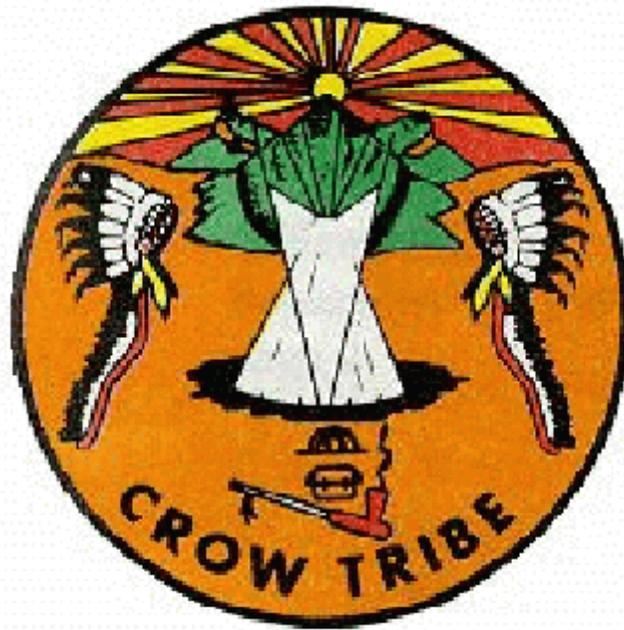


**CROW TRIBE  
ABANDONED MINE LAND  
ANNUAL REPORT  
EVALUATION YEAR 2005**

**July 1, 2004 though June 30, 2005**



**PREPARED BY THE  
OFFICE OF SURFACE MINING  
CASPER FIELD OFFICE  
October 18, 2005**

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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.

All reclamation funds to support the Tribe's program are generated from the one active mine located in the Ceded Area. During Calendar Year 2004, production from this mine was approximately 6.017 million tons. The FY2005 allocation to the Tribe was \$530,907 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 FY 2005 allocation.

The COR administrative staff is made up of 3.55 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 24 laborers and foremen during this evaluation year. The construction season began in April and will continue through November.

The 2005 evaluation period started on July 1, 2004 and concluded June 30, 2005. 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.

## **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.

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, in the FY '04 Evaluation Report the CFO found that the Tribe continued 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.

These deficiencies were considered significant because they were systemic deficiencies resulting in unacceptable risks to proper management of grant funds and property. The Tribe had exhibited no interest in correcting the deficiencies prior to this 2005 Evaluation Year. As a result, the unacceptable risks to government funds and property were continuing. The CFO had concluded that the Tribe's overall performance was deteriorating to an unacceptable level. Due to the seriousness of the deficiencies, the Tribe was informed that the OSM would consider designating the Tribe as a "high risk" grantee if immediate corrective action was 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 considered increased involvement essential to minimize the elevated program risks to grant funds and property.

During this FY '05 evaluation year, OSM was to 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 (Appendix B of FY 2004 Evaluation Report). If corrective actions were not implemented, the CFO would then consider action to have the Crow Tribe's grants program designated a "high risk" grantee.

Appendix A contains the "Enhancement and Performance Review Reports" reflecting the details of the reviews conducted during this FY 2005 evaluation year and how the Crow Tribe fared in addressing the program deficiencies described in OSM's FY 2004 Annual Evaluation Report of the Crow's AML Program.

### **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 coal site, six low priority coal sites and two maintenance projects. Construction on the one high priority site was started during the 2003 construction season and will be completed during the next evaluation period. Construction on one of the low priority sites was started during the last evaluation period and completed during this evaluation period. Construction on two of the low priority sites were both started and completed during this evaluation period. Construction on the other three low priority sites was initiated late in the evaluation period and will be completed during the next evaluation period. Both maintenance projects were started and completed during the evaluation period. Work on the seven sites resulted in the completed reclamation of approximately 2 2/3 acres. Projects worked on during the evaluation year consisting of a portal, minor highwalls, pits, gob piles and spoil areas.

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
<b>Priority 1 &amp; 2 (Protection of public health, safety, and general welfare)</b>							
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	-	-
<b>Priority 3 (Environmental restoration)</b>							
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**

**CROW TRIBE OF INDIANS AML PROGRAM  
ENHANCEMENT AND PERFORMANCE REVIEW REPORT  
EVALUATION YEAR 2005**

**Summary:** Review findings on the resolution of outstanding issues regarding program, financial and accounting program elements contained in Appendix A of the 2004 Crow Tribe Evaluation Year Report. This FY 2005 Annual Evaluation Review took place at the administrative office of the Crow AML Program, located on the Crow Reservation on July 20 and 21, 2005. Two OSM Employees Alan Boehms, AML Program Specialist, and Frank Atencio, Acting Casper Field Office Director (FOD), met with management and program staff of the Crow Tribe to conduct this evaluation.

