

**CROW TRIBE
ABANDONED MINE LAND
ANNUAL REPORT
EVALUATION YEAR 2004**



**PREPARED BY THE
OFFICE OF SURFACE MINING
CASPER FIELD OFFICE
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Part I. General

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) created the Office of Surface Mining Reclamation and Enforcement (OSM) in the Department of the Interior to oversee the regulation of coal exploration and surface coal mining and reclamation operations and the reclamation of lands adversely affected by past mining practices. SMCRA provides that, if certain conditions are met, a State may assume primary authority for the reclamation of abandoned mine lands within its borders.

Because legislation for Tribes did not exist, a supplemental appropriations bill (Public Law 100-71) was enacted on July 11, 1987, to amend SMCRA and to authorize the Crow, Hopi, and Navajo tribes the right to obtain the Secretary of the Interior's approval of the Abandoned Mine Land Reclamation (AMLR) programs without first having regulatory programs as required by Section 405 of SMCRA. Once a Tribe has an approved AMLR program, OSM has responsibility to make investigations, evaluations, and inspections necessary to determine if the Tribal program is being administered in accordance with approved program provisions. The Crow AMLR Program was approved by OSM on January 4, 1989. The Tribe established a Crow Office of Reclamation (COR) to administer its abandoned mine land program.

The Crow Reservation, an area approximately 2,226,000 acres, is located in south-central Montana adjacent to the Wyoming border. Adjoining the reservation to the north is the 1,100,000 acre Crow Ceded Area, where the Crow Tribe of Indians holds extensive mineral rights. Prior to 1904, the Ceded Area was a part of the reservation. Congress required the Tribe to return the surface rights to the area to the United States through legislation enacted in 1904. The surface was then acquired by non-Indians. The Tribe retained ownership to the minerals, and has AMLR reclamation jurisdiction for the Ceded Area.

Numerous small abandoned mines are located on the reservation and the Ceded Area. Historically, coal was mined for local domestic use by residents of the area. The Tribe concentrated its reclamation efforts during the evaluation year on low priority coal sites. The Tribe has been unable to obtain access to the few remaining high priority coal sites on the Ceded Area. Landowners where the sites are located have denied access for various reasons. The Tribe continues to work with these landowners in an attempt to obtain consensual access. As a result, all accessible high priority sites on the Ceded Area have been reclaimed. During the previous evaluation year, the Tribe identified an additional high priority underground mine site on the reservation. This site will be reclaimed during the next evaluation year.

All reclamation funds to support the Tribe's program are generated from the one active mine located in the Ceded Area. During Calendar Year 2003, production from this mine was approximately 6 million tons. The FY2004 allocation to the Tribe was \$544,738 of Tribal share AML funds. This level of funding qualifies the Tribal program as a minimum program under SMCRA. Normally this would have resulted in a supplement of Federal Share funds of up to \$1.5 million if sufficient high priority coal projects existed on the Abandoned Mine Lands Inventory System (AMLIS). In past years, the Tribe has received and accumulated supplemental funds from the Federal share sufficient to reclaim all remaining hazardous abandoned coal mine

related problems recorded in AMLIS. Therefore no additional Federal share funds were provided to the Tribe in the FY2004 allocation. In addition to the current year's allocation, the Tribe had an additional \$389,325 of carryover funds available for reclamation. Due to insufficient project planning \$362,938 of the total funds available to the Tribe were not requested for reclamation.

The COR administrative staff is made up of 3.7 full time employees. This staff is responsible for the direction of all construction activities as well as all administrative functions of the program. To assure an acceptable level of control, OSM in their approval of the Crow Tribe AMLR program, required that the administrative functions such as grant application preparation, progress report preparation, payroll, procurement, property management, and all financial activities be separate from the Tribal systems.

All construction to date has been accomplished by manual labor using hand tools. During past evaluation years, the AML program has been a major employer on the reservation, hiring as many as 60 laborers and foremen. Due to a lack of planning and project preparation, the number of construction sites was limited, resulting in a reduction of employment to approximately 19 laborers and foremen during this evaluation year. The construction season began in April and will continue through November.

The 2004 evaluation period started on July 1, 2003 and concluded June 30, 2004. Evaluation of the Tribal AML program is conducted by OSM's Casper Field Office (CFO) located in Casper, Wyoming. Evaluation methods are based upon OSM Directive AML-22 and a Programmatic Agreement between the Tribe and OSM. This agreement incorporates a shared commitment by the Tribe and OSM in determining how oversight will be conducted. The Tribe takes an active role in the entire oversight process. Oversight is designed to evaluate whether the Tribe, through its AMLR program, is achieving the overall objective of Section 102 of SMCRA which states that AMLR programs are to:

"... promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this Act and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public ..."

As a result of the Agreement, specific topics were identified for review and review methodologies were developed for the evaluation period. The reviews were designed to result in an overall measure of the Tribe's success in achieving planned reclamation goals. By focusing on end results, OSM is able to determine the root causes of problems and concentrate its resources on prevention by providing assistance to the Tribe to improve its program. The specified topics selected for review were those identified by OSM and the Tribe from past experience which have the most potential for preventing the Tribe from achieving their planned reclamation goals. At the end of the evaluation period, OSM prepared this annual report and gave the Tribe the opportunity to comment on its contents. Appendix B contains the Tribe's comments and Plans of Action to correct the deficiencies noted in this report.

