

CROW
ABANDONED MINE LAND
ANNUAL REPORT
EVALUATION YEAR 1996



PREPARED BY THE
OFFICE OF SURFACE MINING
CASPER FIELD OFFICE
DECEMBER 1996

TABLE OF CONTENTS

Part I.	General.....	1
Part II.	Noteworthy Accomplishments	5
Part III.	Results of Enhancement and Performance Reviews.....	5
Part IV.	Accomplishments and Inventory Reports.....	6
APPENDIX A.	Enhancement and Performance Review Reports	A-1

(Cover: Coal Car at the Roy and David Lilley Mine, Crow Ceded Area, 1996)

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 the 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 hold 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.

In past evaluation years the Tribe has been unable to obtain access to the Ceded Area abandoned mines. Several of the sites are considered by the Tribe to be high priority coal sites needing reclamation. Non-Indian surface owners question the need for reclamation of the sites in the Ceded Area, and therefore have denied access to the sites.. Due to the lack of access, the Tribe has concentrated its reclamation efforts on coal and high priority non-coal sites on the reservation during the past several evaluation periods. As a result, all high priority sites on the reservation have been reclaimed and the Tribe is concentrating construction efforts on lower priority coal projects on the reservation. The Tribe is continuing their attempts in obtaining access to the high priority sites in the Ceded Area during the evaluation year.

All tribal share reclamation funds to support the Tribe's program are generated from the one active mine located in the Ceded Area. 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 including those located in the Ceded Area. Therefore, no additional Federal Funds will be awarded unless additional high priority projects are identified. This resulted in an FY96 allocation to the Tribe of \$467,445 of Tribal share. 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 up to \$1.5 million if sufficient high priority coal projects existed on the Abandoned Mine Lands Inventory System (AMLIS). Approximately \$1.5 million of unexpended Federal share funds have been allocated to the Tribe to be used to reclaim the high priority Ceded Area sites. Should lack of access prevent reclamation, the funds will revert to OSM. If access to these sites is obtained, the Tribe's reclamation activities could expand significantly for the following few years before returning to their annual program funding level. This will limited the Tribal share allocation to between \$400,000 and \$500,000.

The COR administrative staff is made up of 7.5 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 totally dedicated to and supervised by the program and not be a part of the overall administrative functions of the Tribe. All construction to date has been accomplished with hand tools and manual labor.

The AML program is a major contributor to the economy of the Tribe. During the construction season of this evaluation year, the COR was the largest employer on the reservation. Approximately 90 laborers and foremen were employed to reclaim the AML sites.

The 1996 evaluation period started on January 1, 1996 and concluded September 30, 1996. Normally the evaluation period is twelve months. This nine month evaluation period is the result of a decision made by OSM in June 1996 to change the evaluation period from a period ending at the end of each calendar year to a period ending on September 30 of each year. This change was made to make the evaluation period coincide with the Federal fiscal year. The shorter evaluation period has not adversely affected evaluation of the program. Evaluation of the Tribal AML program is conducted by OSM's Casper Field Office (CFO) located at Casper, Wyoming.

OSM's evaluation methods are based upon OSM Directive AML-22 and a Programmatic Agreement between the COR and OSM. This agreement incorporates a shared commitment by the Tribe and OSM in determining how oversight will be conducted. The Tribe takes a more active role in the entire oversight process. The agreement was 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 was 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 could have or have the most potential for preventing the Tribe from achieving their planned reclamation goals. At the end of the evaluation period, both parties participated in the preparation of this annual report.

As a result of the enhancement and performance reviews conducted in accordance with the Performance Agreement, it was determined that the overall reclamation success of the projects reclaimed was very satisfactory. The planned reclamation goals for all of the sites have been achieved with the exception of minor maintenance work requirements such as final weed control and incidents of sparse vegetation.

