

CROW INDIAN TRIBE



Resources Report

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INDIAN TRUST ASSETS

Introduction

The Statewide Draft Oil and Gas EIS (pp. 3-29 thru 3-31) discusses Indian Trust Asset conditions related to the Crow Indian Tribe and tribal members. The following sections present additional information about mineral and water rights for the reservation and trust lands.

Mineral Rights

Mineral rights on the Crow Reservation are owned in checkerboard fashion like the surface lands due to the results of the allotment of lands to individual tribal members under the General Allotment Act and the 1920 Crow Allotment Act. Although the 1920 Crow Allotment Act left the mineral estate to the Crow Tribe upon the allotment of lands to individuals, many individuals received mineral allotments under the General Allotment Act. As history well illustrates, the Allotment Acts resulted in serious fractionation of lands among large numbers of heirs to the original allottees and land passing from trust status to fee status and eventually to non-Indian ownership.

As a result, the mineral estate can be owned by the Tribe, a tribal member, a tribal member Indian from another tribe, or a non-Indian. Obtaining certified title status reports for each tract of land to determine the exact status of mineral ownership prior to any tribal development effort will be a critical component of the development process. Nonetheless, the above discussed condemnation process expressly included in the Crow Constitution provides a vehicle to work with the complicated land and mineral ownership on the Crow Reservation.

Water Rights

The 1868 Fort Laramie Treaty established the priority date for all tribal water rights within the Crow Reservation. In accordance with general reserved Indian water rights case law, the 1868 priority date is recognized as the most senior water right for all water uses within the Crow Reservation, and that all other state-recognized water rights are junior in priority date. However, the senior status of the Tribe's water right may be altered through negotiation to achieve a settlement of tribal water rights.

Water Compact Status

The Crow Tribe and the State of Montana, via the Water Compact Commission negotiated a water compact to settle water rights claims on the Crow Reservation in 1999. The compact was adopted by the Montana Legislature at a Special Session in June, 1999. In July of 2000, a new Tribal Administration, via Tribal Council resolution, raised questions about the Crow Tribe – State of Montana compact. Since September, 2000, the Crow Tribal Water Team has met with the State of Montana Water Compact Commission to discuss certain provisions of the compact.

At present, although some provisions remain of concern, the Tribe is moving ahead with negotiations with the federal government for settlement of the reserved Crow Tribal water right. The negotiations with the federal government will determine whether the Tribe will remain in agreement with the compact or choose to re-open the compact for further negotiation. Although,

the compact has been adopted by the Montana Legislature, it is not effective until adopted by Congress and ratified by the Crow Tribe via referendum vote.