Part II. Results of Enhancement and Performance Reviews

Last year's evaluation revealed several deficiencies. The CFO found that the Tribe was deficient in timely grant closeout reporting to OSM, failed to distribute costs to appropriate budget categories, failed to assign costs to proper grants, exhibited weakness in the management of property, lacked timely and accurate travel claim reconciliations and recovery of travel advances, and failed to prepare supporting procurement documentation to substantiate competition and timely procurement approvals. These weaknesses contributed to delinquent closeout reports, insufficient budget management, improper distribution of costs between grants, delinquent and inaccurate repayment of excess travel advances, a lack of funds availability determinations and approvals prior to procurements, and the inability to substantiate procurement competition. These deficiencies were considered significant because they are systemic deficiencies resulting in unacceptable risks to proper management of grant funds and property.

As a result of the deficiencies found during the last evaluation year, the Tribe and OSM agreed to conduct oversight during this evaluation year using the same Programmatic Agreement used for the previous evaluation year. Enhancement and Performance Reviews were structured to evaluate the Tribe's effectiveness in achieving three principles. They are: (1) Program States and Indian tribes must have approved reclamation plans which meet the requirements of Federal laws and regulations and conduct reclamation in accordance with their plan; (2) on-the-ground construction is to be achieved in a timely, cost-effective manner; and (3) programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that the systems are working. Specific areas of interest within these three principles were reviewed. The specific areas of interest reviewed for the first principle were project inventory maintenance. Overall reclamation success was evaluated for the second principle. Five specific areas of interest applied to the third principle. They included timeliness of drawdowns, adequacy of accounting procedures, timeliness of applications and reports, timeliness of A-133 audits and implementation of audit recommendations, adequacy of procurement, and management of property.

To provide the Tribe with the opportunity to correct any identified deficiencies prior to the end of the evaluation year, OSM conducted an oversight visit at the midpoint of the evaluation year and another at the end of the evaluation year. Conclusions concerning the Tribe's performance were based on the mid-year and final evaluations and the Tribe's ability to correct deficiencies noted in previous evaluation years as well as the mid-year evaluation conducted during this evaluation year.

Overall reclamation success was affected by a severe storm that washed out topsoil on a portion of all construction projects completed during the evaluation year. Maintenance on these projects will be conducted during the next evaluation year to correct the failures. Project planning for projects worked on during the evaluation year was lacking. As a consequence, projects were under-budgeted which resulted in a deficit in funding for construction before the end of the grant year.

The Tribe continues to maintain an accurate inventory of AML projects within AMLIS. The Tribe has in place a system to ensure that new data entered into AMLIS is accurate. The CFO reviewed all information entered in AMLIS during the year and verified its accuracy.

In the program administration area, the CFO found that the Tribe continues to be deficient in timely grant closeout reporting to OSM, the distribution of costs to appropriate budget categories, the assignment of costs to proper grants, management of property, timely and accurate travel claim reconciliations and the recovery of travel advances, and the preparation of supporting procurement documentation to substantiate competition and timely procurement approvals. In addition, deficiencies were noted in budget execution, cash management, property management and payroll internal controls, and computer security and backup procedures. These weaknesses resulted in a funding crisis where funds were totally expended before application for additional funding was submitted. In addition, the weakness resulted in delinquent and inaccurate closeout reports, improper distribution of costs between grants and subaccounts, the holding of funds in excess of immediate needs, delinquent and inaccurate repayment of excess travel advances, inaccurate property records, failure of the program computer system and loss of data from the system, and unallowable costs.

The same deficiencies have been noted in previous evaluation years. Furthermore, following the mid-year oversight evaluation, the Tribe was given an opportunity to take corrective action prior to the final evaluation. In spite of the opportunity, the deficiencies were not corrected and additional deficiencies occurred during the second half of the evaluation year.

These deficiencies are considered significant because they are systemic deficiencies resulting in unacceptable risks to proper management of grant funds and property. The Tribe has exhibited no interest in correcting the deficiencies. As a result, the unacceptable risks to government funds and property continue. The CFO has concluded that the Tribe's overall performance is deteriorating. As of the end of the evaluation year, the Tribe has made no effort to correct the identified deficiencies. Due to the seriousness of the deficiencies, the Tribe was informed that the OSM will consider designating the Tribe as a "high risk" grantee if immediate corrective action is not taken. The designation as a "high risk" grantee could result in the converting of grants to cooperative agreements, where the awarding agency has more involvement in day-to-day operations of the program or, if grants continue to be the funding mechanism, there would be special reporting procedures, additional prior approval requirements, after-the-fact reimbursements, and more frequent site visits by OSM. OSM considers the increased involvement essential to minimize the risk to grant funds and property.

During the next evaluation year, OSM will monitor the progress of the Tribe in implementing their proposed Plans of Action to correct the systemic weaknesses that resulted in the incidents of non-compliance (see Appendix B). If corrective action is not taken, the CFO will consider action to designate the Tribe as a "high risk" grantee.

Appendix A contains the "Enhancement and Performance Review Reports" reflecting the details of the reviews conducted during the evaluation year.

Part III. Accomplishments and Inventory Reports

Prior to the effective date of SMCRA, coal mining on the Crow reservation resulted in hazards relating to abandoned equipment and facilities and unreclaimed subsidence, vertical openings, portals, highwalls and impoundments. Unreclaimed environmental problems consisted of spoil piles, pits, gob piles, haulroads, and minor highwalls. Three deaths and six injuries are known to have occurred in association with abandoned mines. No deaths or injuries have occurred in recent years.