It was also determined through the enhancement and performance reviews that there are significant problems in the areas of maintenance of project inventory, records management, project planning, timeliness of grant applications and reports, and property management. These deficiencies did not affect the overall reclamation success of the projects undertaken during the year. It did result in (1) a lay-off of construction personnel and near shutdown of the program due to a lack of available funding, (2) a potential delay of future Federal share funding, (3) an inaccurate record of program accomplishments, (4) a loss of property, and (5) an inability to produce project documentation such as proof that Rights-of-Entry had been obtained and that other preconstruction requirements of the program had been achieved prior to proceeding with construction. Due to the impacts of these deficiencies, OSM considers them major deficiencies requiring immediate correction. Financial management within the program appeared to be adequate with the exception of a few minor internal control weaknesses.

The weaknesses identified were determined to be a result of a lack of management within the program. The Tribe provided a consultant and a Certified Public Accounting firm to assist the program manager in correcting the deficiencies. By the end of the evaluation period the Tribe had submitted all grant amendment applications, closeouts and all delinquent financial and performance reports. These actions allowed OSM to provide continued funding to the program. The Tribe has also agreed to provide OSM with an action plan to correct all other deficiencies early in the next evaluation year. OSM and the Tribe will design a Performance

Agreement for the next evaluation year in a manner that assures that the Tribe finalizes an acceptable corrective action plan and that previous deficiencies are corrected by the Tribe. OSM will provide necessary assistance.

No major issues were carried forward from last year's evaluation period. However, delinquent reporting was identified as a problem last year which was magnified this year when it affected available funding of the program. Since this problem was identified as a major problem this evaluation year, special emphasis will be given to correct the problem during the upcoming evaluation year.

Part II. Noteworthy Accomplishments

Due to the joint efforts of the Tribe and OSM, access to the first Ceded Area site was obtained in September 1996. Construction will not occur until the next evaluation year. This was a major accomplishment because it involves the largest AML site in the Ceded Area and access was required from a well respected rancher in the area. Attempts have been made for eight years to obtain access to multiple sites in the Ceded Area. Successful reclamation of this site as an example should lead to access to additional sites involving other landowners. This access allows the Tribe to expend some of the Federal share funds which will allow them to expand their program and employ additional laborers for a longer period of time. Therefore, this access will not only result in additional mine reclamation but will also have a significant contribution to the economy of the reservation.

Part III. Results of Enhancement and Performance Reviews

Three principles were agreed to in the Performance Agreement to be evaluated during the 1996 period. Those principles included: (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 such systems are working. Specific areas of interest within the first three principles were developed for review. The specific areas of interest for the first principle were maintenance of the approved Reclamation Plan, project inventory maintenance and right-of-entry. 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-128 audits and implementation of audit recommendations, and adequacy of procurement and management of property and services.

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

Part IV. Accomplishments and Inventory Reports

Prior to the effective date of SMCRA, coal mined areas on the Crow reservation resulted in subsidence, vertical openings, portals, highwalls and impoundments. Three deaths and six injuries are known to have occurred previously in association with abandoned mines. No deaths or injuries have occurred in recent years.

During this evaluation year the Crow Tribe completed reclamation on two coal projects. Approximately four acres were reclaimed. Construction efforts began on one additional project which was not complete by the end of the evaluation year.

