



Tribal TAB Program

*Providing “Technical Assistance
to Brownfields” to all U.S.
Federally Recognized Tribes!*



*CERCLA 128(a):
Tribal Response Program
(TRP)*



*Site Specific Work:
Introduction*

Tier 1: Module 8

When can we do “real work”?

When can we
cleanup a
“Brownfield”?



Can you
clean out my
dog house?

Site Inventory to Cleanup



Cleanup & Verification

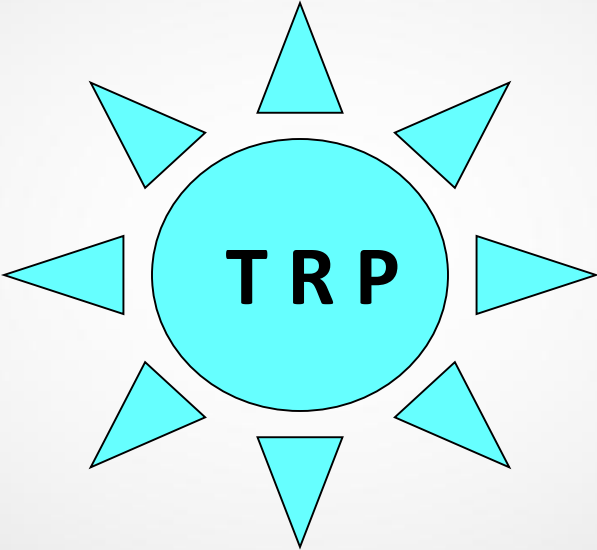


Public Record



Assessment

Site Discovery



Inventory



Prioritization



What is “Site Specific Work” ?

Site specific activities conducted by the Tribal Response Program with 128(a) grant funds at an eligible site could include:*

- ASTM Environmental Site Assessments (ESAs); and/or*
- Response Actions (cleanups)*

** This is when the EPA definition of a Brownfield is important!*

What is a “Site Assessment”?

Site Assessments are conducted in two phases following ASTM methodologies:

- Phase I: based upon records searches, interviews and site visit to identify potential “Contaminants of Concern” (CoCs);*

And, if needed

- Phase II: Conduct actual sampling and analysis to confirm presence, concentration and extent of contaminants of concern.*

**consult the EPA for the current ASTM Methodology*



Tribal Phase I Assessments: Know the hazards



Phase II Environmental Site Assessment Work-
Former Fuel Storage Area - Hughes, AK