The Tribe concentrated its reclamation efforts during the evaluation year on one high priority and three low priority coal sites. Construction on the one high priority site was suspended during the evaluation year because of unforeseen circumstances which will require a change in reclamation plans. Two of the low priority sites were started during the last evaluation period and completed during this evaluation period and the other site was started during this evaluation period and will be completed during the next evaluation period. Work on the four sites resulted in the completed reclamation of approximately 1 3/4 acres. Projects worked on during the evaluation year consisting of a portal, minor highwalls, pits, and gob piles.

Since implementation of their approved AMLR program, the COR has eliminated safety hazards and threats to the environment posed by unreclaimed mines. Reclamation has involved coal and non-coal mines as provided for in SMCRA. Table 1 reflects the accomplishments of the Crow AML Reclamation Program since its inception and those problems that remain to be reclaimed. The reclamation accomplishments reflected in this Table have enhanced surrounding areas and returned the land to a condition that is of greater use to the Crow Tribe and others.



TABLE 1

ABANDONED MINE LAND RECLAMATION NEEDS AND ACCOMPLISHMENTS SINCE PROGRAM APPROVAL							
Problem nature	Unit	Coal-related problems				Noncoal-related problems	
		Abatement status			Total	Abatement status	
		Unfunded	Funded	Completed		Funded	Completed
Priority 1 & 2 (Protection of public health, safety, and general welfare)							
Clogged streams	Miles	-	-	-	0.0	-	-
Clogged stream lands	Acres	-	-	1	1.0	-	-
Dangerous highwalls	Lin. Feet	-	-	1,765	1,765.0	-	352
Dangerous impoundments	Count	-	-	1	1.0	-	-
Dangerous piles & embankments	Acres	1	-	21.6	22.6	-	3.3
Dangerous slides	Acres	-	-	-	0.0	-	1
Gases: hazardous/explosive	Count	-	-	-	0.0	-	-
Underground mine fires	Acres	-	-	-	0.0	-	-
Hazardous equip. & facilities	Count	5	-	31	36.0	-	-
Hazardous water bodies	Count	-	-	1	1.0	-	-
Industrial/residential waste	Acres	-	-	-	0.0	-	-
Portals	Count	5	1	12	18.0	-	-
Polluted water: agric. & indust.	Count	-	-	2	2.0	-	-
Polluted water: human consumption	Count	-	-	-	0.0	-	-
Subsidence	Acres	7	-	-	7.0	-	-
Surface burning	Acres	-	-	-	0.0	-	-
Vertical opening	Count	-	-	4	4.0	-	-
Priority 3 (Environmental restoration)							
Spoil areas	Acres	-	-	20.3	20.3	-	3
Benches	Acres	-	-	3.6	3.6	-	-
Pits	Acres	-	6	21.5	27.5	-	4
Gob piles	Acres	-	2.6	28.3	30.9	-	-
Slurry ponds	Acres	-	-	.1	.1	-	-
Haul roads	Acres	-	-	7.7	7.7	-	-
Mine openings	Count	-	-	1	1.0	-	-
Slumps	Acres	-	-	3.6	3.6	-	-
Highwalls	Lin. Feet	-	100	1845	1945	-	300
Equipment/facilities	Count	-	-	-	0.0	-	-
Industrial/residential waste	Acres	-	-	-	0.0	-	-
Water problems	Gal./min.	-	-	-	0.0	-	-
Other	---	-	-	-	0.0	-	-
Note: All data in this table are taken from the Abandoned Mine Land Inventory System (AMLIS).							

APPENDIX A

ENHANCEMENT AND PERFORMANCE REVIEW REPORT

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Program States and Indian tribes must have approved reclamation plans which meet the requirements of Federal laws and regulations and conduct reclamation in accordance with their plan.

Subelement: Inventory Maintenance

Review Dates: Continuous

Personnel: Oliver Spotted Horse (COR) and Orvel Gustafson (CFO)

Background: OSM's Abandoned Mine Land Inventory System (AMLIS) is an inventory of AML problems. The inventory is used to determine the extent of AML problems and related reclamation accomplishments. States/Tribes are responsible for maintaining a current inventory of AML projects. This is accomplished by the States/Tribes updating the inventory through direct automated access to AMLIS. This activity has been linked to the grant process so that OSM can assure that updates are made prior to approving grant actions. Prior to making the link to the grant process, there was no systematic method for OSM to evaluate the accuracy of the State's/Tribe's entries into AMLIS. Thus, in many instances, incomplete or inaccurate data was entered in AMLIS. This was the case with the Crow Tribe's inventory for data entered into AMLIS. Through the cooperation of OSM and the Tribe, their entire inventory was reviewed and necessary corrections made. This effort was concluded during the 2002 evaluation year. As a result, the Tribe's AML inventory was accurate and complete. This topic was reviewed during this evaluation period as an inherent part of the grant project approval process.

Review Methodology: The review was conducted prior to the issuance of an Authorization to Proceed for each of the projects planned for reclamation and as a part of the grant closeout procedure. The review measured the Tribe's effectiveness in entering accurate inventory data into AMLIS. The accuracy of the data contained in the Tribe's internal inventory and the data input into AMLIS was verified through project documentation and OSM's knowledge of the sites obtained during site visits and ongoing communications with Program personnel.

