

**OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT
ANNUAL EVALUATION REPORT**

**on the
HOPI ABANDONED MINE LAND
RECLAMATION PROGRAM**

Evaluation Year – 2005
(July 1, 2004 through June 30, 2005)



INTRODUCTION

This annual evaluation report is produced by the Office of Surface Mining (OSM) in fulfillment of its Statutory responsibility [under the Surface Mining Control and Reclamation Act of 1977, (SMCRA)] to annually assess the accomplishments of the Hopi Abandoned Mine Lands Reclamation Program (Hopi AML Program). The annual report consists of OSM's oversight findings based on field inspections and meetings with the Hopi Abandoned Mine Land Program during the 12-month evaluation period beginning July 1, 2003 and ending June 30, 2004.

The Office of Surface Mining Reclamation and Enforcement (OSM) has responsibility under SMCRA for approving State and Tribal Abandoned Mine Land Programs, to carry out the goals of Title IV of SMCRA. The primary goal of Abandoned Mine Land Programs is to mitigate the effects of past coal mining, by reclaiming abandoned mines. The primary emphasis is placed on correcting the most serious problems endangering public health, safety, general welfare, and property. Once this is accomplished, secondary emphasis is placed on the remediation of mining related impacts to impacted communities. This remediation is through the funding of public facility or infrastructure projects.

On behalf of the Secretary of the Department of the Interior, OSM administers the Abandoned Mine Reclamation Fund by awarding grants to States and Tribes, to cover the administration and reclamation costs of running their Programs. The OSM Western Regional Coordinating Center's (WRCC) Albuquerque Field Office (AFO) provides assistance to the Program and, through oversight, annually monitors the Hopi AML Program's performance.

PART I GENERAL INFORMATION

Program History:

The Hopi inhabit twelve villages and one community on the Hopi Reservation. Under its 1936 Constitution and By-Laws, the Hopi Tribe consists of a Union of 12 self-governing Villages or Communities.

- June 28, 1988 - OSM approved the Hopi AML Program. Hopi AML did not apply for an Emergency AML Program, so OSM retains the responsibility for reclamation of "emergency" AML projects.
- June 9, 1994 - approximately six years after the Program was approved, the Secretary of the Interior concurred with the Hopi AML's certification that all known eligible priority-1 and priority-2 abandoned coal mines were reclaimed. A total of \$1,188,524 was spent by Hopi AML reclaiming abandoned coal mines on the Hopi Reservation.

Aside from its responsibility to "maintain" past mine reclamation work or to reclaim any newly identified abandoned coal mine hazards, the Program is no longer actively involved with mine hazard remediation work of either coal or non-coal mines. Having certified completion of all known coal reclamation, the Program is eligible to use AML funds to construct **Public Facility Projects (PFPs)** or **Community Impact Projects (CIPs)**. Since June 1994, the Program has almost exclusively focused its efforts on the construction of PFPs.

Program Staffing:

The Program consists of six employees, the Office of Mining and Mineral Resources Director (40% funded by AML), a Construction Superintendent, a Project Manager, an Administrative Secretary, and an Equipment Pool Coordinator. All but the Director position are 100% funded by Hopi AML. The Hopi AML office is a manufactured building located in Kykotsmovi, Arizona on the north side of Highway 264.

Hopi Public Facility Program:

Sections 411(e) and (f) of SMCRA provide for infrastructure development projects as a means of offsetting both current and past mining related impact to Hopi communities. PFPs are considered priority-3 and -4 infrastructure or public facility projects and are perceived by SMCRA as a means of offsetting mining related impacts to State and Tribal populations and by contributing to the development or expansion of local infrastructure and other public facilities.

Basic human needs greatly exceed the funds available from AML and from other Tribal, State, and Federal sources. The AML Program has conducted substantial public outreach to explain what types of facilities are eligible for AML funding, has provided guidance and assistance to each village regarding the funding criteria for PFPs and has allocated approximately \$200,000 for each village that responds with a project proposal.

The Hopi government also determines their own priorities for Tribal-wide PFPs. Hopi AML funded construction of the Hopi Conference and Wellness Center PFP which was completed in 2004. This tribal-wide project was built by a licensed contractor.

Several of the Public Facility Projects completed to date were funded in partnership by Hopi AML and other Agencies. Other sources of funding include Village, Tribal, State, Private funds, or funding from other Federal agencies. [See Table-1 of this report for a listing of Public Facility Projects and their funding status.]