Tribal 128(a) Funded Cleanups

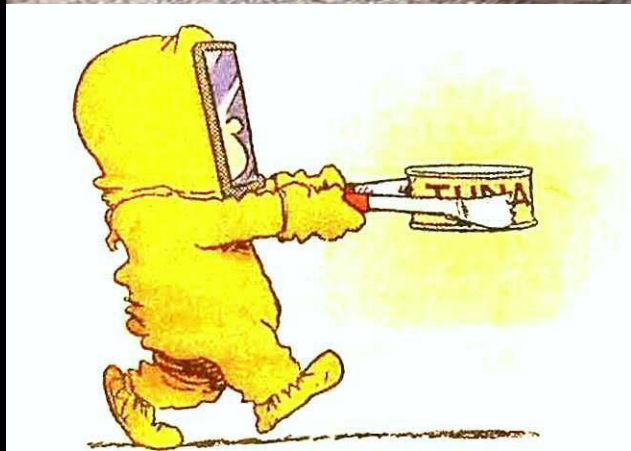


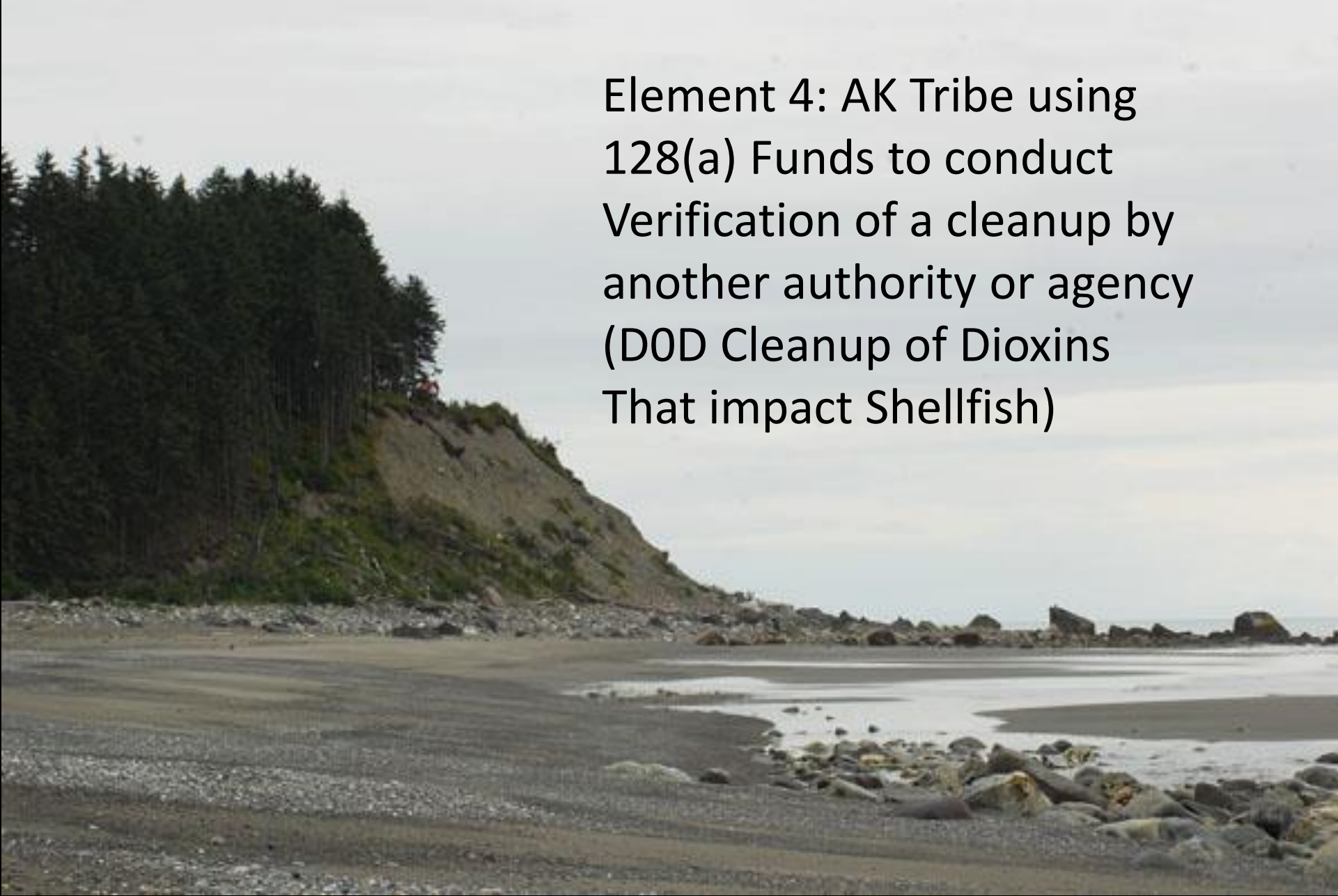
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Brownfield 104 Grant Cleanups

Emergency-Spill Response Oversight & Coordination





Element 4: AK Tribe using
128(a) Funds to conduct
Verification of a cleanup by
another authority or agency
(DOD Cleanup of Dioxins
That impact Shellfish)

Verification of remediation to protect tribal food sources

The “Law”

The Law does not specifically mention site specific activities under 128(a).

However it does state in 128(a)(1)(B): “A State or Indian tribe may use a grant under this subsection to establish or enhance the response program of the State or Indian tribe.”

US EPA Guidance

A secondary goal of the 128(a) grant is to provide funding for other activities that increase the number of response actions conducted or overseen by a tribal response program.

Therefore, tribes may use 128(a) funds for activities that improve tribal capacity to increase the number of sites at which response actions are conducted under the tribal response program.

US EPA Guidance

Eligible uses of grant funds include, but are not limited to, *site-specific activities* such as:

- conducting assessments or cleanups at brownfield* sites;
- technical assistance to federal brownfields cooperative agreement recipients;

**This is when the EPA definition of a Brownfield is important!*

US EPA Guidance

Eligible uses of grant funds also include, but are not limited to, site-specific activities such as:

- development and/or review of site-specific quality assurance project plans (QAPPs);*
- preparation and submission of “Property Profile Forms”; and*
- auditing site cleanups to verify the completion of the cleanup.*
- Monitoring of ICs or long term remediation*
- Entering data into the EPA “ACRES” database.*



US EPA Guidance

EPA will not provide section 128(a) funds solely for assessment or cleanup of specific brownfield sites; site-specific activities must be part of an overall section 128(a) work plan that includes funding for other activities that establish or enhance the four elements;

US EPA Guidance

- EPA approval is required before any 128(a) grant funds can be obligated or expended on site specific activities.
- Section 128(a) funds for site specific activities can only be used for assessments or cleanups at sites that meet the definition of a brownfield as defined under CERCLA 101(39). This includes petroleum contaminated brownfield sites.