Population / Sample: The population consisted of all identified AML sites. The sample consisted of all projects identified during the evaluation year, all projects for which a request for authorization to proceed had been requested by the Tribe during the evaluation year, and all projects for which a grant closeout had been submitted by the Tribe during the evaluation year.

Findings and Conclusions: The Tribe's project inventory data is accurate in AMLIS.

Corrective Actions: No corrective action is necessary.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: On-the-ground reclamation is to be achieved in a timely, cost-effective manner.

Subelement: Overall Reclamation Success

Review Dates: September 15, 2004

Personnel: Oliver Spotted Horse (COR), and Orvel Gustafson (CFO)

Background: This principle is the overriding goal of the AML program and must be evaluated annually. The Tribe has obtained overall reclamation success in past evaluation years with the exception of sparse vegetation on some projects during dry years. Successful revegetation of these areas was accomplished in subsequent years.

Review Methodology: The evaluation of the overall reclamation consisted of site inspections of the sample sites to evaluate if reclamation objectives were met on the projected worked on during the evaluation year. Vegetation success was evaluated through site inspections of the two sites completed during the 2003 construction season. A review of the Tribe's internal project documentation and the NEPA documentation was reviewed prior to each site visit to determine the reclamation objectives for the project.

Population / Sample: The population consists of all completed reclamation projects and projects in the construction phase. The sample consisted of the three reclamation sites worked on during the evaluation year.

Findings and Conclusions: Due to a severe storm in the spring of 2004, severe topsoil erosion occurred on all of the sites visited.

Corrective Actions: Additional maintenance work and reseeding will be required to achieve overall reclamation success on the sites reclaimed during the evaluation year.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Timely Obligations of Available Funds

Review Dates: March 2-4, 2003, August 2-4, 2004, and September 15, 2004

Personnel: Neta Old Elk, Oliver Spotted Horse, Amy Lopez-Dexter (COR) and Orvel Gustafson (CFO)

Background: OSM Directive AML-22 Evaluation of State and Tribal Abandoned Mine Land Programs requires that grant recipients have systems in place that obligates available AML funds quickly. Due to poor project planning during EY2003 the Tribe did not apply for \$389,325 of funding.

Review Methodology: The analysis consisted of a comparison of AML funds available to the Tribe during FY2004 to the amount of funding applied for by the Tribe.

Population / Sample: Total AML funds available from OSM and applied for by the Tribe during the evaluation year. The sample was equal to the population.

Findings and Conclusions: The Tribe currently has \$362,938 (\$293,359 Tribal Share and \$69,579 Federal Share) in funds that have been appropriated but not applied for by the Tribe. This equates to approximately 39% of the funds that were available for construction during the evaluation year. This is a result of a lack of planning and preparation of projects for construction. The Tribe was instructed during the last evaluation year to plan adequate projects in advance to utilize these funds. Failure to do so gives the false impression that funding at lower levels is adequate to accomplish the needed reclamation on the reservation.

Corrective Actions: The Tribe must improve their project planning process so available funding is used in a timely manner.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Grants Management (Drawdown and Disbursement)

Review Dates: March 2-4, 2003 and August 2-4, 2004

Personnel: Laura Pretty Weasel and Amy Lopez-Dexter (COR) and Neal Jacquot and Orvel Gustafson (CFO)

Background: The US Treasury requires that grant recipients minimizing the time between the transfer of funds from the US Treasury and the pay out of funds for program purposes to the shortest time administratively possible. The Treasury requires that granting agencies review the grantees drawdown activities to assure that drawdowns are timely and that no excess funds are being held by the grantee. The COR makes all payments for their program through check payment. These payments are for payroll and all other costs and are paid biweekly. Timing of drawdowns is made to assure that check issuance occurs on the same day that funds from the drawdown are received in the COR's bank account. The Tribe held periodic cash balances in excess of immediate needs in amounts ranging from \$2,300 and \$2,700 during the previous evaluation year. Holding cash balances in excess of immediate needs has been a reoccurring deficiencies noted over past evaluation years.

Review Methodology: The analysis consisted of a review of month-end bank account reconciliations to determine if the significant book/bank balances existed as of the last day of each month.

Population / Sample: The population consisted of all month-end bank balance reconciliations from October 1, 2003 through June 30, 2004. The sample consisted of bank reconciliation from October 1, 2003 through May 31, 2004.

Findings and Conclusions: Funds in excess of immediate needs were held by the Tribe for three of the eleven months in amounts ranging from \$1,486 to \$20,791.

Corrective Actions: The Tribe must make timely adjustments to minimize the time that excess funds are held.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Grants Management (Accounting Procedures)

Review Dates: March 2-4, 2003 and August 2-4, 2004

Personnel: Amy Lopez-Dexter and Laura Pretty Weasel (COR) and Neal Jacquot and Orvel Gustafson (CFO)

Background: The Tribe's AML program requires that the program accounting system be separate and apart from the Tribe's central accounting system. The Tribe's AML program does not generate program income. Expenditures are a result of payroll, travel, and accounts payable transactions. The AML program pays payroll biweekly. The greatest amount of payroll activity occurs during the construction season. Travel occurs primarily for training and meetings. Account payables mainly result from the procurement of property, rental space, supplies, vehicles and gas related services, and utility services. In almost all instances, payment of accounts payable is conducted on a biweekly basis. All expenditures must be related to activities of the grants to which they are allocated. Bank reconciliations are prepared monthly. The previous year's evaluation revealed weakness relating to travel activities, cost allocations to grants, and cost categorization.