PFP Project Management:

After a project is funded, the Hopi AML Program works with the project development task team. The team typically consists of Village administrators, contractors and tribal representatives from other Departments or Federal agencies such as Indian Health Service. Project development typically includes:

- 1) Obtaining environmental clearances and hiring contractors if necessary to perform biological or cultural & historic surveys and to write environmental documents;
- 2) Securing all necessary permits and to meet National Environmental Policy Act (NEPA) requirements;
- 3) Developing geo-technical surveys, to perform legal property assessments;
- 4) Performing hazardous property assessments; and,
- 5) Development of architectural / engineering specifications and contract specifications for the project.

Hopi AML submits a project package to OSM with the necessary National Environmental Policy Act (NEPA) compliance documents such as environmental assessments (EAs) or Categorical Exclusions (CXs) and environmental / cultural & historic clearances. OSM then issues a Finding of No Significant

Impact (FONSI) and grants an Authorization to Proceed (ATP) with construction. Program Administration grants and Construction grants are issued separately to the Hopi AML Program. Administration grants are awarded on an annual basis and construction grants are good for up to three years.

The Hopi AML Program works with the Tribal government and Villages to monitor the project construction work and to account for expenditures. In addition, the AML Program is responsible for keeping the Tribal government and village governing boards informed of project status and concerns. The Hopi AML Program bids out the contract, selects the lowest responsible bidder (contractor) through a competitive bidding process and monitors the construction activity for compliance with schedules, NEPA, etc.

The Hopi AML Program does not oversee compliance with building code or design specifications for structurally significant buildings. However, Hopi AML has developed the contracts that specify compliance with the Uniform Building Code.

Status of Fee Collections and Fund Distributions:

The Abandoned Mine Reclamation Fund consists of fees, contributions, late payment interest, penalties, administrative charges, and interest earned on investment of the fund's principal. Nationwide, from January 30, 1978, when the first fees were paid, through March 31, 2004, the nationwide fund has collected \$7,365,482,909.13 and total appropriations nationwide during this same period were \$ 5,748,548,370.03. The current un-appropriated balance of the national AML Fund (1996 – March 31, 2004) is \$1,616,934,539.

Specifically for Hopi, between \$1.0 and \$1.5 million in AML fees are collected annually from active coal production on Hopi land. Hopi total State-share collections, from January 1978 to September 30, 2004, total approximately \$27,860,074 in coal fees. State-share (50%) collections for this amount would therefore be \$13,930,037. However, State-share distributions thus far have only totaled \$8,508,931 (61% of State-share collections). The difference, \$5,421,931, is the Hopi undistributed State-share balance as of September 30, 2004. Current figures for the end of the evaluation period (June 30, 2005) are not yet published and available.

Grants and Financial Information:

The following table shows grants that were active during the evaluation period:

Grant Number	Awarded	Amount
GR 107800	09/01/01	\$ 2,656,021.00 (in closing process)
GR 207800	09/01/02	\$ 382,667.00 (closed out)
GR 307800	09/01/03	\$ 484,579.00 (active)
GR 407800	09/01/04	\$ 313,162.00

Program Maintenance (AML Plan):

There are no oversight issues with regard to Program maintenance (maintaining a current AML Plan / regulations) nor do any Program maintenance deficiencies currently exist with regard to the Hopi AML Plan. Timeliness of Program maintenance has never been an issue.

PART II. NOTEWORTHY ACCOMPLISHMENTS

OSM would like to highlight the following accomplishments for EY-2005:

1. The Hopi AML Program did not have any Public Facility Projects in construction during EY-2005, however, it has been working with three Villages to get three PFP proposals developed. These projects are the Mishongnovi Water Well Project, the Tewa Modular Office Complex Project and the Walpi Bathroom & Meeting Room Project.
2. The Hopi AML Program also did an exemplary job with its Equipment Rental Program. This program has generated sufficient income (\$40,000 to \$50,000 per year) to make the Rental Program self-sufficient and has generated a positive image for the Program among the Hopi Villages. (See Photographs on the cover and at the end of this report, showing the Equipment Rental Program working on the Hopi High School football field.)
3. The Hopi AML Program re-surveyed approximately 50% of its past AML Reclamation Projects for site stability, erosion, etc., to determine if any maintenance work is needed. As a result of that survey, maintenance work was determined to be necessary at eight sites or areas. The Program is currently putting together a scope of work for the maintenance project. The project should commence construction in late summer 2005. The 2006 oversight report will contain information on the project accomplishments.

