



Tier 1 Module 8

CERCLA 128(a)

Tribal Response Program

Site Specific Work: Introduction



“Site Specific Work” ?

Site specific activities are conducted by the Tribal Response Program with 128(a) grant funds at an eligible site such as:

- ASTM Environmental Site Assessments;
- Verification of a Cleanup; and/or
- Response Actions (cleanups)

Site Inventory to Cleanup

Cleanup & Verification



Public Record



Assessment

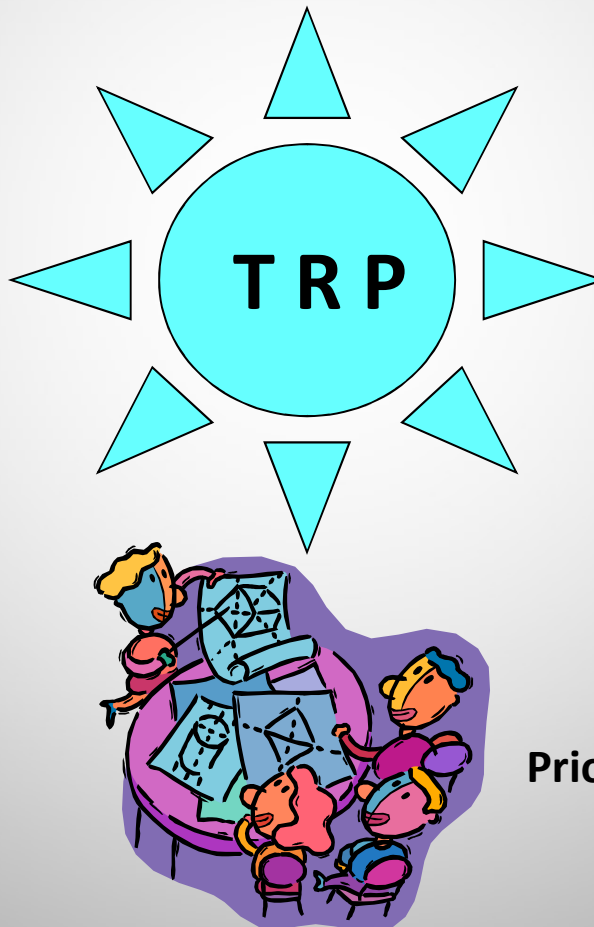
Site Discovery



Inventory



Prioritization



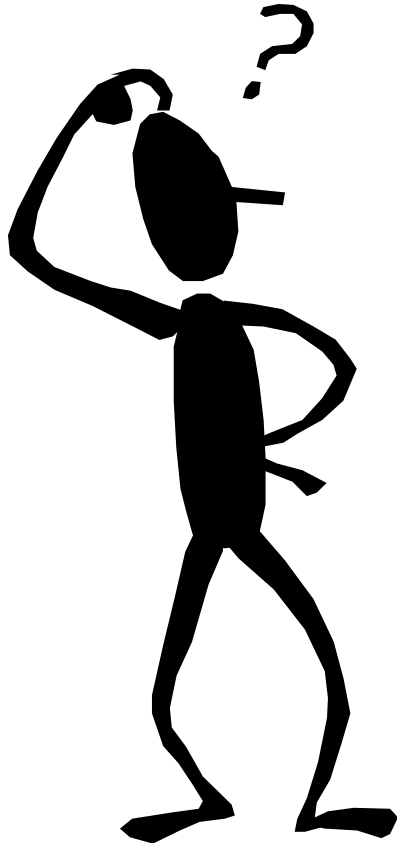


Lessons Learned

- 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 grants for site specific work; and
- Understand the “Big Picture”.



When can we do “real work”?



When can we cleanup a
“Brownfield”?



Can you clean
out my dog
house NOW?



Phase I Assessments: Ghost Creek Drum Site – Holy Cross, AK



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

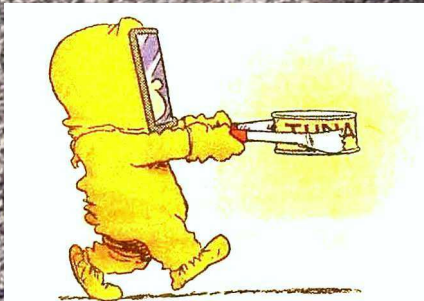
Assessment and Response Actions at Open Dumps





Verification of remediation to protect tribal food sources

Emergency-Spill Response



NOTE: Alaska Tribes & Villages are conducting site specific work at FUDS/DoD/USACE Sites





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 grant fundable activities include, but are not limited to, conducting limited site-specific activities provided such activities establish and/or enhance the response program and are tied to the four elements.



US EPA Guidance

Eligible uses of 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;

(such as a Village TRP assisting a Village Corp.; a local community or other non-profit with a 104(k) grant)



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 US EPA definition of a brownfield as defined under CERCLA 101(39). This includes petroleum contaminated brownfield sites.



