

Westphal, Chuck (USAWIE)

From: DavidCongos@bia.gov
Sent: Wednesday, September 12, 2001 11:28 AM
To: StuartMani@bia.gov; JayWest@bia.gov
Subject: MTE Forestry Programs

[] Return receipt

Stu and Jay,

I have a few comments re: Mr. Mani's e-mail dated 9/10/01. First, I must clarify that I am not the COR on these contracts, have not received copies of contract documents for several years and am responding within the context of my position as the Trust Forester on Menominee. Second, I have raised questions and/or corresponded with MTE on all of the following issues and subsequently have been threatened/defamed by the MTE President and MTE's legal counsel. Third, I don't believe my concerns are viewed by the Regional Director as trust matters. And fourth, the liklihood of any BIA line officers joining in an effective remedy to the problems identified below are remote. I would therefore urge some tangible sign of backing and support from the appropriate BIA line officers that these are indeed trust issues that must be addressed by the federal government before these issues are discussed outside of the MRO.

ROAD MAINTENANCE CONTRACT

MTE built a garage/office building with Road funds as well as other road maintenance equipment. These purchases essentially liquidated all available funds before the end of the fiscal year, resulting in MTE's inability to perform any actual road maintenance work. Also, the expenditures were badly planned, resulting in significant building cost overuns and equipment purchases that provided no benefit to the Tribe or federal government (e.g. a dump truck without a box).

MTE attempted to use (and is still attempting to use) fire project money for interior road projects (unrelated to fire) for the purpose of keeping the road maintenance crew on the payroll (avoid a layoff). This was vigorously pursued only because the foreman was also the Chairman of the MTE Board of Directors. This view is based on evidence that the Chairman, on numerous occasions, used MTE road equipment for his personal use during off work hours (with the knowledge and approval of the MTE President).

FIRE PROTECTION - FORESTRY CONTRACT

Money allocated for specific fire projects/purchases has accumulated (unspent) for a period approaching 9-10 years. Either the work/purchase was not done or not documented. The MTE Forest Manager, FMO and Road Engineer asked me to approve undocumented expenditures so money could be transferred from the fire account into the Road Maintenance account. I refused to approve the transfer of these fire funds until documentation was provided that could withstand an audit and was acceptable to the MTE Financial Officer. I was informed by the Road Engineer, following a meeting he had with the Forest Manager, that documentation was available and that the Financial Officer said it was O.K. to transfer the funds if I approved the project work. I called the Financial Officer and he said

that he was told I had approved the projects and wanted him to make the money transfer within the MTE accounting system. The MTE staff then informed me that they would just use the accrued fire money to begin project work and forget about invoicing for past work.

Several weeks later, the FMO had prepared an invoice for reimbursement for an approved fire project with the work being done by the road crew. I received a copy of the map and inspected the work. Upon review of the project site, I observed it was work done the past fall (it was now spring) and determined the work quality was not sufficient to warrant payment.

Upon my return to the office, I checked the time cards on the invoice and found the time cards showing the work done in May, not the previous fall.

When I asked about the time cards, the invoice and documentation disappeared and was never submitted to the MRO for payment. I do not know how the road crew charged their time last fall when the work was actually done nor do I know what they actually did in May when the work was already complete. It is my opinion that time cards were forged in an attempt to cover road crew costs resulting from deficiency in the road maintenance contract budget (cited above).

FORESTRY CONTRACT - FOREST MANAGEMENT

There are too many problems to cover in detail, therefore I will highlight only the most serious deficiencies.

The MTE Board of Directors approved a new logging contract document prior to the start of their FY 2000 logging year. Late last winter, the MTE President waived the contract requirement for an individual, allowing him to cut timber without a contract. The forestry staff had no legal means to control his cutting activities during the time he cut. This was justified by forestry as "just a small unit" (about 10 acres) while the MTE President claimed the MTE Board gave him the authority to waive contracts. I requested clarification of the Board policy allowing the President this authority before end of August. The President responded by mandating no MTE forestry staff, other than the Forest Manager, could speak directly to me on any matters.

Last Monday (9/10) I directly asked the Forest Manager if he was following this directive and he responded "no". I verified with several MTE staff that the Forest Manager had clearly reiterated this Presidential policy in several meetings. This conflicts with sections of the Forest Management Plan and requires a modification of the Plan, to effect such change, through written MTE Board policy and BIA concurrence.

Last July, MTE requested BIA approval of a new harvest schedule for the all-aged cover type, which I denied pending more information (they requested such a change last year, which I also denied). It is my opinion that because the Forest Manager failed to address many apparent weaknesses that had been identified to him at least three agos, the all-aged cover type harvest schedule is seriously flawed and there is a high probability that the forest will suffer increased mortality, loss of value and delayed regeneration, i.e., this cover type is not being managed sustainably as required under the Restoration Act. I asked for a written plan by September describing the corrective action MTE will take to fix the schedule and return to a sustainable condition.

MTE is not paying fair market stumpage value for the timber they cut, saw or sell. I have questioned this practice and was threatened by the MTE President for raising the issue. This issue has been misrepresented to the MTE Board by the President and the MTE legal counsel. Therefore, no effective dialogue has occurred or, base on the actions of the President, is it likely it will occur. It is impossible to fully protect the trust resources when substantial administrative and legal steps are taken by MTE to prevent the BIA from exercising its trust oversight role on the Reservation in a manner consistent with the Forest Management Plan.

It is my opinion that the MTE President, as well as the Forest Manager, are knowingly and willingly violating MTE Board policies as well as the language contained in the Forest Management Plan. It is also impossible to get an honest answer to any question related to their activities under the various contracts. Therefore, if the issues/problems identified above (plus the many more not described) are deemed to be a serious threat to the trust resources, the only way to determine the truth of the matter, and effect real protection of the trust, is to conduct an audit of these programs.