PART III. RESULTS OF ENHANCEMENT AND PERFORMANCE REVIEWS

In the past, Hopi AML has had difficulties in getting the remaining Villages to propose and adopt resolutions for PFP. The Hopi AML Program has little or no control over Village project selection, Village priorities are determined by the respective Villages. Therefore, because Village projects are sometimes difficult to bring on line, due to their selection process, OSM has recommended that Hopi AML switch their emphasis to Tribal-wide projects.

The 2004 annual oversight report recommended that Hopi AML strive to have projects in the project development stage and in construction. This would provide the continuous stream of projects that is needed to show that the AML Program can realistically utilize its \$5M tribal-share balance that currently exists in unallocated state/tribal share funds.

In response, the Hopi AML Program expressed concern that their annual appropriation of only about \$400,000 severely limits their ability to pursue larger Tribal-wide projects. At that time, AFO agreed to discuss this issue with OSM headquarters to determine if larger multi-year grants can be awarded and if so, it may be possible for Hopi AML to take on another large Tribal-wide project like the completed Hopi Conference and Wellness Center Project.

Usually, OSM evaluates the Hopi AML Program's effectiveness in getting projects through the project development stage and into construction in a timely manner. However, this year the Program did not have adequate construction funds to dedicate to construction of a large PFP. Given the lack of sufficient construction funds, OSM management decided that it was inappropriate for OSM to prepare a workplan to evaluate the Hopi AML Program accomplishments in EY-2005. Therefore, OSM did not conduct Enhancement and Performance Reviews of the Hopi AML Program during EY-2005.

Hopi AML has informally agreed to shift its emphasis away from Villages and toward tribal wide projects. However, it also remains open to receiving and funding eligible Village project proposals when Villages demonstrate an interest in cooperating on a PFP.

Tribal wide projects are larger projects that require substantially more funds. Unfortunately, coal production on Hopi land has diminished to the point that Hopi AML will likely have to accumulate (save) funds for two years in order to amass sufficient funds for a tribal wide project. In the past Hopi AML has combined AML funds with funds from other Federal, State or Tribal sources in order to bring a PFP to fruition.

[AML Program Accomplishments During the Evaluation Period](#)

During EY-2005 the Hopi AML Program was involved with three Villages in finalizing project proposals for PFP funding and in project development. These potential PFPs are the Walpi - bathroom additions, the Moshongnovi - Water Well Project and the Tewa Modular Office Building. All are in the planning and development stages and are discussed in detail below. Hopi AML anticipates that the Walpi PFP will likely be funded soon and will also enter construction in late 2005 or early 2006.

In addition, AML reclamation maintenance surveys were conducted on past reclamation sites. The survey work concluded that some maintenance work was needed as several sites. Hopi AML is in the

process of developing a scope of work for the reclamation maintenance work so that it can be contracted out. This is consistent with Program certification requirements and the Hopi AML Plan.

1. Tewa Modular Office Building (Administrative Office Building).

A potential Hopi AML PFP is for the Village of Tewa to purchase and set-up a 3,920 square foot (56 ft. X 57 ft.) modular building. The Village will contribute additional funds to provide water, sewer, and electrical utilities to the building. The village has a land use plan that includes construction of the building. Environmental / NEPA clearances have been obtained for the project except for the archaeological clearance from the State of Arizona. The status of this project has not changed from what was reported in the 2003 and 2004 annual evaluation reports.

However, Hopi AML anticipates the Tewa Modular Office Building Project will be funded and will commence construction in late 2005 or early 2006. As of this report, this project is still in the planning stages and has not been formally submitted to Hopi AML for funding. Work is ongoing with regard to the other two, however, it is not possible to forecast funding at this time.

2. Walpi Bathhouse Renovation and Office Addition Project.

The Village of Walpi is one of the oldest inhabited establishments in North America.

The Village Council submitted a Council Resolution for PFP projects, which include expansion to the existing bathhouse and the construction of a new addition for Village office space for administration personnel. Expansion to the existing "bath house" building will include an administrative office, maintenance office, a kitchen area and storage space. The existing bath house provides shower facilities for area residents whose homes do not currently have running water and associated facilities.

The project would potentially impact less than one acre. A categorical exclusion will be prepared for NEPA compliance. The status of this PFP has not changed from what was reported in the 2003 & 2004 annual evaluation report, however the project is expected to enter construction in about 8 months.