Background: In the FY 2004 Crow Tribe Annual Evaluation Report OSM (Appendix A) found a number of program and financial areas that needed corrective actions to be taken by the Crow Tribe in order to show that they can properly administer their AML Program. Of the principles evaluated during FY 2004 the OSM findings document a total of eight corrective actions that the Crow Tribe needed to implement within the FY 2005 program year. In response the Crow Tribal Program proposed twelve plans of action that it would take to correct the deficiencies found during the FY 2004 Evaluation Year (Appendix B).

During this annual evaluation review the two OSM reviewers chose to concentrate on the plans of action that the Crow Tribe had proposed to address the corrective actions identified as deficiencies by OSM during FY 2004. Our approach was to meet with the Crow Office and Managerial Staff to talk about the progress that the Crow Program Staff believed it had made during this FY 2005 Evaluation Year. We discussed each proposed plan of action and listened to how the Crow Program had addressed them. Some plans of action issues were resolved at the discussion table as the Crow Staff was able to explain what resolution measures took place. In other areas such as property inventory, vehicle log books, travel records, cash management, audit reports and funds availability for procurement purposes we looked at source documents, receipts, bank reconciliation records, and cash management records and funding drawdown reports. We also asked for recent audit reports and we were able to obtain copies of the FY 2002 and FY 2003 Audits of the Crow AML Program. We were also informed that the FY 2004 Audit Report is in draft form and should be made available to OSM by the fall of 2005.

In summary, the Crow Tribe made great strides during FY 2005 in addressing all twelve plans of action that its AML Program Staff had proposed. There were only three areas where there appeared to be some form of weakness but they were already in the process of being resolved by the Tribe prior to our evaluation review. Among these were one grant closeout, one travel advance that needed to be reimbursed and the audit reports that had not been submitted to OSM. We found all funds and property were safeguarded by the Crow's internal control system and as of this reporting period we do not classify them as a "high risk" grantee. Furthermore, we found no areas of material weakness within their internal controls nor did we find any evidence of waste, fraud or abuse within the Crow AML Program.

**CROW TRIBE OF INDIANS AML PROGRAM  
ENHANCEMENT AND PERFORMANCE REVIEW REPORT  
EVALUATION YEAR 2005**

**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:** Marvin Falls Down, Sr. (COR) and Alan Boehms (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 2005**

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

**Subelement:** Overall Reclamation Success

**Review Dates:** July 19, 2005

**Personnel:** Marvin Falls Down, Sr. (COR), and Alan Boehms (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 projects worked on during the evaluation year. Vegetation success was evaluated through site inspections of recent maintenance activities (May and June, 2005) conducted on two of the three sites completed during the 2003 construction season. The previous evaluation year report indicated additional maintenance work and reseeding were required to achieve overall reclamation success. 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 maintenance projects and projects in the construction phase. The sample consisted of two of the three reclamation maintenance sites worked on during the evaluation year.

**Findings and Conclusions:** Recent maintenance activities conducted to correct severe topsoil erosion that had occurred due to a severe storm in the spring, 2004, were successful. Portions of the sites had been reseeded and mulched, with germination present on the portions of the sites that previously lacked adequate vegetation. High winds had blown straw mulch off of ridge top areas and steeper slopes.

**Corrective Actions:** Erosion control blanket is recommended for the ridge top areas and steeper slopes to enhance germination.

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

## EVALUATION YEAR 2005

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

**Subelement:** Timely Obligations of Available Funds.

**Review Dates:** July 20 and 21, 2005

**Personnel:** Crow Tribe-Marvin Stewart, Director Crow Office of Reclamation; Marvin Falls Down, Sr., Project Coordinator; Amy Lopez Dexter, Finance Manager; Laura Pretty Weasel, Office Specialist; OSM-Frank Atencio, Acting FOD; Alan Boehms, Program Specialist.

**Background:** OSM Directive AML-22 Evaluation of State and Tribal Abandoned Mine Land Programs requires that grant recipients have systems in place that obligate available AML funds in a timely manner.

