

SUMMARY

The Office of the Auditor General conducted a performance audit of the Black Mesa Review Board (BMRB) within the Legislative Branch as directed by Condition of Appropriation #60 of the Fiscal Year 2002 budget. The purpose of the BMRB is to determine fair, just and prompt compensation to be paid to the Navajo families whose economic interests are adversely affected by the coal mining operations of the Peabody Western Coal Company (Peabody). In addition, the BMRB is to make recommendations to minimize the adverse impact of the Peabody mining activities concerning the health, welfare and environment of the Peabody lease area residents to the Navajo Nation President, Council and Peabody.

FINDING I: BMRB is Not Meeting its Intended Purpose.

Our review shows that the BMRB does not meet its intended purpose as outlined in its plan of operation. BMRB is not involved in determining the fair and just compensation to the Navajo families affected by the mining operation. Rather than addressing the fair and just compensation, the BMRB concentrates on meeting its secondary legislated purpose which is to make recommendations to appropriate Navajo Nation and Peabody officials to minimize the adverse impact of the mining operation concerning health, welfare and environment. However, despite issuing numerous recommendations on behalf of the affected families, these recommendations did not produce the desired results to benefit the Peabody lease area residents.

FINDING II: BMRB Does Not Effectively Supervise the Community Liaison.

The Community Liaison provides administrative support to the BMRB. Our review of the Community Liaison's job description and activities revealed he is not performing the duties and responsibilities as required by his job description. Although quarterly reports are submitted, no particular board member monitors the activities of the Liaison to ensure he is fulfilling assigned duties and responsibilities. The quarterly reports contain great detail about activities but little information about accomplishments.

FINDING III: The Public Coal Sales Revenues do not Solely Benefit the Peabody Lease Area Residents.

Beginning in 1998, Peabody decided to sell the coal that the company used to distribute free to the public. Peabody set aside a portion of the revenues for equal distribution to the Kayenta, Forest Lake, Shonto and Chilchinbeto Chapters. According to BMRB, the revenues are intended to assist only the Peabody lease area residents. Since the coal sales revenues are distributed equally to the four chapters and Peabody does not place any restrictions on how the chapters can expend the funds, the chapters expend the funds at their own discretion. As a result, chapter members who are not Peabody lease area residents also benefit by receiving assistance.