3. Moshongnovi - Water Well Project

The Village of Moshongnovi has prepared a Village Resolution for building restroom facilities for the entire Village. However, in 2005 the Village Board changed its mind and decided that it may use AML funds for the construction of a well for domestic drinking water use. A site has been selected for the well and a new Village Resolution will need to be adopted. Hopi AML is currently working with the Village Board on project development. There may be additional funding provided by the Arizona Rural Development Corporation and from Indian Health Service.

TABLE 1
Status of Public Facility Projects

Project	Village	Status (Funded or Completed)	Amount Funded by AML to Date
Bacavi Plaza Restoration	Bacavi	Completed 01/98	\$200,000. AML \$ 62,722. Az. H.Fnd.
Hopi HS reverse osmosis water purification	Tribal-wide	Completed 11/98	\$100,000. AML \$250,000. BOR
Moenkopi community & youth center	Moenkopi	Completed 09/99	\$235,000. \$100,000 Moenkopi
Sipaulovi cultural & historic resources	Sipaulovi	Completed 03/01	\$225,000. AML \$ 54,185. Sipaulovi
Mishongnovi sewage facility	Mishongnovi	Project abandoned	\$ 13,225. for EA
Polacca day school multi-purpose bldg.	Polacca	Project abandoned. (new school built in lieu of project).	\$ 2,066. for EA
Westside Wildland Fire Station	Tribal-wide	Completed 2002 AML funded NEPA % only.	\$ 36,073. AML
Kykotsmovi sewage lagoon treatment	Kykotsmovi	Construction began 10/17/01. Completed 09/17/02.	\$215,000. AML \$200,000 IHS \$350,000. USDA-RD
Yu-Weh-Loo Pah-ki (Spider Mound) well & fluoride treatment	Spider Mound	Well Completed 2003. Pump-house is pending.	\$215,000. AML (\$55K not used & remains for Village)
Shongopavi Community Bldg. Renovation	Shongopavi	Project is pending.	\$35,000 for project development.
Hopi Veterans Memorial Center Conference & Wellness Center	Tribal-wide	Completed 12/24/04	\$1.8 Million
Hotevilla Youth / Elderly Center	Hotevilla	Completed 11/01/04	\$235,414. AML \$300,000 Hotevilla
Public Coal Project & Equip. Rental Pgm.	Tribal-wide	Ongoing energy program. Ongoing rental program	\$341,352 Self-sustaining
Tewa Modular Off. Bldg.	Tewa	Proj. Development	\$0 AML \$ Tewa
	Lower Moencopi	No project proposal	\$0
	1 st Mesa Consol.	No project proposal	\$0
	Old Oraibi	No project proposal	\$0
	Mishongnovi	No project proposal	\$0
Walpi – Bldg., Kiva & Stabilization Project	Walpi	Hist. Renov. & Planning	\$0
Turquoise Community	Tribal-wide	Planning ongoing by Tribal government	\$4,888. AML for Arch. & Eng.

PART IV. ACCOMPLISHMENTS AND RECOMMENDATIONS

Conclusions and Recommendations:

In the previous evaluation periods (EY-2003 and EY-2004) OSM found that Hopi AML has done an excellent job with public outreach. Numerous meetings were held with the Villages of Yu-Weh-Loo Pah-ki (Spider Mound), Tewa, Walpi, Kykotsmovi, and Hotevilla Villages. In addition, at that time OSM had determined that the AML Program has worked with the Tribal Administration on Tribal-wide projects such as the Hopi Conference & Wellness Center project and the Westside Wildland Fire Station Project.

The Hotevilla Elderly & Youth Center project and the Hopi VMC, Health and Wellness Center project were completed in 2004. Both of these projects were completed as proposed in the project proposal applications and grant applications. OSM determined that the objectives for both projects were met and the projects were successful. The Tewa project was not submitted to OSM for authorization to proceed, during EY-2005 as had been anticipated, however, it is anticipated that Hopi AML will submit the project proposal package to OSM sometime in EY-2006.

Past OSM oversight activity determined that the Hopi AML Program is cost effective and PFPs (completed) are of excellent quality; that the Program has adequately sought out public involvement on the Hopi Reservation in determining project priorities and selecting projects; that the Program has done an exemplary job of ensuring that projects proposed for funding meet the eligibility requirements of SMCRA; that the Program has routinely scheduled and sponsored oversight tours of construction projects as necessary and has efficiently provided information to OSM when requested.

Hopi Equipment Rental Program -
Working on Hopi H.S. football field
(3 photos).