US EPA Guidance

- This approval is normally obtained by providing EPA with sufficient information, through submission of a “**Site Specific Eligibility Determination**” request, to review the site eligibility for such funding and compliance with the Law and applicable EPA policies.

(consult your EPA Region for specific information needed)

US EPA Guidance

- *No more than \$200,000 per site can be funded for assessments or cleanups with Section 128(a) funds.*
- *Absent EPA approval, the tribe may not use funds awarded under the 128(a) grant to assess or cleanup sites owned or operated by the grant recipient.*



*Contracting Site
Assessments: Phase I & II*

US EPA Methodology

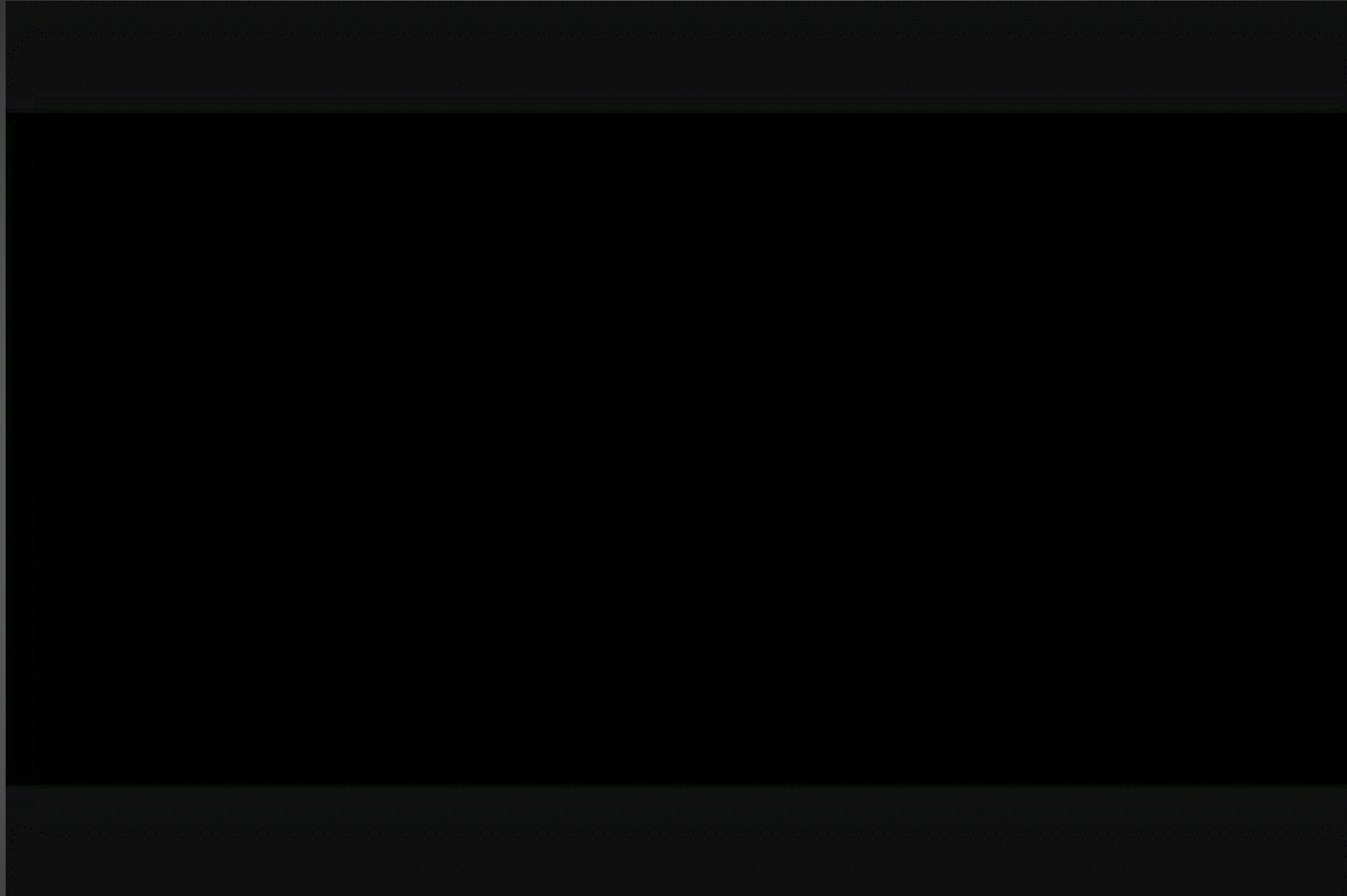
- *Attend necessary training*
- *Understand the (EPA) process and guidance before you conduct a tribal response action (cleanup);*
- *Avoid making a problem bigger or worse;*
- *Have your “ducks in a row”*



- ✓ **Prioritize sites**
- ✓ **Establish authorities & processes**
- ✓ **Obtain all necessary approvals**
- ✓ **Conduct Assessments**
- ✓ **Conduct Cleanup**
- ✓ **Verify & Certify**

Getting Your Ducks in a Row

Bob Killian, TRP Coordinator – Southern Utes, CO



Standing Rock Sioux Tribe, ND/SD TRP
Using a TBA and a 104 Brownfields Grant

What are “Data Quality Objectives”?