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 which remain to be reclaimed. The reclamation accomplishments reflected in the 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	-	.1	-	0.1	-	-
Clogged stream lands	Acres	-	-	-	0.0	-	-
Dangerous highwalls	Lin. Feet	400	-	520	920.0	-	350
Dangerous impoundments	Count	-	-	1	1.0	-	-
Dangerous piles & embankments	Acres	-	-	2	2.0	-	4.3
Dangerous slides	Acres	12	-	-	12.0	-	1
Gases: hazardous/explosive	Count	-	-	-	0.0	-	-
Underground mine fires	Acres	-	-	-	0.0	-	-
Hazardous equip. & facilities	Count	-	1	1	2.0	-	-
Hazardous water bodies	Count	-	-	-	0.0	-	-
Industrial/residential waste	Acres	-	-	-	0.0	-	-
Portals	Count	2	1	6	9.0	-	4
Polluted water: agric. & indust.	Count	-	-	-	0.0	-	-
Polluted water: human consumption	Count	-	-	-	0.0	-	-
Subsidence	Acres	7	-	-	7.0	-	-
Surface burning	Acres	-	2.7	-	2.7	-	-
Vertical opening	Count	2	-	3	5.0	-	-
Priority 3 (Environmental restoration)							
Spoil areas	Acres	17	-	22.8	39.8	-	3
Benches	Acres	-	2.5	2	4.5	-	-
Pits	Acres	6	6	7	19.0	-	4
Gob piles	Acres	11	2.7	20.6	34.3	-	-
Slurry ponds	Acres	-	2	.1	2.1	-	-
Haul roads	Acres	9	.5	12	21.5	-	-
Mine openings	Count	2	1	1	4.0	-	-
Slumps	Acres	1	2.1	1.5	4.6	-	-
Highwalls	Lin. Feet	34	-	1980	2,014.0	-	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 REPORTS

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Maintenance of Approved Reclamation Plan

Review Dates: Continuous

Personnel: Hugh White Clay (COR) and Orvel Gustafson (CFO)

Background: AML Reclamation Plans must be amended to comply with changing requirements of SMCRA.

Review Methodology: The Tribal program was continually monitored to assure that any new changes to SMCRA are not implemented without the necessary changes to the program.

Population / Sample: The population and sample size consisted of all potential AML Plan changes.

Findings and Conclusions: The Tribe made no changes to reclamation and related activities during the evaluation period that would require amendments to the Tribe's AML Reclamation Plan.

Corrective Actions: No corrective action is necessary.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: August 19-22, 1996

Personnel: Hugh White Clay Crow (COR), John Stewart (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. It also provides one factor in determining funding levels for minimum programs. States/Tribes are responsible for maintaining a current inventory of AML projects. Normally, this is to be accomplished by the States/Tribes updating the inventory through direct automated access to AMLIS. Due to hardware and software problems, the Tribe has been unable to access AMLIS and has been required to maintain an updated inventory by submitting hard copies of Problem Area Description (PAD) forms to CFO for input into the system. A limited review showed indications of inaccurate or incomplete data in AMLIS for the Tribe's AML sites. Thus this topic was chosen for additional review.

Review Methodology: The Tribe's process for maintaining a complete, current, prioritized inventory of eligible unreclaimed sites was reviewed for consistency with the Reclamation Plan. The procedures were tested through a review of the Tribe's internal inventory maintenance activities concerning the sampled sites. The review measured their effectiveness in submitting accurate inventory data to CFO for sites which were identified for reclamation. The accuracy of the data contained in the Tribe's internal inventory and the data submitted to CFO was verified through visits to the sampled sites.

Population / Sample: The population consisted of all sites identified for reclamation. The sample consisted of five unreclaimed sites selected from the population.

Findings and Conclusions: The five sites included in the sample were Lone Pine, Old Doyle, Big Man, Iron horse, and Chalk Butte. The COR located the PAD's for Lone Pine and Old Doyle but could not locate the PAD's for the other three sites. Therefore the three PAD's had not been entered into AMLIS resulting in an incomplete inventory of projects.

The Tribe later prepared the three PAD's and submitted them to the CFO. The PAD's were submitted without cost data and therefore could not be entered in AMLIS.

Due to the findings made concerning the selected sample, the sample was expanded to include a review of the completion PAD's submitted to the CFO late in the evaluation year.

