



Tier 1 – Establishing a Tribal Response Program

Module 8: Introduction to Brownfields Site Specific Work

**A basic introduction to site specific work on a brownfield site to
conduct Environmental Site Assessments and/or cleanups**

[TribalTAB.org](https://tribaltab.org)

When Can We Do “Real” Site Work?

Steps from Site Inventory to Cleanup



What is Site Specific Work?

EPA encourages states and Tribes to use site-specific funding to:

- ❖ perform assessment* (e.g., Phase I, Phase II, supplemental environmental assessments and cleanup planning) and
- ❖ cleanup activities* that will expedite the reuse and redevelopment of sites, and prioritize sites based on need.

*Section 128(a) funds can only be used for assessments or cleanups at sites that meet the definition of a brownfields site at CERCLA Section 101(39).



The “Law”

The CERCLA 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.”*



U.S. EPA Guidance

A secondary goal of the 128(a) grant is to provide funding for other activities that increase the number of response actions (aka cleanups) 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.



U.S. 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 ACRES/PAL data and Property Profile Forms
- ❖ Auditing site cleanups to verify the completion of the cleanup
- ❖ Monitoring of institutional controls or engineering controls or long-term remediation (such as a long-term pump and treat system).



U.S. 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 addresses the Four Elements and that includes funding for other activities that establish or enhance the Four Elements.



U.S. 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.



U.S. 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 and format needed)



U.S. EPA Guidance

- ❖ No more than \$250,000 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.

**Greater amounts of site work funding are available in the 104(k) Brownfield Grants and other potential funding sources.*



128(a) Guidance

Consult the latest U.S. EPA Guidance: U.S. EPA Office of Brownfields Land Revitalization issues an annual 128(a) funding guidance each Fall*:

“Funding Guidance for State & Tribal Response Programs, Fiscal Year 20xx”

Note: This guidance is supplemented by the EPA Regions

*see Funding Guidance: <https://www.epa.gov/brownfields/state-and-tribal-response-program>



Site Assessments

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

Note: Some trained and qualified Tribal staff have conducted Phase I Assessments



What are Site Assessments?

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 U. S. EPA for the current ASTM Methodology*



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 potential cleanup standards.*



Site Assessment Funding Options

- ❖ Use 128(a) Grant funds to hire a Qualified Environmental Professional to conduct Brownfield Environmental Site Assessments.
- ❖ Apply for EPA or State funded Targeted Brownfield Assessments (TBAs) conducted using their contractor (no 128(a) grant funds needed); or
- ❖ Apply for a 104(k) Brownfields Grant to fund Environmental Site Assessments (sit specific or community wide)



General Comparison: Superfund Process & Terms 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)	Cleanup/Response Action



A stylized graphic of a bridge with a series of triangular trusses, rendered in a light blue color, spanning the top of the slide.

Examples of Site Specific Work

Assessments – Cleanups – Emergency Response

Tribal Phase I ESA:

FBIC Cattle Dip Site

Observations and Documentation



Tribal Phase I ESA:

- ❖ Know the hazards
- ❖ Do not stand on drums
- ❖ Wear safety boots onsite (safety gear & equipment can be an eligible grant expense)



Tribal Phase II ESA:

Former fuel storage area
- Hughes, Alaska

Sampling & analysis by
trained staff



Tribal 128(a)
Funded Cleanups
Have Been Done



Brownfield 104(k) Cleanup Grants

SRST Former School cleanup



Emergency-Spill Response with TRP Oversight & Coordination



Assessment & Response Actions at Open Dumps



Verification of Remediation to Protect Tribal Food Sources

Alaska Tribe using 128(a)
funds to conduct verification
of DOD cleanup of dioxins
that impact shellfish



Brownfield sites can be dangerous!

A young Tribal member died
in this building



U.S. 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





[Click to play video, which will open in YouTube.](#)

Video 8.1: Getting Your Ducks in a Row

Bob Killian

Former TRP Coordinator, Southern Utes, CO



Click to play video, which will open in YouTube.

