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PERSONAL BIOGRAPHY: William Walks Along is currently the Tribal Executive Administrator for the Northern Cheyenne Tribe. He has served in various capacities as an elected official within the Tribal Government including: Vice-President (1992-1996), President (1996-1998), and Tribal Council member (2002-2005). Mr. Walks Along's areas of participation in Tribal affairs have involved, but are not limited to: Tribal Federal Reserved Water Rights, environmental issues, human services, natural resources management and development, Tribal courts, cultural and historic preservation, economic development, Indian education, Tribal investments, and Indian Gaming. William Walks Along holds an undergraduate degree (B.S.) in sociology from Montana State University (1983) and a graduate degree (M.A.) in Political Science from Washington State University (1989), with major coursework in Sociology, doctoral studies, at WSU.

OUTLINE OF PRESENTATION: The focus of this special topic presentation consists of a brief overview of the Northern Cheyenne Tribe's past experiences or involvement with coal development in southeastern Montana; current proposed development of coal resources in the Otter Creek area; and, the ongoing development of coal bed natural gas (CBNG) in the Montana portion of the Powder River Basin. The Northern Cheyenne Tribal government and a majority of its members have consistently maintained an approach and philosophy toward energy development that is grounded in a world view that has a deep reverence for their ancestral homeland, where they hunted, fished, gathered berries, plants and roots, held ceremonies, militarily defended against intruders and buried their dead. The Northern Cheyenne are a people who were environmentalists and conservationists long before these terms became part of the American lexicon.

The Northern Cheyenne people have lived up to their obligations to remain at peace with the American Government and have sacrificed of millions of acres of treaty lands so that pioneers from across the great waters could build a country called America. The Northern Cheyenne Tribe has at intermittent times, since the mid-1970s to the present, been engulfed in massive energy development that has at more times than not ended in litigation

in the Federal judicial system. In this modern era the Northern Cheyenne Tribe has been involved in a surreal "war of attrition" as the Tribe continues its courageous attempt to hold the U.S. Government accountable to its legal obligations based on applicable statutory laws, executive orders, precedent Federal Court decisions and Federal regulations in the area of energy development in southeastern Montana. The current Tribal government continues to actively participate, on its own terms, in the ongoing energy development in areas that encompass the Tribe's ancestral homeland.

**OTHER MATERIALS:** See attachment--white paper discussing "Tribal Perspectives on Energy Development."

October 19, 2005

Title of Presentation: "Tribal Perspectives on Energy Development"

Presenter: William Walks Along, Tribal Executive Administrator  
Northern Cheyenne Tribe

Good afternoon to all the participants here today. I am Hone`-he-veh, Wolf Chief, also known as William Walks Along, Tribal Executive Administrator for the Northern Cheyenne Tribe. Thank you Governor Schweitzer and staff for the invitation to address energy development from a Tribal perspective here at my almamater-MSU-"home of the fighting Bobcats." This forum is very important because it provides an opportunity to share our Tribe's quest to achieve a level of understanding with all stakeholders who may be impacted by energy development in southeastern Montana and beyond. At this gathering today I consider myself an emissary of the Northern Cheyenne people, a humble spokesman who follows the powerful legacy left by the past Northern Cheyenne leaders who have battled the U.S. government on all fronts, from the killing fields of Sand Creek, Washita, the Little Big Horn Battlefield, the many lesser known battles and finally the Northern Cheyenne people's running battle from their exile to Oklahoma Indian Territory back to Montana--eventually to the paper battlefields in the halls of the U.S. Congress, the Department of the Interior, the U.S. Supreme Court and other arenas where misunderstanding between human beings has at times nearly resulted in an un-bated genocidal policy, erosion of sovereignty, structural injustice and social oppression directed toward the Northern Cheyenne people.

In the not so distant past, 1970's, the Northern Cheyenne Tribal President Allen Rowland and the Tribal Council successfully thwarted, through a U.S. Supreme Court decision and Congressional action, the energy industry's united efforts to acquire nearly the entire Northern Cheyenne Reservation for coal mining and the development of coal-fired power plants. President Rowland has been recorded in history as the Northern Cheyenne leader who held the U.S. Government accountable in the area of trust responsibility and fiduciary responsibility by successfully challenging the Secretary of the Interior's, (and bureaus and agencies under his authority) commitment to protect and preserve the natural resources (coal) of the Tribe from being sold at prices, 16 cents per ton royalty, that would violate any principled human being's sense of justice and fairness. The prospects of having access to a steady source of income for the Tribal Treasury was over-ridden by the Tribal leadership's concerns for the future generations of Northern Cheyenne people.

