II. Proposed Amendment

By letter dated November 2, 1995, the Hopi Tribe submitted a proposed amendment to its plan (administrative record No. HO-148) pursuant to SMCRA (30 U.S.C. 1201 et seq.). The Hopi Tribe submitted the proposed amendment at its own initiative and in response to a September 26, 1994, letter (administrative record No. HO-145.1) that OSM sent to the Hopi Tribe in accordance with 30 CFR 884.15(b). The provisions of the Hopi Tribe plan that the Hopi Tribe proposes to revise and/ or add are: the "Table of Contents;" a preface to the amended reclamation plan; a list of addenda and errata; the Chairman's letter of designation and Hopi Tribe resolution; the General Counsel's opinion on the authority of the Hopi Tribe to conduct an AMLR program; Part I, purpose of the Hopi Tribe plan; Part II, eligible lands and water subsequent to certification; Part III, coordination of the Hopi AMLR Program with other programs; Part IV, land acquisition, management, and disposal; Part V, reclamation on private land; Part VI, rights of entry; Part VII, Hopi Department of Natural Resources (DNR) policy on public participation; Part VIII, organization of the Hopi Tribe; Part IX, personnel staffing policies; Part X, purchasing policies and procurement procedures; Part XI, accounting systems and management accounting; Part XII, economic conditions on the Hopi Reservation; and Part XIII, a description of flora and fauna at abandoned mine sites.

Specifically, the Hopi Tribe proposes to:

(1) revise the "Table of Contents" to reflect the proposed recodification changes and include a list of appendices;

(2) add a new part called "Preface to Amended Reclamation Plan" that provides an explanation of the Hopi AMLR Program goals and objectives and describes eligible projects and their priorities;

(3) add a cover page for the "List of Addenda and Errata" and revise the "List of Figures" to retitle "Figure 4" and delete "Figure 5;"

(4) add new cover pages for the "Chairman's Letter of Designation and Hopi Tribe Resolution" and "Opinion of Legal Counsel" and delete the cover pages titled "Section 884.13(a)" and "Section 884.413(b);"

(5) redesignate Section 884.13(c)(1) as Part "I" and revise this part to include in the purpose of Hopi Tribe plan provisions that (a) allow for the protection and replacement of water supplies and protection, repair,

replacement, construction, or enhancement of public facilities adversely affected by mining and processing practices, (b) provide that the "Director" shall be to the "Director of the Hopi Office of Mining and Mineral Resources (OMMR)" or his designee within the OMMR or in the Hopi AMLR Program and that the "OMMR is an office within the DNR, and oversees operations of the Hopi Abandoned Mine Land Program," and (c) reclamation priorities similar to those allowed at section 403 of SMCRA, and provide for deletion of language concerning the allocation of funds collected annually for purposes of the Hopi AMLR Program;

 $(\breve{6})$ redesignate Section 884.13(c)(2) as Part "II;" retitle this part as "Eligible Lands and Water Subsequent to Certification;" add language (a) consistent with the requirements of the Federal regulations at 30 CFR 874.12 for eligible coal lands and water, 30 CFR 874.16 for contractor responsibility, 30 CFR Part 875 for noncoal reclamation, and 30 CFR 886.23 for reports and (b) to provide for the construction of public facilities in villages impacted by mining activities on Hopi Indian lands as provided in sections 411 (e) and (f) of SMCRA and include a description of needs and proposed construction and activities; and delete (a) "Table 1, **Comprehensive/Problem Evaluation** Matrix" and (b) language concerning filling voids and sealing tunnels and evaluating and ranking reclamation projects;

(7) redesignate Section 884.13(c)(3) as Part ''III'';

(8) redesignate Section 884.13(c)(4) as Part "IV;" revise the procedures concerning the acquisition of lands to (a) include lands adversely affected by 'coal and noncoal mining'' practices and (b) add new language to require that the Hopi AMLR Program shall obtain "from a qualified appraiser a valuation" of the fair market value of all land to be acquired and that the fair market value of the land "shall consider the principle of the best and highest use" of the land as adversely affected by past mining and that such "valuation of fair market value shall be approved by the Hopi Tribal council;" revise the language concerning purchases by (a) deleting the provision that allows affected lands to be acquired with monies from the abandoned mine land (AML) fund if approved by the OSM Field Office Director and the Hopi Tribal Council and such acquisition meets the requirements of OSM's regulations, (b) replacing it with new language requiring that "the Tribe may acquire land and water under this section if approved in

advance by OSM based on written findings made by OSM in accordance with the provisions of 30 CFR 879.11, and as approved by the Hopi Tribal Council," and (c) deleting the requirement that "improvements to the land may be acquired if such interest is necessary to the reclamation work planned or the post reclamation use of the land;"

(9) redesignate § 884.13 (c)(5) as Part "V" and revise the language of this part to include a reference to "the General Allotment Act of 1887"(25 U.S.C.A. 331 *et seq.*);

(10) redesignate § 884.13(c)(6) as Part "VI" and delete language concerning emergency entry and the requirement that "if written notice cannot be obtained for the purposes of emergency reclamation and if notice cannot be given prior to entry, notice will be given to the landholders as soon after entry as practical;"

(11) redesignate § 884.13(c)(7) as Part "VII" and add language clarifying procedures concerning public participation in the development of the Hopi Tribe plan and listing the 1991 and 1992 public meetings held in connection with the Hopi Tribe's certification of completion of reclamation of all known coal-related problems and to review projects and needs relevant to sections 411(e) and (f) of SMCRA;

(12) redesignate § 884.13(d)(1) as Part "VIII" and add language to (a) provide that the Hopi Tribal Council on "December 07, 1987, passed Resolution H–03–88," which designates DNR as the agency responsible for implementing the Hopi Tribe plan, (b) reference "the Chairman's Letter of Designation and Hopi Tribe Resolution section of this plan," and (c) reference "Figure 4," which presents "the relationship of the DNR to others in the Tribal organization;"

(13) redesignate § 884.13(d)(2) as Part "IX" and add references to the Tribe's "Personnel Policies and Procedures Manual," "The Civil Rights Act of 1964," and "The Rehabilitation Act of 1973;"

(14) redesignate § 884.13(d)(3) as Part "X" and add references to the "Purchasing Policies and Procedures Manual," which was adopted by the Tribe by Executive Action dated April 15, 1978, and OMB's "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" dated March 11, 1988, which is also known as "the Common Rule;"

(15) redesignate § 884.13(d)(4) as Part "XI" and add references to "The Hopi Tribe Financial Policies and Procedures