These PAD's were required with the closeout packages for the FY93 and FY94 grants. The PAD's were reviewed for completeness and accuracy. Virtually all of the PAD's were either incomplete or contained inaccurate data. Errors included duplicate and erroneous problem area numbers, inaccurate problem types, and inaccurate or missing cost data. The review revealed that the Tribe does not know when PAD submittals are required and are not making the effort to complete the PAD's accurately when they are submitted. It was concluded that as a result of these deficiencies, the Tribe's inventory contained in AMLIS is inaccurate and incomplete and can not be relied upon to determine the reclamation accomplishment of their program. This is in direct contradiction with the principle being measured and must be corrected. CFO will provide assistance to the Tribe based on a corrective action plan to be developed by the Tribe.

Corrective Actions: The Tribe will complete a corrective action plan and submit it to CFO for approval early in the next evaluation year. CFO will monitor the approved corrective action plan to assure that all deficiencies are corrected according to the schedule established in the plan.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Rights-of Entry (ROE)

Review Dates: August 19-22, 1996

Personnel: Hugh White Clay (COR), John Stewart (Crow COR) , and Orvel Gustafson (CFO)

Background: ROE must be obtained before entry onto AML sites is attempted for investigative or reclamation purposes. Problems have been encountered by the Tribe in obtaining access to private land for reclamation purposes. Because of the sensitivity of access to private lands this topic was selected for review to ensure that the Tribe is not proceeding with reclamation without receiving the appropriate ROE.

Review Methodology: Tribal project files were reviewed for written evidence that right-of-entry was obtained before entry onto private land was attempted for investigative or reclamation purposes.

Population / Sample: The population consisted of all reclamation projects completed during the last five evaluation years. The sample consisted of twelve reclamation projects (Three reclamation projects completed in EY92, two projects each completed during EY93 and EY94, three projects completed in EY95, and two projects completed in EY96).

Findings and Conclusions: The twelve projects selected in the sample were East Kidd Creek, Shaw, and Goyen Mines reclaimed in EY92; Whinner and Coal Creek Mines reclaimed in EY93; Lodgegrass and Davis Mines reclaimed in EY94; North Whinner, Youngs Creek and Crow's Nest Mines reclaimed in EY95; and Lone Pine and Old Doyle Mines reclaimed in EY96. Of the twelve sites reviewed eight contained signed ROE's. Of the remaining four sites, the COR could not locate the project files for the Shaw and Coal Creek Mines, the project file for the Goyen Mine contained an unsigned ROE, and there was no ROE contained in the Davis Mine project file.

CFO's further review of the ten project files available for review revealed that many documents were missing from the files and that their maintenance of these records was in

disarray. Copies of many of the missing documents had been submitted to the CFO. Therefore, the CFO was able to ascertain that some of the documents exist but was unable to determine whether the lack of the four signed ROE's was attributable to the Tribe not obtaining the proper ROE's or if the documents had been obtained and not properly filed. However, the CFO definitely concluded from the review that the Tribe must improve their maintenance of project files.

The COR has been instructed to reconstruct all project files by obtaining all missing documents to include signed ROE's. Upon completion of this effort, the CFO will again examine the four project files where there were no signed ROE's to determine the Tribe's performance in this area.

Corrective Actions: The Tribe will complete a corrective action plan and submit it to CFO for approval early in the next evaluation year. CFO will monitor the approved corrective action plan to assure that all deficiencies are corrected according to the schedule established in the plan.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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

Subelement: Overall Reclamation Success

Review Dates: August 19-22, 1996

Personnel: Kenneth Spotted (former COR employee) and Orvel Gustafson (CFO). Hugh Whiteclay (COR) was informed of the findings in an exit conference.

Background: The Tribe contracts its design activities to a private consulting firm. AML sites are to be reclaimed to the design specifications. It is not the intent of oversight to question the design but is to determine if reclamation projects have achieved their goal, as defined in preconstruction specifications.