Many unanswered questions arose amongst the people. For example, where would the people settle when the money ran out and the land was no longer in Tribal ownership? What would become of our language and ceremonies? What would our

grandchildren have to look forward to? What can we do to protect, defend and assert our legal rights? Would the Northern Cheyenne become extinct? A Tribal renaissance occurred amidst this uncertain time and the political, community, and spiritual leadership again looked inward at the eternal values of faith, trust, hope, love justice, mercy, honesty, service, sacrifice, humility and charity that assists each of us in giving back to our communities and allows us to focus on issues and problems that we may have ignored for too long.

It was self-identity and pride in who we are as an Indian Nation that helped the Northern Cheyenne people strengthen its collective resolve to battle industrial conglomerates and a bureaucratic Federal system that sought to dehumanize our people to allow for unfettered energy development on or near the reservation. The Tribe continued the legal battle to have our Tribe's best interests considered in the planning of proposed energy development in southeast Montana into the 1980s and had another favorable U.S. Supreme Court decision that forced the Federal Government to consider the impacts of energy development on the Tribe in the Powder River Basin. To remember and embrace the sacrifice made by our ancestors in order for us to have a homeland "that we will keep forever" is a core element in our Indian Nation's ongoing efforts to protect Tribal sovereignty, enhance self-determination, move toward economic self-sufficiency, preserve our cultural traditions and to hold the U.S. Government accountable in the areas of trust responsibility and environmental justice. Many Northern Cheyenne people know that we are on a spiritual journey and often times we have been characterized as an overly superstitious group of people, a stone-age people, a backward community that needs to be brought into this age of cyberspace. The Western mind often does not grasp the world-view of the Northern Cheyenne people and other tribes, a "good idea" is often an idea that saves time and money or makes modern daily living more convenient.

In the current analysis, discussions and debates involving the proposed development of the Otter Creek tracts and continuing exploration and development coal bed natural gas (CBNG or CBM) resources in the Montana portion of the Powder River Basin the Northern Cheyenne Tribe is confronted with various scenarios that has resulted in negotiated settlement agreement and litigation in the Federal Court system. At this juncture of the presentation, I will discuss a Tribal perspective on the issues that have arisen with the proposed development of a coal to fuel plant by the Schweitzer Administration and conclude with Tribal views on the pending litigation challenging the FEIS and RMP amendments related to CBM development in southeastern Montana. There are many other environmental issues involved in the overall scope of energy development and this presentation focuses on only two developments.

The issues surrounding the Otter Creek tracts transferred to the State of Montana during Governor Martz's administration have been concluded in a negotiated Settlement Agreement between the Montana State Board of Land Commissioners and The Northern Cheyenne Tribe on February 19, 2002. The Tribe was given assurances, contained in the draft settlement agreement, by Montana Congressional delegation that they would seek Federal legislation for impact funding and a coal exchange by Great Northern Properties, L.P. that would substantially alleviate impacts of coal development to be realized by the

Tribe and its members. As a result the Tribe agreed to dismiss with prejudice its complaint in the case Northern Cheyenne Tribe v. Gale Norton, Secretary of the Interior that challenged the transfer of Federal minerals tracts to the State of Montana.

The Tribe's complaint alleged that the Secretary of the Interior's action to transfer the Otter Creek tracts to the State would result in coal-related development would impose severe environmental, socio-economic and cultural impact on the Tribe, its member and its Reservation. In addition, the Tribe contended that the transfer would violate Section 503 of the Department of the Interior and Related Agencies Appropriations Act of 1998, the National Environmental Policy Act, and the Federal Land Policy and Management Act and their implementing regulations, as well as the Federal trust responsibility to the Tribe. These arguments were very similar to the previous court cases decided in favor of the Tribe. Tribal officials emphasized the historical fact that Tribal members had settled in the areas along Otter Creek where Tribal homesteads, ceremonial sites, burial sites may exist on traditional hunting and gathering areas. Northern Cheyenne families had settled in the area prior to the U.S. President's Executive Order in 1900 that extended the eastern boundary of the Reservation to the mid-channel of the Tongue River.