Video 8.2: Using a TBA & Brownfield 104(k) Grant

LaDonna Brave Bull Allard

Standing Rock Sioux Tribe, ND/SD

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 Implementation Issues

- ❖ Determination of property ownership and land 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
- ❖ Many Tribes do not have the laws, codes, procedures or authority in place to make decisions on cleanup standards or to implement institutional controls
- ❖ Some 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
- ❖ 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
- ❖ Creative or combined funding may be needed to get the whole job done



Further Implementation

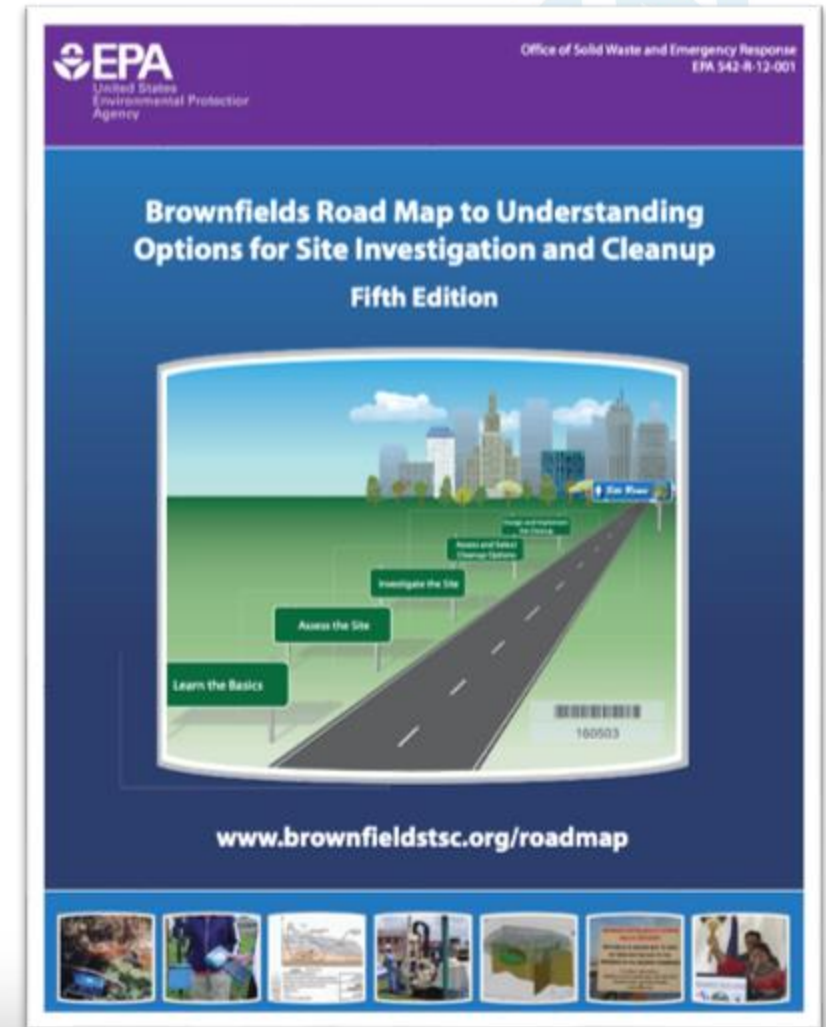
- ❖ Increased collaboration and sharing among Tribes of laws, codes, procedures, and policies that work in Tribal situations and lands
- ❖ Inter-Tribal mentoring and experience sharing of contracting and site-specific experiences
- ❖ More opportunities for Tribal staff to learn site work in the field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



EPA Brownfields 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, available at:
<https://semspub.epa.gov/work/HQ/160503.pdf>



We Would Like to Hear From You

Questions about this Module or need other
brownfields assistance?

Contact the Tribal TAB team at
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