Review Methodology: The evaluation of the overall reclamation consisted of site inspections of the sample sites to evaluate post construction conditions to determine if the Tribe's reclamation objectives were met. A review of the Tribe's internal project documentation and the National Environmental Policy Act documentation was reviewed prior to each site visit to determine the reclamation objectives for the project.

Population / Sample: The population consisted of all reclamation projects completed during the last five evaluation years. The sample consisted of three reclamation projects completed in EY92, one project each completed during EY93 and EY94, four projects completed in EY95 and one project completed in EY96.

Findings and Conclusions: In general the overall reclamation achieved by the Tribe appeared very good. The sample consisted of both underground and small surface mines. The sample included the East Kidd Creek, Shaw, and Goyen Mines reclaimed in EY92; Whinner Mine reclaimed in EY93; Lodgegrass Mine reclaimed in EY94; North Whinner (Areas A, B, and C) and Youngs Creek Mines reclaimed in EY95; and Lone Pine #2 Mine reclaimed in EY96. It appeared that reclamation objectives had been achieved on all but three of the sampled sites. These instances involved a lack of weed control and/or sparse vegetation which resulted from a lack of precipitation and a lack of topsoil. The Lodgegrass Mine will require weed control and the Shaw and North Whinner (Area B) will require maintenance work to establish better vegetation. Reclamation had just been completed on the Lone Pine #2 Mine. It appeared that the dirt work objectives for the site have been obtained. CFO was unable to determine the success of vegetative cover on this site because

there has been insufficient time for the vegetation to establish.

Corrective Actions: The Tribe will perform remedial action on the three sites to control weeds and establish acceptable vegetation.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Drawdown and Disbursement

Review Dates: August 19-23, 1996

Personnel: Hugh White Clay (COR), Phylene Big Man (COR), and Neal Jacquot (CFO)

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 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. OSM reviewed the Tribe's procedures for drawdowns and disbursements in previous evaluation period and determined that it is administratively feasible for the Tribe to disburse funds within 3 days after drawdown. The review was conducted to comply with the US Treasury requirement that granting agencies review the grantees drawdown activities on a quarterly basis to assure that drawdowns are timely and that no excess funds are being held by the grantee.

Review Methodology: The review compared the biweekly disbursement checks with the drawdown from ABACIS to assure that the amount of the disbursements did not exceed the amount of the drawdown and that the drawdown did not occur more than three days before disbursement.

Population / Sample: The population consisted of all AML drawdowns and related disbursements that occurred during the three quarters of EY96. The sample consisted of four drawdowns, one for each of the three quarters of EY96. One additional drawdown was sampled for the high activity period of the COR's construction period. The sample included drawdowns from both the FY95 and FY96 grants. These two grants were the only active grants where drawdowns had occurred during the evaluation year.

Findings and Conclusions: In all instances the amount of the draw equaled the amount of the disbursement and disbursements were timely.

Corrective Actions: No corrective action is necessary.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Accounting Procedures

Review Dates: August 19-23, 1996

Personnel: Hugh White Clay (COR), Phylene Big Man (COR), Elizabeth Other Medicine (COR), and Neal Jacquot (CFO)

Background: Grant recipients are required to account for all program income and expenditures, using generally accepted accounting practices. The Tribe's AML program does not generate program income. Expenditures are a result of payroll, travel, and accounts payable transactions. The COR pays payroll biweekly. The greatest amount of payroll activity occurs during the construction season. Travel occurs primarily for training and meetings with OSM. Some procurement requires travel. Accounts payable mainly result from the COR's procurement of supplies, vehicles and gas related services, and utility services. In almost all instances payment of these account payables is conducted on a monthly basis. Due to the risk associated with a potential lack of internal controls necessary for these activities the associated accounting procedures were selected for review.

Review Methodology: The CFO reviewed all policies and procedures relating to payroll, accounts payable and travel and tested transactions to ensure that the Tribal policies and procedures were being implemented.

