



(2) the subsequent reconciliation efforts; and (3) the current accounting and trust fund management processes and statements.

WHEREAS the Parties have been discussing settlement of Plaintiff's existing claims and issues relating to (1) Defendants' alleged failure to provide an accounting of the Tribe's trust funds and assets; (2) Defendants' alleged mismanagement of the Tribe's trust assets and natural resources, including but not limited to its grazing and agricultural lands; its oil, gas, gravel, coal, and timber resources; and its rights-of-way; (3) Defendants' alleged mismanagement of the Tribe's trust funds; (4) Defendants' alleged trespass on Tribal lands with respect to the Big Horn Canyon National Recreational Area; (5) Defendants' alleged failure to approve the 1976 Crow tax code for application to mineral development within the Crow ceded strip; (6) Defendants' alleged failure to enforce Section 2 of the Crow Allotment Act; and (7) Defendants' failure to recognize and enforce the Tribe's title to lands that are created by the movement of the Big Horn River; and

WHEREAS the Parties believe that it is in their best interests to enter into this Joint Stipulation of Settlement;

NOW, THEREFORE, IT IS HEREBY JOINTLY STIPULATED AND ORDERED AS FOLLOWS:

1. This Joint Stipulation of Settlement is the result of compromise and settlement between the Parties. It shall not constitute or be construed as an admission of liability or wrongdoing by any Party, and it shall not be utilized or admissible as precedent, evidence, or argument in any other proceeding, except as may be necessary to ensure compliance with its terms and conditions or to carry out the terms and conditions hereof.

2. Defendants will pay to Plaintiff the sum of ten million dollars (\$10,000,000.00), in full, complete, and final settlement of all claims, causes of action, obligations, or liabilities that Plaintiff has asserted or could have asserted—as well as all claims, causes of action, obligations, or liabilities for which a factual basis exists, regardless of whether the claims, causes of action, obligations, or liabilities have legally accrued as of the date of the Court’s entry of this Joint Stipulation of Settlement as an Order—either in an administrative action before Interior or Treasury or in a case in the United States District Court or the Court of Federal Claims, relating to any of the following issues:

a. Defendants’ obligation to provide a historical accounting of the Tribe’s trust funds and trust assets, and Defendants’ fulfillment of such obligation;

b. Defendants’ alleged mismanagement of the Tribe’s trust assets and natural resources, including but not limited to any existing claim or allegation that Defendants (1) failed to make the Tribe’s trust assets or natural resources productive; (2) failed to obtain an appropriate return on, or appropriate consideration for, the Tribe’s trust assets or natural resources; (3) failed to collect, fully or timely, rents, fees, or royalties, or other payments for the transfer, sale, encumbrance, or use of the Tribe’s trust assets or natural resources; (4) failed to preserve, protect, or maintain the assets or natural resources; (5) permitted the misuse or overuse of the Tribe’s trust assets or natural resources; (6) failed to enforce the terms of any permits, leases, or contracts for the transfer, sale, encumbrance, or use of the Tribe’s assets or natural resources; (7) failed to prevent trespass on the Tribe’s trust assets or natural resources; and (8) failed to report or provide information about Defendants’ actions or decisions relating to the Tribe’s trust assets or natural resources. Plaintiff’s claims about Defendants’ alleged mismanagement may also relate to the

transfer, sale, encumbrance, or use of the Tribe's trust assets and natural resources, including but not limited to any of the Tribe's lands or minerals held in trust by Defendants, for the purposes of grazing, agricultural, rights-of-ways, timber production, or exploitation of oil, gas, gravel, coal, or other mineral deposits.

c. Defendants' alleged mismanagement of the Tribe's trust funds, including but not limited to any existing claim or allegation that Defendant (1) failed to invest any tribal income in a timely manner; (2) failed to obtain an appropriate return on any invested funds; (3) failed to disburse monies from trust funds in a proper manner; and (4) failed to report or provide information about Defendants' actions or decisions relating to the Tribe's trust fund accounts. For purposes of this Joint Stipulation of Settlement, the Tribe's trust fund accounts include, but are not limited to, any Tribal-related accounts that are established pursuant to federal legislation and that are maintained, managed, invested, or controlled by either Interior or Treasury; any proceeds-of-labor accounts; any Tribal individual Indian money accounts; any special deposit accounts; any Treasury accounts (principal and interest); any third-party bank accounts; any forestry management, forestry reserve, or forestry land assistance accounts; any legislative settlement or award accounts, or any judgment accounts;

d. Defendants' alleged failure to approve the 1976 Crow Tribe tax code for application to mineral development within the Crow ceded strip; and

e. Except as provided in Paragraph 4 below, Defendants' alleged failure to perform any trust duty owed to the Tribe, at any time up to the date of the Court's entry of this Joint Stipulation of Settlement as an Order.