US EPA Guidance

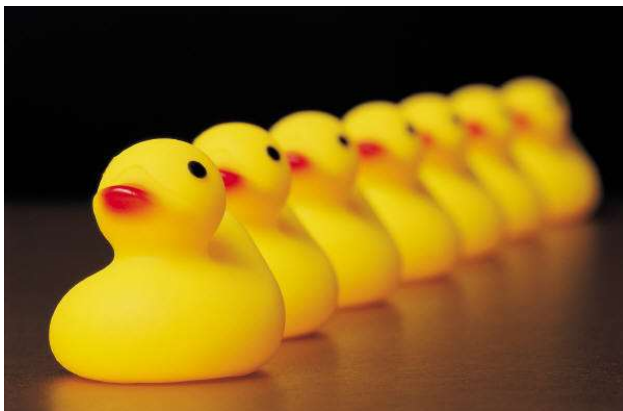
- This approval is normally obtained by providing EPA with sufficient information, through submission of a “**Site Specific Eligibility Determination**” request, to review the site eligibility for such funding and compliance with the Law and applicable EPA policies.

(consult EPA Region 10 for specific information needed)



US EPA Approach

- 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”



- ✓ Attend necessary training
- ✓ Obtain all necessary approvals
- ✓ Prioritize Sites
- ✓ Conduct Assessments
- ✓ Establish Authorities
- ✓ Cleanup a Site
- ✓ Verify & Certify



Other Options

- EPA or ADEC Targeted Brownfield Assessments (TBA/DBAs) conducted using their contractor (no grant funds); or
- EPA or ADEC “Removal Action” for elimination of an imminent hazard.



Other: NALEMP

The Native American Lands Environmental Mitigation Program is overseen by the US Army Corps of Engineers and funds remediation activities for former military sites on Native American lands. It allows Alaska Native and Native American tribes to investigate and remove hazardous materials from their land and provides valuable employment and skills training to tribal members.



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 resolutions, rules, 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.



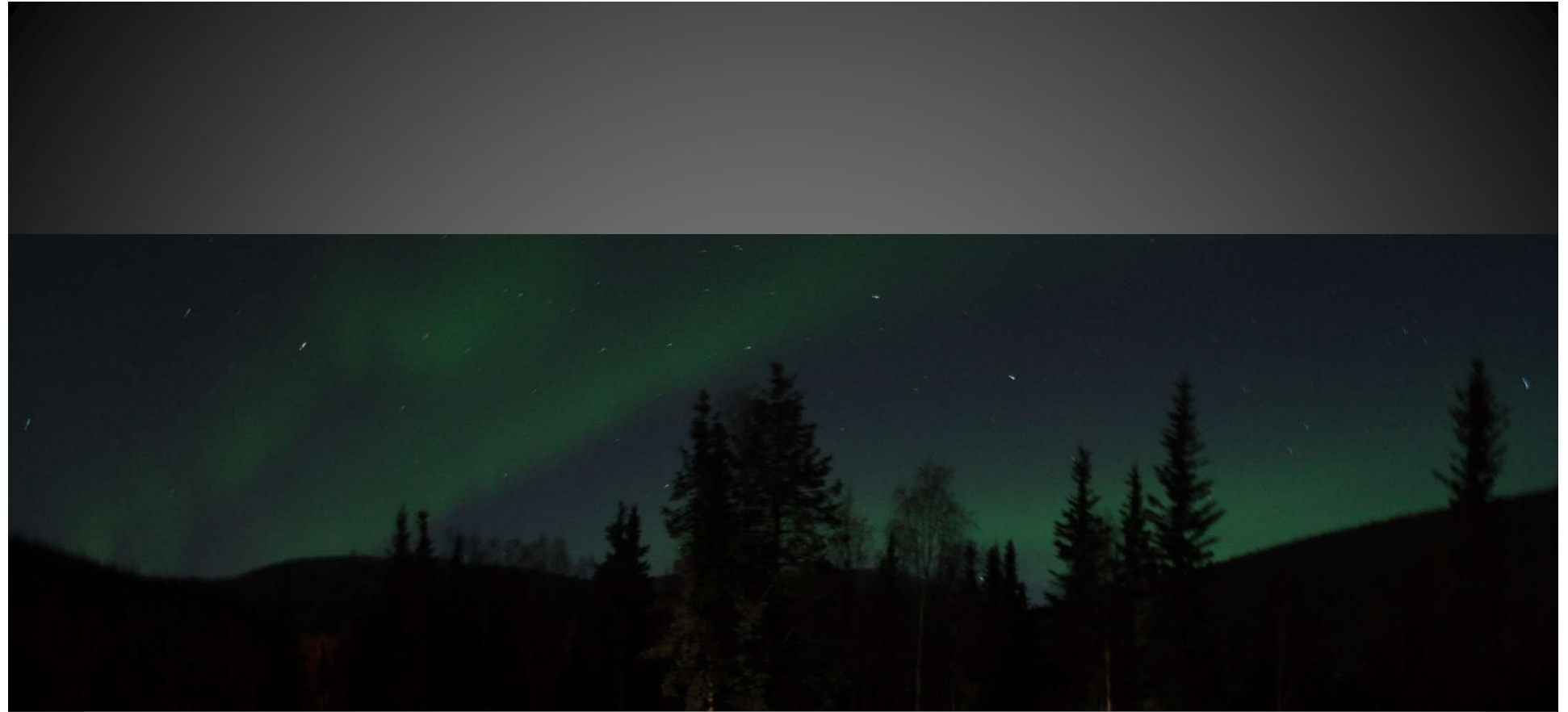
Lessons Learned

- Verify property status and ownership;
- Determine who needs to be involved and/or informed of planned actions;
- 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 grants for site specific work; and
- Understand the “Big Picture”.



The End