Population / Sample: The population consists of all payroll, travel and accounts payable transactions occurring during EY96. The payroll sample consisted of all transactions for three payroll periods with an emphasis on selecting two of these pay periods occurring during the construction season where payroll outlays are substantial. The travel review sample consisted of transactions for fifty percent of all major trips taken during EY96. All transactions for six major vendors (one contractor, one vendor selling the COR vehicle maintenance or supplies, several retailers, a public utility (e. g., electric, phone) and the COR's accounting consultants) made up the accounts payable sample.

Findings and Conclusions: Payroll administration is working properly with one exception. The COR's computer data base record of annual and sick leave did not agree with the

biweekly payroll work slips. Otherwise approvals, calculation of hourly rates, appropriateness of administrative salaries and documentation was appropriate.

Travel was minimal during the evaluation period. Travel authorizations, per diem, lodging and other travel expense were appropriate. The CFO found that the Tribe was allowing employee personal vehicle mileage compensation for work related local travel when program vehicles are available. It was also noted that program travel per diem and lodging policy was not consistent with Tribal policy.

Some problems were found with procurement and accounts payable. COR's purchase order file was not up to date. Purchase orders were either missing, unkept, or were not in sequential order. Thirteen purchase orders that had been assigned a number were never completed and could not be found. The COR is assigning purchase order numbers but not preparing the purchase order until an invoice is received. No system is in place to assure that the original purchase order number is used when the purchase order is issued. Thus, a second number is assigned without the first number being used resulting in a lack of control and insequential numbering of purchase orders.

All procurement transactions sampled were properly approved, all invoice amounts equaled payment amounts and payments were timely. CFO found that an entire payment to a vendor was delayed due to a question as to the reasonableness of an approved purchase of a briefcase which consisted of one of six purchase orders billed on an invoice. The Tribe knew that the purchase and the price were legitimate. The question was whether the purchase should have been approved internally. The result was an untimely payment to a vendor. The Tribe also allowed employee personal long distance calls to be charged to the AML program. Payroll deductions were used to reimburse the program for these costs. This practice is resulting in unnecessary expenses to the program for record keeping for this inappropriate policy.

Corrective Actions: The Tribe will complete a corrective action plan and submit it to CFO for approval early in the next evaluation year. CFO will monitor the approved corrective action plan to assure that all deficiencies are corrected according to the schedule established in the plan.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Timeliness of Applications and Reports

Review Dates: Continuous

Personnel: Hugh White Clay (COR), Phylene Big Man (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 pre-established timeframes. Grant/amendments applications are required sixty days before the requested effective date of the action, 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 will result in continuous program operations and timely and accurate recordation of accomplishments and financial data relating to the Tribal AML Program.

In past evaluation periods, the Tribe has not met the established timeframes for grant action applications, financial and performance reports and requests for authorizations to proceed with projects. During these periods, the Tribe's delinquencies have resulted in untimely and inaccurate recording of the Tribe's financial and performance data. In past evaluation periods CFO was able to expedite the processing of necessary actions to avoid a shutdown of the program due to a lack of funding. This has been a continuing problem which has not only been noted through CFO oversight but has also been noted in past A-128 audits.

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 preestablished timeframes which would result in continuous program operations.

Population / Sample: The population consisted of all grant/amendments applications,

requests for authorizations to proceed, and reports required during EY96. The sample included the entire population.

Findings and Conclusions: An unacceptable pattern of delinquent grant/amendments applications, requests for authorizations to proceed, and reports has occurred during EY96.

The Tribe was delinquent with interim financial and/or closeout reports for their FY93, FY94, and FY95 grants. Some reports were up to seventeen months delinquent before they were submitted to CFO. In addition, funding provided in the Tribe's current (FY96) grant was expended to a level where the remaining funds were insufficient to continue the program without shifting funds from the three grants to their current grant. Due to the delinquency of the Tribe in submitting closeout and amendment documents authorizing OSM to deobligate funds from the three grants, no funds were available for OSM to award the needed funding in the current grant to continue full operation of the program.