Review Methodology: The sample of transactions was selected from the check register. All documentation relating to each transaction was reviewed to determine if the transaction met all Federal requirements and that generally accepted accounting principles were used when accounting for the expenditures.

Population / Sample: The population consisted of all transactions and monthly bank reconciliations conducted during the evaluation year. The sample consisted of fifty-six transactions. These transactions included some transactions related to general purchases, all property purchases during the evaluation year and some transactions relating to payroll. In addition, the sample included a review of eleven monthly bank reconciliations, all transactions conducted to correct the weaknesses noted during the previous evaluation year, and transactions relating to the reimbursement of unallowable costs identified in the previous year's evaluation.

Findings and Conclusions: Findings were made in the following areas:

Travel – There were several instances where there were a lack of controls relating to travel advances, timely filing of travel claims, recovery of funds when advances exceeded allowable travel expenses and miscalculations of allowable travel costs. In all but two trips taken during the evaluation year, deficiencies were noted. There were two instances where travel costs were calculated improperly and five instances where travel reconciliation were not filed timely or were

not filed at all. All but one of the five instances resulted in funds being due to the program by the travelers. Travel reconciliation were filed as late as ten months after the travel and only after OSM found the deficiencies.

Budget Planning and Execution - Overruns on construction projects were significant. Overruns were approximately \$100,000 or 64% higher than the amounts planned. During the evaluation year, all project cost funding for the FY03 grant was exhausted prior to the end of the grant year (February 29, 2004). This shortage was due to over expenditure on projects. As a consequence, a funding crisis occurred because the program was out of construction funds. This issue occurred because budget amounts within the program were not adjusted to reflect the actual funding provided by OSM. As a result, all funding was expended although the budget system showed that adequate funds remained.

Analysis of budget activities relating to the FY2004 AML Grant revealed that the budgeted amounts were accurate in the budget tracking system but actual costs contained in the system were inaccurate. As a result, conditions continue to exist that could result in the same circumstances that created the first funding crisis.

Cost Allocations - There were two instances where costs were not appropriately allocated between the AML and the Regulatory Programs. This resulted in inaccurate total costs for each of the grants and violated grant terms by using funds from one grant to pay expenditures of another grant.

Payroll – During the evaluation period, a Tribal employee was paid using AML funds for five pay periods. The Director, CFO disallowed these costs and instructed the Tribe to immediately reimburse these costs to the AML program and to adjust drawdowns accordingly. Corrective action and the reimbursement of the unallowable costs by the Tribe did not occur until four months after the Tribe was instructed to take corrective action. This corrective action only took place after OSM made a final evaluation and found that the Tribe had not taken the corrective action.

Cash Management – There were six instances of non-sufficient check charges during the evaluation year indicating a lack of cash management. In addition there were several instances where checks were issued outside of the automated accounting system of which one was overlooked for entry into the system. These instances and the inability of the Tribe to maintain cash balances at levels to meet immediate needs (see Enhancement and Performance Review Report for Grants Management (Drawdown and Disbursements)) indicate a lack of cash management controls.

Protection of Accounting Data - In May 2004 a storm at the Crow Agency caused damage to the AML computer server. The surge protector is build into the backup battery pack. It was discovered after the damage that the backup battery pack had not been updated, hence, the battery pack was depleted. This may have caused the damage to the server. It took three weeks to get the server repaired. After the computer was fixed under warranty it was discovered that data had been lost because computer backups were not kept current. In addition, virus protection had not been installed on the server. At the Tribe's request, the Casper Field Office IT Specialist installed virus protection on all Program computers and made recommendations to the Tribe for improvements in hardware and software.

Corrective Actions: The Tribe must take appropriate action to correct the specific instances of non-compliance noted above and adjust accounting records accordingly. More significantly, the Tribe must establish policies and controls to correct the systemic weakness that resulted in the foregoing deficiencies.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Grants Management (Timeliness of Applications and Reports)

Review Dates: Continuous

Personnel: Amy Lopez-Dexter (COR) and Orvel Gustafson (CFO)

Background: The Tribe's grant/amendment applications for funds, interim and closeout reports, and requests for Authorizations to Proceed with projects must meet OSM's established timeframes.

Grant/amendment applications are required sixty days before the requested effective date of the grant, interim reports are due thirty days after the end of the reporting period and closeouts are required ninety days after the end of the grant period. Requests by the Tribe for Authorizations to Proceed with projects require sixty days lead time to allow OSM to perform historic preservation consultations and obtain necessary approvals. These timeframes were established to assure that funding and project approval actions result in continuous program operations and timely and accurate recordation of accomplishments and financial data relating to the Tribal AML Program. No deficiencies in this subelement were noted during the previous evaluation year.

Review Methodology: CFO continuously reviewed the timing of Tribal submissions of grant/amendment applications for funds, interim and closeout reports, and requests for Authorizations to Proceed with projects to assure that they met OSM's pre-established timeframes which would result in continuous program operations.

Population / Sample: The population consisted of all grant/amendment applications, requests for Authorizations to Proceed, and closeout reports required during EY2003. The sample equaled the population.

