal Chairman of the Executive Branch is hereby granted final authority to borrow up to \$1.8 million dollars subject to review and approval by the affirmative vote of the ad hoc Legislative Water/Sewer Construction Committee from the United States Department of Agriculture, USDA, and the Apsaalooke (Crow) Tribal Chairman shall borrow at a rate of interest most advantageous to the Apsaalooke (Crow) Tribe and also work out a repayment schedule or time period most advantageous to the Apsaalooke (Crow) Tribe but no longer than fifteen (15) years, and the Apsaalooke (Crow) Tribal Chairman is hereby authorized to sign on behalf of the Apsaalooke (Crow) Tribe all necessary loan documents consisting of a promissory note, security agreement and the other documents evidencing the loan and the indebtedness;

3. Further, that the above referred to loan shall be amortized and repaid over a period of time most advantageous to the Apsaalooke (Crow) Tribe but no longer than a fifteen (15) years period, with revenue from the Apsaalooke (Crow) Tribe's share of the fuel tax revenue being allocated to the repayment of this loan;

4. Further, that the fuel tax revenue being unencumbered tribal income shall be used as collateral for the loan, and the Fuel Tax Cooperative Agreement with the State of Montana shall be amended accordingly; and,

5. Further, this newly constructed water and waste water system or systems in and for the community of Crow Agency, Montana, Crow Indian Reservation including the water lines, the lift and booster stations, the interceptor line or lines, the four (4) cell lagoon, the outflow line and the right of way or easement from the lagoon to the Little Big Horn River, the water treatment plants located south and west and up river from Crow Agency, Montana,, and other infra structure related to or connect to this system or these systems shall be totally and completely owned by the Apsaalooke (Crow) Tribe and further, the Apsaalooke (Crow) Tribe shall take whatever steps are necessary to bring all the parts of this system under its management and ownership.

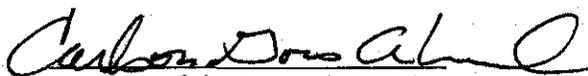
6. That funds to build this project being derived from various grant and loan sources shall be properly accounted for within the Tribe's accounting system and programmed and budgeted in accordance with the Tribe's budgetary process.



CERTIFICATION

I hereby certify that this Joint Action Resolution entitled:
“A RESOLUTION GIVING FINAL APPROVAL TO THE TRIBAL CHAIRMAN FOR A LOAN NOT TO EXCEED \$1.8 MILLION TO BE USED BY THE APSAALOOKE (CROW) TRIBE TO HELP COVER THE REPLACEMENT COSTS OF THE WATER AND WASTE WATER SYSTEM OR SYSTEMS IN AND FOR THE COMMUNITY OF CROW AGENCY, MONTANA, AND THE ESTABLISHMENT OF A FOUR (4) MEMBER AD HOC LEGISLATIVE WATER/SEWERCONSTRUCTION COMMITTEE.

Was duly enacted by the Crow Tribal Legislature with a vote of 17 in favor and 0 opposed and 0 abstaining and that a quorum was present on this 12 day of December, 2006.


Speaker of the House
Crow Tribal Legislature

ATTEST:


Secretary
Crow Tribal Legislature

(CROW TRIBAL LEGISLATIVE SEAL)



EXECUTIVE ACTION

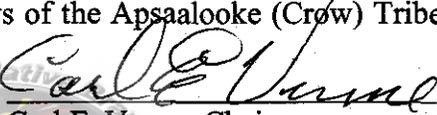
I hereby

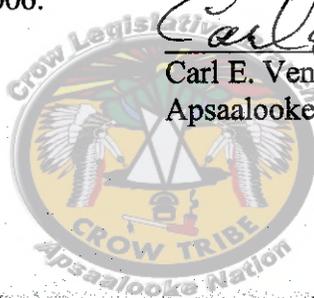
✓ approve, or
_____ veto.

this Joint Action Resolution entitled a

“A RESOLUTION GIVING FINAL APPROVAL TO THE TRIBAL CHAIRMAN FOR A LOAN NOT TO EXCEED \$1.8 MILLION TO BE USED BY THE APSAALOOKE (CROW) TRIBE TO HELP COVER THE REPLACEMENT COSTS OF THE WATER AND WASTE WATER SYSTEM OR SYSTEMS IN AND FOR THE COMMUNITY OF CROW AGENCY, MONTANA, AND THE ESTABLISHMENT OF A FOUR (4) MEMBER AD HOC LEGISLATIVE WATER/SEWERCONSTRUCTION COMMITTEE .

pursuant to the authority vested in the Chairman of the Apsaalooke (Crow) Tribe by Article V, Section 8 of the Constitution and Bylaws of the Apsaalooke (Crow) Tribe of Indians on this 15 day of Dec, 2006.