**Review Methodology:** The analysis consisted of a comparison of AML funds available to the Tribe during FY 2005 to the amount 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:** In the FY 2004 Crow Tribe Evaluation Report as a corrective measure OSM recommended that “The tribe must improve their project planning process so available funding is used in a timely manner.” As part of its plan of action the Crow Tribe stated that it had obtained necessary technical equipment and software to complete 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 the Tribe projected a total of eight sites to reclaim during FY 2005 and thus, funds would be asked for and spent in a timely manner.

As of the time of this review, three low priority projects and two maintenance projects all comprising seven sites had been reclaimed during FY2005, and work was beginning on three new projects. A fourth high priority project, started during the 2003 construction season, is expected to be completed by the end of the 2005 construction season. This review found that construction activity is taking place on a regular basis and that all funds have been applied for and used as needed. We found that available funds are being obligated in a timely manner.

**Corrective Actions:** None, it is recommended however that OSM continue to monitor this evaluative element for at least the next two fiscal years to ensure that the timely obligation of available funds continues as committed to by the Crow Tribe.

**CROW TRIBE OF INDIANS AML PROGRAM  
ENHANCEMENT AND PERFORMANCE REVIEW REPORT  
EVALUATION YEAR 2005**

**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:** July 20 and 21, 2005

**Personnel:** Crow Tribe-Marvin Stewart, Director Crow Office of Reclamation; Marvin Falls Down, Sr., Project Coordinator; Amy Lopez Dexter, Finance Manager; Laura Pretty Weasel, Office Specialist; OSM-Frank Atencio, Acting FOD; Alan Boehms, Program Specialist.

**Background:** The US Treasury requires that grant recipients minimize 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 2004 through June of 2004. The sample consisted of bank reconciliation from October 1, 2004 through May 31, 2005.

**Findings and Conclusions:** As a corrective action in the FY 2004 Evaluation Report OSM recommended that the Tribe must make timely adjustment to minimize the time that excess funds are held.” The previous year findings mentioned that the Tribe had held “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.” In its plan of action the Crow acknowledged that U. S. Treasury guidelines require that drawdowns are timely and that no excess federal funds are being held by grantees. While the Tribe stated that “upon final closeout, it was verified that allowable expenditures of the program equaled total drawdowns for the year,” the Crow Tribe would continue to monitor this program element and make adjustments as the situation warranted. While the Crow Financial Manager informed us that she makes every effort to make sure that

drawdown amounts equal expenditures there still continues to be a \$1,400 to \$2,200 fluctuating balance that has reappeared in the bank balance statement. She further stated that while she performs bank reconciliations as soon as the statements arrive, and despite the fact that she has tried to find where the account overages come from she has been unable to find the source. The Financial Manager speculates that this fluctuating left over balance may be due to variations in deductions for workmen's compensation, insurance amounts, and payroll taxes. To remedy this situation the Financial Manager told us that she has asked the Tribe's newly hired CPA, Ms. Kristin Johnson to help her resolve and prevent this fluctuating balance from appearing on the bank

**Corrective Actions:** It is recommended that the Crow AML Program involve its CPA in resolving this continuing situation of excess funds that keep appearing in its bank balance. It is further recommended that OSM continue to monitor this situation to ensure that reoccurring deficiency is eliminated and the U.S. Treasury guidelines are adhered to.

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

## EVALUATION YEAR 2005

**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:** July 20 and 21, 2005

**Personnel:** Crow Tribe-Marvin Stewart, Director Crow Office of Reclamation; Marvin Falls Down, Sr., Project Coordinator; Amy Lopez Dexter, Finance Manager; Laura Pretty Weasel, Office Specialist; OSM-Frank Atencio, Acting FOD; Alan Boehms, Program Specialist.

**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 in need of resolution were made in the following areas in the FY 2004 Evaluation Report, Travel, Budget Planning and Execution, Cost Allocations, and Cash Management.

Each of these findings was discussed with the Crow staff during this FY 2005 Program Evaluation. Following is a description of each original finding and what OSM reviewers found during this annual review.

**Travel** – In FY 2004 it was discovered that “there were several instances where there were a lack of controls relating to travel advances, timely filing of travel claims, and recovery of funds when advances exceeded allowable travel expenses and miscalculations of allowable travel costs.

**FY 2005 finding** – We found that travel records were up to date. There were receipts kept with trip travel records for travel paid for by the Crow AML travel account. We found several trips that contained no receipts but that is due as the Finance Manager explained, to travel costs being paid by OSM and the receipts are kept by OSM in Denver. These travel files showed that travel had been paid for by OSM travel accounts for TIPS training and FBMS grants training.