Findings and Conclusions: The Tribe failed to submit an amendment application for additional funding for the FY2003 grant until they had expended all funds from the grant. Grant applications are required 60 days before funding is required. This created a funding crisis which could have resulted in a lack of funding for the Program for 60 days. The Casper Field Office expedited the funding request and minimized the time the Program was without AML funding. In addition, the Tribe was 3 ½ months delinquent with the closeout report for the FY 2003 AML grant. This resulted in inaccurate costs in the OSM accounting system for the period that the closeout report was delinquent.

Corrective Actions: The Tribe must adopt controls that result in timely and accurate grant reporting.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Grants Management (Audits and Implementation of Audit Recommendations)

Review Dates: Continuous

Personnel: Amy Lopez-Dexter (COR) and Orvel Gustafson (CFO)

Background: The Tribe is subject to an annual OMB Circular A-133 audit. The Crow Tribe contracts with an independent CPA to have the A-133 audit completed annually. The Tribe has agreed to annually provide OSM with a copy of the audit report upon its completion. If there are findings related to OSM programs, OSM must resolve the findings with the Tribe. Due to the Department of Interior's audit resolution requirements, this subelement is reviewed each evaluation year. There have been no findings in recent years pertaining to the AML Program.

Review Methodology: Performance in this area is based on the Tribe's ability to provide OSM with a timely copy of the latest A-133 Audit and their ability to correct any findings contained in the report in a timely manner.

Population / Sample: The population consists of all of the findings in the latest A-133 Audit. The sample is equal to the population.

Findings and Conclusions: The latest A-133 audit report for the timeframe October 1, 2002 through September 30, 2003 was not provided to the Casper Field Office by the Tribe.

Corrective Actions: The Tribe must adopt procedures to provide OSM with the latest A-133 audit in a timely manner.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Grants Management (Procurement)

Review Dates: March 2-4, 2003 and August 2-4, 2004

Personnel: Amy Lopez Dexter and Laura Pretty Weasel (COR) and Neal Jacquot and Orvel Gustafson (CFO)

Background: The Tribe's AML program requires that AML program staff make procurements independent of the Tribal procurement activities. However, the AML program must use Tribal procurement procedures. There were six procurements where the files did not contain evidence of price competition prior to completion of the procurements. In addition, there was one instance where bids were evaluated on a per/hour basis with no consideration given to total cost. The seven procurements were performed in violation of Tribal procurement policies established to give reasonable assurance that the best price is obtained for goods and service purchased. The review also revealed numerous instances where procurements were made prior to completing purchase requests, funds availability determinations, and purchase orders as required by Tribal procurement policies and procedures. Circumventing these procedures raises the possibility of unauthorized purchases and the possibility of making purchases where funds were not budgeted for a particular purchase.

Review Methodology: Tribal procurement policies and procedures and all documentation for each of the sampled transactions were reviewed to ensure that the procurements were accomplished using Tribal procurement policies and procedures.

Population / Sample: The population of the procurement review was all procurements conducted during the evaluation year. The sample consisted of the same transactions selected to test the accounting procedures subelement excluding the payroll and travel transactions and the transactions relating to last year's findings. The sample consisted of thirty-seven accounts payable transactions.

Findings and Conclusions: There was significant improvement in this area since the last evaluation year. However, there were isolated instances where funds availability worksheets and purchase orders were not completed until after the procurement.

Corrective Actions: The Tribe must apply their procurement procedures and complete appropriate documentation prior to all procurements.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 2004**

Principles Being Evaluated: Programs should have systems in place to ensure accountability and responsibility for spending AML funds and a process to assure that such systems are working.

Subelement: Grants Management (Property Management)

Review Dates: March 2-4, 2003 and August 2-4, 2004

Personnel: Laura Pretty Weasel (COR) and Neal Jacquot and Orvel Gustafson (CFO)

Background: The Tribe's AML program requires that AML program staff manage AML program grant purchased property independent of the Tribal property management activities. However, property management activities must comply with Tribal procedures while meeting the minimum requirements of the Federal Common Rule. During the previous evaluation year, due to a lack of controls, none of the six pieces of property purchase and the eight items disposed of during the evaluation year was added to or eliminated from the property records, respectively. These same findings have been made during several previous evaluation years.

Review Methodology: The review methodology consisted of a review of procurements of property to assure that the property purchased during the evaluation year was entered into the property inventory records. In addition, property records were reviewed to determine if unneeded or unusable property had been properly disposed of and had been removed from the property records. The requirements of the Federal Common Rule were used in determining what property should be included in the property listing.

Population / Sample: The population was all property purchased and disposed of during the evaluation year. The sample was equal to the population.

Findings and Conclusions: Property controls continue to be a deficiency. The program's property listing is not being updated for new equipment and obsolete equipment is not being disposed of through disposition requests to OSM. Some old computer equipment could not be located when disposition had not been requested from OSM. In addition, vehicle log books were not being kept on a consistent basis. As a result, an unacceptable potential risk of loss of grant purchased property exists.

Corrective Actions: The Tribe must take an inventory of AML property and update their property records accordingly. A request to dispose of item of obsolete or unusable property should be submitted to OSM. The inventory records should be adjusted for any items of property approved by OSM for disposition. Vehicle logs must be consistently maintained as an internal control for fuel usage.