The Tribe did not respond to CFO's continual notifications that the reports were delinquent and that failure to submit the reports and amendment documents would result in a shutdown of the program due to a lack of available funds. Before submitting the documents, the Tribe experienced intermittent shutdowns of their program due to a lack of funding and were faced with an entire shutdown had OSM been unable to process paperwork for multiple grant actions within a two week timeframe. Only in the face of a total shutdown did the Tribe submit the delinquent reports and necessary grant amendment documents. In turn, OSM was able to process the paperwork in the short timeframe to avert the total shutdown.

The Tribe has established a pattern of submitting requests for authorizations to proceed only when they are needed immediately to begin a particular project. Historic preservation consultations involve other Federal and State agencies and require certain timeframes for approvals. In the past, the Tribe's last minute submittal of documents have threatened the start date of certain projects. OSM has been able to convince other agencies involved to shorten timeframes to avoid shutdown of construction due to a lack of approved projects. The Tribe's requests for authorizations to proceed have become increasingly close to the anticipated start dates of projects to the point where it was impossible to meet the anticipated start date of the last project of the evaluation year (Roy and David Lilly Mine). The landowner insisted on a completion date of June 1, 1997. This project required a mix of work allocated to manual labor, work allocated to heavy equipment, and some work that could be done through either method so that the completion date will be approximately June 1, 1997. Since the Tribe did not submit their request to proceed in a timely manner, the project was not started until three weeks after the planned date. The Tribe's goal is to utilize manual labor to the maximum extent which contributes to their economy. The late start date resulted in the Tribe not maximizing Tribal employment and therefore less compensation to Tribal members.

All delinquent reports and necessary grant/amendment documents were submitted to OSM prior to the end of the evaluation period. The Tribe has been notified that their pattern of delinquency is considered unacceptable. Due to this pattern, the Tribe has been informed that, in the future, OSM will not process any requests for funds or transfer of funds if the Tribe is delinquent with any reports or closeouts. OSM will continue to process grant/amendment applications and authorizations to proceed with projects as expeditiously as possible. However, the Tribe was notified that if the established timeframes for submitting information and documents are not met, OSM cannot guarantee timely approvals.

Corrective Actions: The Tribe will complete a corrective action plan early in the next evaluation year which will describe how it will avoid delinquent reporting in the future. The plan will also show timeframes planned for grant/amendment applications and authorizations to proceed to be used during the upcoming evaluation year to assure continued operation of the program. CFO will monitor the approved corrective action plan to assure that the Tribe adheres to the plan.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Audits and Implementation of Audit Recommendations

Review Dates: Continuous

Personnel: Hugh White Clay (COR) and Orvel Gustafson (CFO)

Background: The Tribe is subject to an A-128 Audit annually. OSM is responsible to resolve any findings in the audits that pertain to OSM programs. To assure that all findings are promptly resolved, OSM continuously reviews the A-128 process and resolves findings as they develop. All findings resulting from audits conducted in past evaluation years have been resolved.

Review Methodology: The Tribe self reported the ongoing status of the completed A-128 Audit for the timeframe 10/01/94 and 09/30/95. At completion of the audit, the Tribe provided the CFO with a copy of the report and the status of the resolution of findings contained in the report. The Tribe also inform CFO of the status of the upcoming A-128 Audit by 09/30/96. The Tribe's performance in this area was based on information provided by the Tribe and the contents of the audit report.

Population / Sample: The population consisted of all of the findings in the A-128 Audit completed for the period of October 1, 1994 through September 30, 1995. The sample was equal to the population.

Findings and Conclusions: The A-128 audit for the period ending September 30, 1995 contained two findings concerning the Tribe's AML program. The first finding concerned a delinquent submittal of a financial grant report. This report has now been submitted to OSM. The second finding resulted from an unallowable payment of interest (\$71.13) to a vendor for a late payment. The Tribe stated as a comment to the audit report that it would reimburse the AML program for the interest. This had not occurred at the end of the evaluation period.