We were informed of one instance of one travel advance that was still outstanding during FY 2005. This was due to the Crow Tribe deciding after all to pay the trip costs from Tribal funds and giving the traveler funds to reimburse the Crow AML Travel fund. While the individual involved did pay with a check it failed to clear his bank account. The Crow AML Program immediately garnished this individual’s pay check as he now works with another Tribal office. The total amount advanced was \$403.00 and the balance was \$103.00 at the time of this review. However, while we were there another check for \$100.00 arrived in the office leaving a balance of \$3.00 that should be paid off by early next month. We felt the Crow AML financial staff had been prompt in addressing this situation and were in the process of resolving it before this review took place.

**Budget Planning and Execution:** The FY 2004 report stated that “overruns on construction projects were significant. Overruns were approximately \$100,000 or 645 higher than the amounts planned.” In short the accounting system showed that construction funds were still available when in actuality all construction funds had been expended. To prevent this from occurring in the future the Crow AML Program in its plan of action decided to implement the “QuickBooks” program as its system to track and provide updated on actual expenditures. ]

**FY 2005 finding** - The Finance Manager informed us that during the time problems were discovered with the budget tracking system that a bad electrical storm had affected their computer system. In order to prevent a similar situation from occurring again the Tribe now backs up its computer files on a daily basis. Also with the change to QuickBooks up to the minute reports can now be generated which can provide instant updates of fund availability. A monthly statement of available funds within each budget category is provided to the Crow Tribe Program Director that tells him how much money remains in each program. During this evaluation review no over expenditure of funds was detected.

**Cost Allocations:** The FY 2004 Evaluation Report cites two instances where costs were not appropriately allocated between the AML and the Regulatory Program.

**FY 2005 finding** – This turned out to be a non-issue as the error was traced to instructions and a format provided to the Tribe by OSM staff on how to keep separate allocations for the two programs. The original source documents of how this error occurred are at the Crow AML Office. This issue is resolved.

**Cash Management:** During the FY 2004 Evaluation it was reported that “there were six instances of non-sufficient check charges during the evaluation year indicating a lack of cash management.

The Crow Plan of Action stated that this problem was a direct result of the computer problems that they had experienced with the electrical storm outage of their main computer server. A back up system was to be implemented.

**FY 2005 findings** – This review did not turn up any instances of NSF in the bank statements. The Finance Director said that all accounting data is now backed up on a daily basis and taken off-site. Also as an added security measure the Crow AML Program has hired a private computer IT consultant that looks at their computer security system on a quarterly basis.

**Corrective Actions:** It is recommended that travel records, budget planning and execution and cash management practices be reviewed by OSM during the next two evaluation periods. With the use of the QuickBooks program it will be easier to compare program costs, expenditures, and potential overdrafts with actual monthly bank statements.

**CROW TRIBE OF INDIANS AML PROGRAM  
ENHANCEMENT AND PERFORMANCE REVIEW REPORT  
EVALUATION YEAR 2005**

**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:** Crow Tribe-Marvin Stewart, Director Crow Office of Reclamation; Marvin Falls Down, Sr., Project Coordinator; Amy Lopez Dexter, Finance Manager; Laura Pretty Weasel, Office Specialist; OSM-Frank Atencio, Acting FOD; Alan Boehms, Program Specialist.

**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 EY2004. The sample equaled the population.

**Findings and Conclusions:** In FY 2005 the Crow Tribe applied for grant funds in a timely manner. It is important to note that the Crow AML and Regulatory (A&E) grants are on different time schedules. The AML Grant period begins on March 1<sup>st</sup> and ends February 28 of the third year after it was approved, while the A&E Grant period starts on May 1<sup>st</sup> and ends on April 30<sup>th</sup> of each fiscal year. This schedule was previously agreed to with OSM in order for the Tribe to be able to submit and keep track of it grants and financial reports on separate time frames. During this evaluation review we found one FY 2004 AML Grant closeout report that was one month overdue. The Finance Manager explained that this was due to a change in CPA's during the year and that the AML Program was waiting for her to review the final grant figures before it was sent to OSM.

While we were there on this review we were shown a draft closeout report that was about to be finalized as the narrative and financial statements seemed to have all been prepared.

**Corrective Actions:** The Tribe must adopt controls that result in timely and accurate grant reporting. As per our closeout discussion with the Crow Tribe Staff we recommend that the Tribe include a clause in its contract with the CPA that the CPA be required to review grant closeout reports within the allowable 90 day timeframe, after a grant terminates, in order to avoid future overdue closeout reports.