APPENDIX B

CROW TRIBE'S COMMENTS AND PROPOSED PLANS OF ACTION



Crow Country

CROW TRIBE EXECUTIVE BRANCH

P.O. Box 159
Crow Agency, Montana 59022
Phone: (406) 638-3700
Fax: (406) 638-3881

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BY:

Carl E. Venne,
CHAIRMAN

Vincent Goes Ahead, Jr.,
VICE-CHAIRMAN

Larry Little Owl,
SECRETARY

Hubert B. Two Leggins,
VICE-SECRETARY

November 4, 2004

Mr. Guy Padgett
United States Department of Interior
Office of Surface Mining
Reclamation and Enforcement
Casper Field Office
150 East "B" Street Rm 1018
Casper, WY 82601

Dear Mr. Padgett,

In response to the draft copy of the Annual Evaluation Report of the Crow Abandoned Mine Land program for fiscal year 2003, we submit the following comments. Before doing so, however, we would like to emphasize that the Crow Tribe Abandoned Mine Land Program (AML) takes our responsibility seriously in regards to grant management, accounting for funds and maintaining sound financial internal controls in order to prevent any irregularities or defalcations. We appreciate the oversight of our program conducted by the Casper office of OSM during the past year. During the oversight, a number of findings regarding were noted. Our plan of action to correct these is noted in the following paragraphs. However, in our opinion, none of these findings involved grant mismanagement, misuse of funds or intentional disregard of OSM and tribal policies. Also, in our view, the findings do not rise to the level of a material weakness in our program or accounting system. As required by federal guidelines, we are audited annually as part of the Crow Tribe's annual audit by an independent certified public accounting firm. As part of the required A -133 annual audit, the CPA firm conducts on site tests of the AML accounting records and internal controls. During the past five years, the audit did not mention any findings or material weaknesses in the AML program. We believe this a reflection of our resolve to ensure that the integrity of our program is maintained and our willingness to keep an open line of communication with the OSM staff regarding program management and financial matters.

We do not believe, as stated on page 4 of the evaluation report, that there are “unacceptable risks to government funds and property” or that the “overall performance is deteriorating.” The AML program is addressing the findings noted in the report.

Response to annual report comments regarding program, financial and accounting issues

Overall Reclamation Success: (p. A-3). It is noted in the report that due to a severe storm that some of the recent reclamation work was damaged and there is a need to go back to the sites and repair the damage done by the storms.

Plan of Action: In the grant application for fiscal year 2005, we will request funds to perform maintenance on two of the sites damaged during the storm.

Timely Obligations of Available Funds :(p. A-4). The annual report found that there are funds that have been appropriated for reclamation work by the Crow Tribe but the tribe has not applied to utilize all funds.

Plan of Action: During the past two years the Tribe has moved from outsourcing environmental assessments of potential mine reclamation sites to performing all necessary duties in house. During this period the program has encountered some difficulties in regards to obtaining necessary technical equipment and software to complete the work in a timely manner. These problems have been addressed and now the AML program has GIS, AutoCAD and other software capabilities in order to accurately complete environmental assessments.

In addition to the two site maintenance projects discussed above, we are anticipating the submission of a total of eight sites for the fiscal year 2005. If all these applications are completed and accepted it will represent a significant increase over the total of seven sites reclaimed for the past two years combined.

Timely grant closeout reporting (p. 4) Due to health and personal issues of key accounting personnel, the program requested several extensions in order to complete the closeout reports for the 2003 year. The closeout reports have been completed and were submitted to OSM in September of 2004.

Plan of Action: In order to prevent delays in completing the close out report in future years, AML has instituted a procedure whereby the programs expenditures are reconciled to drawdowns on a monthly basis. By completing these reconciliation, the completion of the annual close out reports will be completed in a timely manner.

Distribution of costs to appropriate budget categories and grants: (p. 4, A-7). The annual report states that there were two instances of incorrect allocation of an expenditure. Also, in completing the closeout reports and analyzing the variances of budget to actual, AML staff did discover that some staff salary was not being correctly allocated between administration and construction costs. Upon further research, it was

found that this error was caused by following advice given by OSM staff regarding the allocations. This was an instance of the AML staff communicating with OSM regarding correct accounting of the programs funds. The problem was corrected after discovery and the final closeout report correctly reported expenditures to the appropriate grants and programs.

Plan of action: The accounting staff of the AML program has made the necessary corrections in allocating the above expenditures to the proper grants and programs. All other expenditures are coded to the correct category when the expenditure is incurred. In the event there is a miscoding, it is accounting policy to make an adjusting entry and to adjust a future drawdown to correct the error.

Management of property :(p.4, A-12). The evaluation report states that the program's property listing is not being updated for new equipment and obsolete equipment are not disposed through disposition requests. Also, the report stated that vehicle log books are not being kept on a consistent basis.

Plan of action: AML understands the importance of fixed asset controls. AML has communicated its need for assistance to OSM in this area. OSM has agreed to provide assistance but due to scheduling problems and lack of necessary information from the Crow Tribe's finance department, this assistance has not taken place in order to update the property records. During the coming year, it will be a priority to meet with OSM staff in order that the property records reflect an accurate accounting of the program's assets.

Regarding the vehicle log books, it will be the program's policy to communicate to drivers the necessity of maintaining accurate, current log books. Also, these log books will be inspected and monitored to ensure that gasoline usage appears appropriate and that all travel is program related.