3. In consideration of the payment of ten million dollars (\$10,000,000.00) by Defendants

and for other valuable consideration and upon the Court's entry of this Joint Stipulation and Settlement as an Order, Plaintiff releases Defendants from, and Plaintiff covenants not to sue on, all claims, causes of action, obligations, or liabilities that Plaintiff has asserted or could have asserted—as well as all claims, causes of action, obligations, or liabilities for which a factual basis exists, regardless of whether the claims, causes of action, obligations, or liabilities have legally accrued as of the date of the Court's entry of this Joint Stipulation of Settlement as an Order—either in an administrative action before Interior or Treasury or in a case in the United States District Court or the Court of Federal Claims, relating to the issues set forth in Paragraph 2 above. Further, Plaintiff waives any other claims, causes of action, obligations, or liabilities that Plaintiff has asserted or could have asserted—as well as any other claims, causes of action, obligations, or liabilities for which a factual basis exists, regardless of whether the claims, causes of action, obligations, or liabilities have legally accrued as of the date of the Court's entry of this Joint Stipulation of Settlement as an Order—either in an administrative action before Interior or Treasury or in a case in the United States District Court or the Court of Federal Claims, relating to Defendants' management of the Tribe's trust funds, trust assets, or natural resources.

4. Specifically excluded from the scope of this Joint Stipulation of Settlement are the following claims:

a. Any claim that Plaintiff may have relating to Defendants' alleged failure to enforce Section 2 of the Crow Allotment Act of 1920, including those claims set forth by Plaintiff in *Crow Tribe of Indians v. United States*, Civ. No. 92-5371 (D.D.C.);

b. Any claim that Plaintiff may have against Defendants with respect to (1) Defendants' alleged failure to recognize or enforce Plaintiff's claim of title to the lands that are created by the

movement of the Big Horn River; and (2) Defendants' alleged failure to make productive use of those lands created by the movement of the Big Horn River, to which Plaintiff has claimed title.

c. Any claim that Plaintiff may have against third parties with respect to Plaintiff's claim of title to the lands created by the movement of the Big Horn River;

d. Any claim that Plaintiff may have against Defendants with respect to Defendants' alleged trespass or breach of contract with respect to the Big Horn Canyon National Recreational Area; and

e. Any claim that Plaintiff may have with respect to the adjudication and quantification of Plaintiff's water rights, including Plaintiff's federal reserved water rights, as provided in the Crow Tribe-Montana Reserved Water Rights Compact, which was ratified by the State of Montana on June 22, 1999 (Mont. Code Ann. § 85-20-901). This provision includes any claim that Plaintiff may have with respect to the adjudication and quantification of any reserved water rights claims, as well as any other claims to water, that Plaintiff may have in *United States v. Big Horn Low Line Canal Company*, No. CIV-76-340-BLG (D. Mont.) (filed April 17, 1975). The provision also includes any reserved water rights claims, as well as any other claims to water, that have been filed by the United States in trust for the Crow Tribe, its members, and allottees on the Crow Reservation, in the Montana General Stream Adjudication that was initiated by the State of Montana.

5. In consideration of the payment of ten million dollars (\$10,000,000.00) by Defendants and for other valuable consideration and upon the Court's entry of this Joint Stipulation of Settlement as an Order, Plaintiff undertakes the following:

a. Plaintiff accepts as accurate the balances of the Tribe's trust fund accounts, as those

balances are stated by the Office of the Special Trustee for American Indians (OST) of the Department of the Interior on the date of the Court's entry of this Joint Stipulation of Settlement as an Order;