Corrective Actions: The Tribe must reimburse the AML program for the unallowable interest costs discovered during the A-128 audit. OSM will monitor the Tribe's progress in resolving the finding to assure that reimbursement is made.

**CROW TRIBE OF INDIANS AML PROGRAM
ENHANCEMENT AND PERFORMANCE REVIEW REPORT
EVALUATION YEAR 1996**

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: Procurement and Management of Property and Services

Review Dates: August 19-23, 1996

Personnel: Hugh White Clay (COR), Elizabeth Other Medicine (COR), Orvel Gustafson (CFO), and Neal Jacquot (CFO)

Background: The COR must conduct procurement actions in accordance with Tribal procedures and manage and dispose of program property in accordance with Tribal procedures while complying with OSM's minimum requirements. Since these areas are high risk areas due to the high level of internal controls required, it is selected for review in every evaluation period. Weaknesses in inventory control which had been noted during the previous evaluation period led to a continued review of the property control process.

Review Methodology: Procurement: All procurements are tied to a purchase order and thus test samples were taken of specific procurements made. Procurement policies and procedures were reviewed to ensure that each procurement sampled received all required approvals, that each procurement had a tracking record and that any property procured went on the COR property list. Purchase orders were used to select the sample. A cross check was made to ensure that no procurements were made that did not result in a purchase order and other required documentation.

Management of Property and Services: CFO checked to see that the sampled items were accounted for on the COR office inventory. A physical inventory of sampled items was also conducted. This included a check of the property for inventory tags. The requirements of the Federal Common Rule and the policies of the Tribe were used in determining what property should be included in the property listing.

Population / Sample: The population consisted of all procurements made during the first two quarters of EY96 and all grant purchased property. Twenty percent of all procurements made during the first two quarters of EY96 based on purchase orders processed during that same timeframe and fifty percent of the office property were sampled. Due to the property problems encountered during the review, the sample was

expanded to 100 percent of the property.

Findings and Conclusions: Procurement: Internal Control weaknesses were noted in regard to the control of purchase orders resulting from a lack of control relating to the assignment of purchase order numbers and internal approvals of invoices for payment (see the Enhancement and Performance Review Report for Accounting Procedures for details).

The Tribe also was incurring expenditures under an unsigned contract with their design contractor.

Management of Property and Services: A year prior to this evaluation review, CFO found that the COR inventory records were neither complete nor accurate. CFO requested that COR perform an inventory and correct their property inventory records. Action had not been taken to revise the property inventory records. The review this evaluation year revealed that the COR had not corrected the deficiency and that the inventory records remained inaccurate and incomplete. In addition to the inventory of office equipment being inaccurate, the COR's property inventory records did not include all vehicles and flatbed trailers. Also, property records had not been adjusted for a stolen vehicle where insurance reimbursement had been received. Another vehicle that had been traded had not been removed from the property list. CFO found that COR was not controlling the location of vehicles, a VCR, a typewriter, binoculars, and multiple wheelbarrows when not in use. This resulted in vehicles being used by employees to commute to and from work on occasion and lost or stolen equipment. The COR also does not have procedures to determine if equipment has been stolen and they have no inventory adjustment procedures available when it is determined that equipment is stolen. Many of the program vehicles displayed expired plates. Licenses had been purchased but the new stickers had not been placed on the plates. Also, COR is not using vehicles in the most efficient manner. Personal vehicles are being used and mileage is being reimbursed when COR vehicles are available. Finally, CFO found that inoperable vehicles are not being disposed of timely.

Corrective Actions: The Tribe will complete a corrective action plan and submit it to OSM for approval early in the next evaluation year. OSM will monitor the approved corrective action plan to assure that all deficiencies are corrected according to the schedule established in the plan.