Travel related issues: (p A-6). It was noted during the oversight that the OSM staff found that one trip taken by an AML employee was not reconciled in a timely manner. AML has received proper documentation for this trip along with the reconciliation. This employee was entitled to an additional reimbursement because trip expenditures exceeded the advance for the trip.

There were three other instances noted where employees hadn't properly reconciled their trip and an amount due that totaled approximately \$290 was owed to the program. These amounts have been reimbursed to the program since these findings and drawdowns for the year were adjusted accordingly before the final closeout was completed. These deficiencies have been corrected despite the statement on page 4 of the report.

Plan of Action: The AML program will work to ensure that travel reconciliations are completed within the timeframe and in accordance to the policies of the Crow Tribe.

Budget Execution: (p. A-7) the annual report noted due to lack of budgetary controls the program was not able to accurately monitor funds availability for its allowable expenditures.

Plan of action: Prior to this finding by OSM, the program tracked its budget vs. actual expenditures by utilizing an Excel spreadsheet. Because the program used QuickBooks to record its actual expenditures, accounting personnel needed to enter all transaction twice (once in QuickBooks and once in Excel).In order to correct this problem and make the

accounting operations more efficient, AML has begun to utilize the budget function of the QuickBooks program. The current program awards have been set up in QuickBooks as budgeted items. As expenditures are paid and entered into QuickBooks, the system automatically updates actual expenditures. Reports can be prepared at any time to monitor funds availability. As part of the monthly operations, a statement of revenues versus expenditures with remaining funds available for each program is printed and provided to the program director. By following the above plan, any future problems regarding unavailability of funds or over expenditure of budgets should be avoided.

Cash Management :(p. A-5, A-7)) It was noted in the annual report that the AML had maintained excess amounts of cash in its bank accounts. Also it was noted that there were several NSF charges during the evaluation period.

Plan of Action: The AML program acknowledges that U.S. Treasury guidelines require that drawdowns are timely and that no excess federal funds are being held by grantees. It is the policy of AML that drawdown requests equal the amount of expenditures to be paid immediately. Upon final closeout, it was verified that allowable expenditures of the program equaled total drawdowns for the year. As of October 2004, AML has determined that after accounting for an insurance reimbursement and a negative drawdown that was needed to properly reflect current expenditures, that the available cash in the bank was less than \$400. This situation will continue to be monitored and any necessary adjustments will be made.

The program incurred some NSF charges due to a period of the year when it was experiencing computer problems and the cash balances reported were inaccurate. These problems have been corrected and it should not incur any of these charges in the future.

Payroll Internal Controls (A-7). The final report discussed a situation where an employee that was working for AML as a receptionist was not approved. As stated in the final report, this unallowable expenditure was corrected and funds were reimbursed to the program and all relevant reports were corrected.

Plan of Action: AML regrets that the amount of time to receive reimbursement from the Crow Tribe was more than four months. AML requested these funds from the Tribe when the problem was pointed out but was not able to actually receive reimbursement from the Tribe until much later.

Protection of Accounting Data (p.A-7). The annual report describes an unfortunate situation that occurred during an electrical storm whereby there was a major computer failure. This was a painful lesson that required much lost data be re-inputted and records reconstructed.

Plan of Action: Since this event, AML has instituted a policy of weekly back-ups and regular checking to ensure that the backup battery pack for the computer server is fully charged. AML is grateful for the support received by OSM for the assistance of installing virus protection.

Timeliness of Applications: (p.A-9). The annual report discussed a situation in which a budget amendment application was not received on a timely basis.

Plan of Action: This problem occurred in large part due to the need for a better system of tracking budget versus actual expenditures. Please see comments above regarding budget execution. We believe by implementing the plan of fully utilizing the QuickBooks software, any future amendment will be made in a timely manner.

Audits: (p. A-10). The annual report found that the annual audit by the independent auditor of the Crow Tribe had not been received by the Casper Field Office.

Plan of Action: Since the AML program audit is part of the overall audit of the Crow Tribe and all of its federal programs, the AML has little control over the timeliness and completion of the audit. The audit is contracted and monitored by the Crow Tribe finance department. We understand that the audit for the year in question is being completed and as soon as the report is available it will be submitted to the Casper field office. For more information please contact Ms. Jodi Klind, Crow Tribe Finance Department. Telephone 406-638-3843.

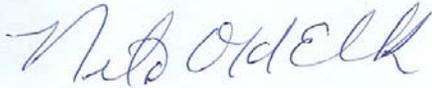
Procurement: (p.A-11). The annual report noted that it reviewed a sample of 37 accounts payable transactions. The oversight found that in 2 instances the funds availability worksheet that accompanied the supporting documentation was not completed until after the check was written. The report also noted that there "...was a significant improvement in this area since the last evaluation year."

Plan of Action: The AML program will continue to strive for complete documentation, competitive bids and proper allocation of expenditures.

In conclusion, we would again like to thank the staff of OSM for their input and advice in making the Crow AML program a better managed and fiscally responsible organization. We believe that we do have room for improvement and as can be evidenced by the above plan of action we have either taken or will take steps to address your concerns. We would believe that based on the issues involved and measures taken to address your concerns that our program does not warrant a designation of "high risk" grantee.

Should you have any questions regarding this letter, please feel free to contact me.

Respectfully yours,



Neta Old Elk, Director, Crow Office of Reclamation

Cc: Carl E. Venne, Chairman, Crow Tribe of Indians
Allen D. Klein, Regional Director, OSM Denver