The Tribal Government in February, 2002 determined that the commitments by the Montana Congressional delegation, the State Land Board, Great Northern Properties and other industry companies adequately addressed the Tribe's concern for: (a) employment and contracting opportunities for Tribal members if energy development occurs, (b) a written On-Reservation Conduct Program designed to encourage employees of energy development operations to abide by standards of conduct applicable to Tribal members on the Reservation; (c) a written environmental monitoring program one year before any surface disturbing operations; (d) cultural resources program designed to avoid disturbance or damage to Northern Cheyenne historic, cultural, religious and burial sites or items, including plants having cultural or religious significance, in the conduct of operations; and, (e) proposed Federal legislation that would provide impact funding, funding for a cultural program and rectify a 100 year old Federal error which deprived the Tribe of ownership of 8.5 sections of Reservation subsurface. One tract on the Otter Creek is only three miles from the Reservation, and the negotiated assurances provided in the settlement agreement ended the Tribe's actions to litigate against the transfer of the Otter Creek tract to the State of Montana, a distinct move away from lengthy litigation and the expenditure of very limited Tribal financial resources on legal actions.

The Northern Cheyenne Tribe and Native Action filed a lawsuit against the Bureau of Land Management in May, 2003 in Federal District Court challenging the April, 2003 Final Environmental Impact Statement (FEIS) and Resource Management Plan (RMP) Amendments which authorized full-field coal bed methane (CBM) development of up to 20, 000 CBM wells over the next 20 years in the Montana portion of the Powder River Basin. The Tribe raised four major concerns: (1) the FEIS was inadequate because it did not analyze any alternatives to full-field CBM development which could have reduced the environmental impact of CBM development; (2) The FEIS failed to take a hard look at the social, economic and cultural impacts of CBM development on the Tribe

and the Reservation; (3) the FEIS failed to take a hard look at the impact of CBM development on the Reservation's Class I air quality increments; and (4) BLM violated the National Historic Preservation Act (NHPA) by not consulting with the Tribe before issuing oil and gas leases or in the preparation of the FEIS and RMP Amendments. Judge Anderson upheld the Tribe's claim that the FEIS was inadequate because BLM failed to analyze a phased development alternative to full-field development, but the Court did not issue an injunctive relief.

The Tribe appealed the lower Court's April 5, 2005 decision, following an injunctive relief hearing, that allowed the permitting for up to 500 new CBM wells each year pending preparation of supplemental EIS (SEIS). Since Judge Anderson's summary judgment order effectively invalidated both the FEIS and RMP the Tribe appealed to the U.S. Ninth Circuit Court of Appeals claiming that the district court abused its discretion by allowing the permitting of 500 new wells per year, even when the Court invalidated the FEIS and RMP. The Tribe also appealed the district court's dismissal of its NHPA claims relating to BLM's issuance of oil and gas leases in the vicinity of the Reservation. The issues raised by the Tribe are the same fundamental issues raised by the Tribe in its series of lawsuits since the 1970s that have focused on strict compliance with applicable statutory laws, executive orders, precedent court cases, Federal regulations in the area of energy development in southeastern Montana.

A panel of judges on the 9<sup>th</sup> Circuit Court of Appeals granted an emergency temporary injunction, May 31, 2005, halting the issuance of permits to drill CBM wells on Federal properties pending a hearing before the 9<sup>th</sup> Circuit. The 9<sup>th</sup> Circuit hearing was convened on September 15, 2005. In addition, Federal district judge Anderson, on June 6, 2005, ordered production on the Badger Hills project halted until BLM conducts more environmental review and consults with the Northern Cheyenne Tribe. The 9<sup>th</sup> Circuit has yet to make a decision on the Tribe's appeal and has kept in place the temporary injunction prohibiting further permitting of CBM wells by BLM pending a ruling by the Court of Appeals. The Northern Cheyenne Tribe has reiterated and re-emphasized its concerns of not having substantive input into the FEIS and RMP process and has had to resort to expensive litigation to have its interests considered by the BLM. The proposed mitigation measures developed and submitted by the Tribe have not been utilized and demonstrates the continued effort by BLM to remove obstacles to expedited development of CBM resources in the Powder River Basin. The Northern Cheyenne Tribe continues to advocate for phased development and is currently participating in government-to-government consultations with BLM to ensure that its best interests are being considered as part of the court ordered SEIS.

The Northern Cheyenne Tribe has been instrumental through its effective use of Western-style laws, regulations and dispute resolution to compel the U.S. Government to include our Indian Nation's approach and philosophy toward energy development into the legal requirements for development projects. The influence of our world view is undeniable and is grounded in the deep reverence the Northern Cheyenne people have for our ancestral homeland where we have hunted, fished, gathered berries, plants and roots,

held ceremonies, militarily defended against intruders and buried our dead. We have received abundantly from our ancestors and previous Tribal leaders who have made a difference by adding to the self-worth and courage of those of us who are engaged in a continuing battle to defend our homeland from the imminent threats to our continued survival. Thank you for your kind attention. Ha-ho.