## **ENHANCEMENT AND PERFORMANCE REVIEW REPORT EVALUATION YEAR 2005**

**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:** July 20 and 21, 2005

**Personnel:** Crow Tribe-Marvin Stewart, Director Crow Office of Reclamation; Marvin Falls Down, Sr., Project Coordinator; Amy Lopez Dexter, Finance Manager; Laura Pretty Weasel, Office Specialist; OSM-Frank Atencio, Acting FOD; Alan Boehms, Program Specialist.

**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.

**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 test sample consisted of all accounts payable transactions within the month of May 2005.

**Findings and Conclusions:** We looked at the QuickBooks Accounts Payable Register kept by the Crow AML Program and compared it with the check register from First Interstate Bank and found that they balanced. We found that funds for payroll drawdowns and purchase orders were expended within two days to a week of deposit. Bank reconciliation statements agreed with the Crow AML procurement, payroll and purchases report. As a further safety precaution the Crow Program has instituted a double signature requirement the Program Director authorizes all check requisitions and purchase orders and the Tribe's also CPA signs once funding availability has been provided by the finance manager.

**Corrective Actions:** None, although the Tribe is encouraged to continue to keep documentation of all its procurement actions.

**CROW TRIBE OF INDIANS AML PROGRAM  
ENHANCEMENT AND PERFORMANCE REVIEW REPORT  
EVALUATION YEAR 2005**

**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:** July 20 and 21, 2005

**Personnel:** Crow Tribe-Marvin Stewart, Director Crow Office of Reclamation; Marvin Falls Down, Sr., Project Coordinator; Amy Lopez Dexter, Finance Manager; Laura Pretty Weasel, Office Specialist; OSM-Frank Atencio, Acting FOD; Alan Boehms, Program Specialist.

**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

**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 some existing property from previous year purchases and all property purchased and disposed of during the evaluation year. The sample was equal to the population.

**Findings and Conclusions:** In the FY 2004 Crow Tribe Evaluation Report as a corrective measure OSM recommended that "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." As part of its plan of action the Crow Tribe stated that it would be a priority to meet with OSM staff during the coming year in order that the property records reflect an accurate accounting of the program's assets. Regarding the vehicle log books, the Crow Tribe stated it will be the program's policy to communicate to drivers the necessity of maintaining accurate, current log books. Also, the Crow Tribe stated that these log books will be inspected and monitored to ensure that gasoline usage appears appropriate and that all travel is program related.

During the FY 2005 review OSM found the program's property listing is being updated for new

equipment and obsolete equipment is being disposed of through disposition requests to OSM. In addition, vehicle log books were being kept on a consistent basis.

**Corrective Actions:** None, although it is recommended that OSM continue to monitor this evaluation element for at least the next two fiscal years to ensure the Tribe maintains an accurate inventory of AML property. The Tribe is reminded to (1) continue submittal of requests for disposal of obsolete items or unusable property to OSM prior to disposal; (2) adjust property inventory records accordingly; and (3) continue consistent maintenance of vehicle logs as an internal control for fuel usage.

# **APPENDIX B**

## **CROW TRIBE'S COMMENTS AND PROPOSED PLANS OF ACTION**

**CROW TRIBE OF INDIANS AML PROGRAM  
ENHANCEMENT AND PERFORMANCE REVIEW REPORT  
COMMENTS  
EVALUATION YEAR 2005**

The program's overall evaluation was positive and three areas of concern were mentioned. One grant closeout, one travel advance and one audit report yet to be submitted to OSM.

The OSM staff conducting this year's enhancement and performance review were thorough yet corrective suggestions were positive and edifying. OSM staff and AML staff worked together in order to come up with plans of action that were practical and productive.

In regard to the grant closeouts, we have been late for both programs. Although our plan of action was time-honored in order to prevent tardiness, we were unable to implement this due to the timing of our newly hired CPA. However, the following applications and closeouts should see marked improvement as we will be including a clause in our contract with the Tribe's CPA to ensure her availability during the times we require her assistance for closeout numbers.

The travel reimbursement has been addressed, and our program will continue to keep up with all travel requests, reporting, and reconciliations pertaining to any work-related travel.

The Office of Surface Mining, Casper, should already possess the latest audit report. If this is not the case, our program staff will follow-up and make certain a copy gets forwarded to the field office.

Our program also requested copies of past audits, as we have not had an opportunity to read one in over five years. Hopefully by OSM's next visit we will have copies readily available on-site.

The Crow AML program is very pleased that a more positive and productive relationship exists between OSM and us. This will only benefit ALL interested parties and the reclamation and regulation activities that we are involved in.