Carl E. Venne, Chairman
Apsaalooke (Crow) Tribe



Bill or Resolution Number SAR 06-13 Introduced by: Executive Date of Vote: 12-14-06

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

Result of Vote:

Passed

Not Passed

Tabled

Veto Override

Signature Officer: Carson D. Wilson

Date: 12-14-06



**Crow Agency, Montana
Sewer Improvement Project
Construction and Engineering Costs
Updated October 2006**

	December 22, 2005 Budget			Updated Costs for STAG Grant Application		
	Phase 1	Phase 2	Total	Phase 1	Phase 2	Total
Estimated Project Costs						
South End Interceptor	\$661,910		\$661,910	\$744,000		\$744,000
Collection System Connections	\$289,536		\$289,536	\$325,000		\$325,000
Interceptor Tie-In	\$108,000		\$108,000	\$206,000		\$206,000
Modifications to Existing Lagoon	\$65,000		\$65,000	\$75,000		\$75,000
Southwest Lift Station	\$137,390		\$137,390	\$154,000		\$154,000
Water Lines	\$375,596		\$375,596	\$422,000		\$422,000
Water Booster/PRV Station	\$257,607		\$257,607	\$289,000		\$289,000
North End Interceptor	\$400,000		\$400,000	\$450,000		\$450,000
Main Lift Station		\$450,000	\$450,000		\$506,000	\$506,000
Wastewater Lagoon		\$2,316,355	\$2,316,355		\$2,604,000	\$2,604,000
WWTF Outfall		\$118,440	\$118,440		\$133,000	\$133,000
Construction Estimate	\$2,295,039	\$2,884,795	\$5,179,834	\$2,665,000	\$3,243,000	\$5,908,000
Construction Admin	\$ 220,504	\$ 288,460	\$517,983	\$ 273,574	\$ 318,426	\$592,000
Project Total	\$ 2,524,543	\$ 3,173,275	\$5,697,817	\$ 2,938,574	\$ 3,561,426	\$6,500,000

Funding Summary

	Phase I - Interceptor			Phase II - Lagoon			Grand Total
	Grant	Loan	Total	Grant	Loan	Total	
Secured Funding							
TSEP (from 2005)	\$475,000		\$475,000			\$0	\$475,000
IHIS	\$285,000		\$285,000			\$0	\$285,000
USDA RD ISA	\$1,000,000		\$1,000,000			\$0	\$1,000,000
USDA RD Loan		\$250,000	\$250,000		\$1,550,000	\$1,550,000	\$1,800,000
EPA	\$227,000		\$227,000			\$0	\$227,000
EPA Water	\$700,000		\$700,000			\$0	\$700,000
USDA RD Grant			\$0	\$715,000		\$715,000	\$715,000
Seabees Earthwork Contribution			\$0	\$350,000		\$350,000	\$350,000
Total Secured Funding	\$2,687,000	\$250,000	\$2,937,000	\$1,065,000	\$1,550,000	\$2,615,000	\$5,552,000
Requested Funding							
TSEP (possible in 2007)			\$0				\$0
STAG Grant (possible in 2007)			\$0				\$0
USDA RD ISA (Phase 2)			\$0	\$1,000,000		\$1,000,000	\$1,000,000
Total Requested Additional	\$0	\$0	\$0	\$1,072,000	\$0	\$1,000,000	\$1,000,000
Grand Total	\$2,687,000	\$250,000	\$2,937,000	\$5,137,000	\$1,550,000	\$3,615,000	\$6,552,000

Notes:

1. Funding adequate for Phase 1
2. TSEP and Stag Grants for Phase 2 do not look favorable at this time (October 2006).