DQOs should be determined before conducting the Phase II Site Assessment and be part of the Sampling and Analysis Plan:

- This will identify potential cleanup standards* that may apply;*
- Should be based upon anticipated site reuse or redevelopment plans;*
and
- Assist in determining data quality and extent of sampling needed for the Phase II Site Assessment*

**consult the EPA and/or the State for recommended or potential cleanup standards*

Site Assessments

An “**Environmental Site Assessment**” (ESA) must be conducted by an “environmental professional” as defined under 40 CFR §312.10 for conducting “All Appropriate Inquiry” using appropriate ASTM methodology.

Note: Some Tribal staff have qualified as an E.P. and conducted Phase I Assessments

Other Options

- *EPA or State Targeted Brownfield Assessments (TBAs) conducted using their contractor (no 128(a) grant funds needed); or*
- *EPA “Removal Action” for elimination of an imminent hazard.*



General Comparison: Superfund Process vs 128(a) Tribal Response Program

Superfund	Tribal Response Program
Preliminary Assessment (PA)	Brownfield Inventory
Site Investigation (SI)	ASTM Phase I Site Assessment
Remedial Investigation (RI)	ASTM Phase II Site Assessment
Feasibility Study (FS)	Analysis of Cleanup Alternatives
Record of Decision (ROD)	Response Action Decision
Remedial Action (RA)	Response Action

Tribal Accomplishments

- *Many Phase I and II ESAs*
- *TRP Response Actions/Cleanups*
- *104(k) Brownfield Grant Cleanups*
- *Verifications of past cleanups*
- *Reviews of Brownfield Grant Documents & Reports*
- *Review of remediation plans & reports from other agencies*
- *Changing Tribal & Community Expectations!!*

Tribal Issues

- *Determination of property ownership and status can hold up a site specific action;*
- *Tribal jurisdiction, or clear lack of such, can be a problem;*
- *Tribal ownership and/or liability in the contamination of a site can prevent approval of use of 128(a) grants funds;*

Tribal Issues

- *Many tribes do not have the laws, codes, procedures or authority in place to make decisions on cleanup standards or to implement institutional controls;*
- *Many existing tribal contracting policies and procedures are not appropriate or adequate for hiring or overseeing a remediation contractor.*

Lessons Learned

- *Verify property status and ownership;*
- *You can never do too much community outreach about a site and the activities being conducted there (do it early and often);*
- *Be cautious of “free” or non-cost actions or services;*
- *Be prepared to deal with major changes in site conditions or waste issues;*

Lessons Learned

- *Determine in advance who needs to make what decisions;*
- *Determine in advance who will verify the site work completion and how;*
- *Do not overlook potential partners for funding or seeking other grants for site specific work; and*
- *Creative or combined funding may be needed to get the whole job done.*

Further Implementation

- *Increased collaboration and sharing among tribes of laws, codes, procedures and policies that work in the tribal situations and lands;*
- *Inter-tribal mentoring and experience sharing of contracting and site specific experiences;*
- *More opportunities for tribal staff to learn site work in the field and shadow or observe experienced EPA or state staff and contractors.*

Reference:

*“Brownfields Road Map to Understanding Options
for Site Investigation and Cleanup” (Fifth Edition)*

EPA Office of Solid Waste and Emergency Response

EPA 542-R-12-001

www.brownfieldstsc.org/roadmap

Resources:

- ❖ Use the “*Brownfield Forum*” to seek answers to questions and advice of other tribes and/or KSU staff. The Tribal Brownfields Forum is an online platform for connecting brownfields and contaminated-sites staff and professionals from Tribal areas: www.tribalbrownfields.org
- ❖ KSU TAB Assistance to Tribes: No application process, just contact us!
<https://www.ksutab.org/services/ksu%20tribal%20tab%20program>
- ❖ Annual EPA 128(a) Program Guidance

Was this helpful to you in understanding the TRP?

Please let us know and also let us know if there are other topics you would like to have addressed!

*Please provide feedback to:
KSU-Tribal TAB at chsr@ksu.edu*



KANSAS STATE
UNIVERSITY



END

*Introduction
to
Site Work*