b. Plaintiff accepts the periodic Statements of Performance provided to the Tribe by OST as constituting the accounting of the Tribe's trust fund accounts that is required by law. A periodic Statement of Performance is that which is transmitted by OST in conformance with its policies and practices and which provides the Tribe with information about the Tribe's trust fund accounts for a particular period. Further, Plaintiff agrees that, after the date of the Court's entry of this Joint Stipulation of Settlement as an Order, Plaintiff shall waive any claims that it may have about the accuracy or sufficiency of the periodic statements of accounts if Plaintiff does not assert those claims within 90 days of receiving the statements;

c. Plaintiff agrees that Treasury's limited role in the management of the Tribe's trust funds, trust assets, and natural resources is defined by 25 U.S.C. § 161a(a), which states that Treasury's role is to invest trust funds at the direction of the Secretary of the Interior;

d. Plaintiff agrees that Treasury's record retention obligations shall not exceed those that are delineated in the record retention schedules that Treasury submitted to the National Archives and Records Administration (NARA) in September, 2000 (see Attachment 1 hereto), and in any subsequent amendments to those schedules; and

e. Plaintiff agrees that, after the date of the Court's entry of this Joint Stipulation of Settlement as an Order, Treasury does not have to retain duplicative or redundant documents or data relating to the Tribal trust funds and that Treasury has to retain information or data relating to the Tribal trust funds only in a single system or medium that is determined by Treasury.

6. This Joint Stipulation of Settlement is the entire agreement between the Parties in this case. All prior conversations, meetings, discussions, drafts, and writings of any kind are specifically superseded by this Joint Stipulation and Order. The terms of this Joint Stipulation of Settlement may not be changed, revised, or modified, except as provided by a written instrument that is signed by the Parties to this Joint Stipulation of Settlement and that is approved and entered by this Court as an Order. This Joint Stipulation of Settlement shall be effective upon the date of the Court's entry of the Joint Stipulation as an Order.

7. As soon as practicable after receiving notice of the Court's entry of this Joint Stipulation of Settlement as an Order, the Parties will file a joint stipulation or motion to dismiss this case with prejudice. Also, the parties will file a joint stipulation or motion to dismiss, with prejudice, the case entitled Crow Tribe of Indians v. United States of America, No. 04-1231L (Fed. Cl.).

8. No term or provision of this Joint Stipulation of Settlement will constitute or will be construed as a commitment or a requirement that Defendants obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, and any other applicable law or regulation.

9. The undersigned representative(s) for each Party certifies that he or she is fully authorized by the Party or Parties whom he or she represents to enter into the terms and conditions of this Joint Stipulation of Settlement and to bind legally such Party or Parties to it. In particular, Plaintiff's counsel Majel Russell certifies that, pursuant to the Tribe's Constitution (effective as of July 14, 2001, and approved by the Secretary of the Interior on December 14, 2001), she has obtained the review and authorization of the Tribe's Executive Branch,

specifically, the Tribal Chairman, to enter into this Joint Stipulation of Settlement. Further, Ms. Russell certifies that the Executive Branch Chairman has obtained the authorization of the Tribe's Legislative Branch regarding this settlement, specifically, the Legislative Branch's ratification of a Joint Action Resolution that was signed by the Tribal Chairman and that set forth a plan for the expenditure of the monies from this settlement.

10. Each Party shall be responsible for its own attorney's fees and costs, as well as any other fees and costs relating to the matters, claims, and issues settled in this case.

11. This Joint Stipulation of Settlement may be executed in one or more counterparts, each of which shall constitute an original, and all of which, taken together, shall constitute one and the same instrument. Facsimile signatures shall have the same effect as original signatures in binding the Parties hereto.

12. If there is a dispute over compliance with any term or provision of this Joint Stipulation of Settlement and Order, the disputing party will notify the other party in writing of the dispute. The parties will attempt to work out the dispute informally before seeking judicial review by this Court.

13. The disputing party will engage the other party in informal dispute resolution. During this informal dispute resolution period, which will not exceed 90 days (unless the parties agree to an extension of the period), the parties will meet as many times as both deem necessary to discuss and attempt to resolve the dispute.

14. If the parties are unable to resolve the dispute through informal dispute resolution, either party may file a motion asking that the Court enforce the relevant term(s) and provision(s) of the Joint Stipulation and Order.

APPROVED and ENTERED as an Order of this Court, on this 7th day of April, 2006.

SO ORDERED.

Signed by Royce C. Lamberth, United States District Judge, April 7, 2006.