

**HALEY
ALDRICH**



Managing Environmental Risk to Overcome Development Hurdles

2022 Tribal Land Staff Conference



Welcome and Introductions

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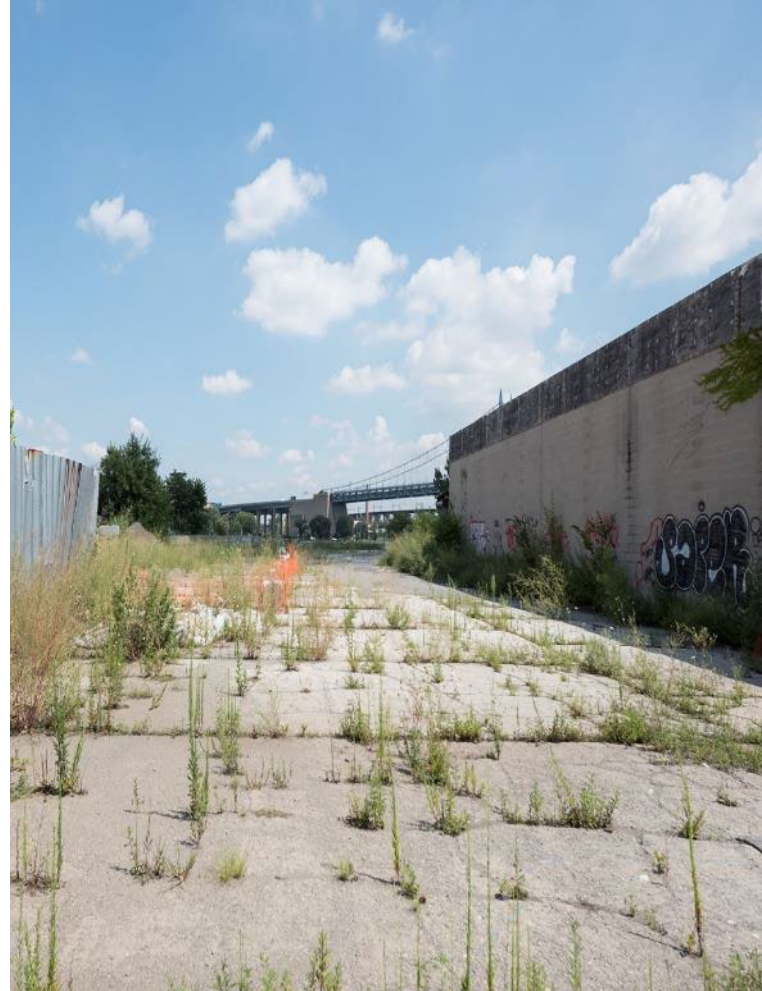
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Presentation Overview

- Defining Contaminated Land and Brownfields
- Identifying Risk: Environmental Due Diligence (EDD)
- Brownfield Funding – Show Us The \$\$!
- Tribal Brownfield Funding Stories
- Resources for Land Managers
- Q&A



Learning Objectives:

- Define contaminated land and brownfields
- Identify environmental risk
- Obtain funding and technical assistance

You may be interested if . . .

- You are responsible for acquiring or developing land for a Tribe
- Your Tribe is buying property but have questions about its past use or condition
- Your Tribe owns property with environmental or other conditions that limit its sale or use

Defining Contaminated Land and Brownfields

Contaminated Land:

Property impacted by a release, typically of petroleum or hazardous substances.



Defining Contaminated Land and Brownfields

Brownfield:

Property where **expansion, redevelopment, or reuse** may be complicated by the **presence or potential presence** of a hazardous substance, pollutant, or contaminant.



Defining Contaminated Land and Brownfields

Gas Station:

- Both may be contaminated with petroleum
- One is in active use
- Other potentially a brownfield



Defining Contaminated Land and Brownfields

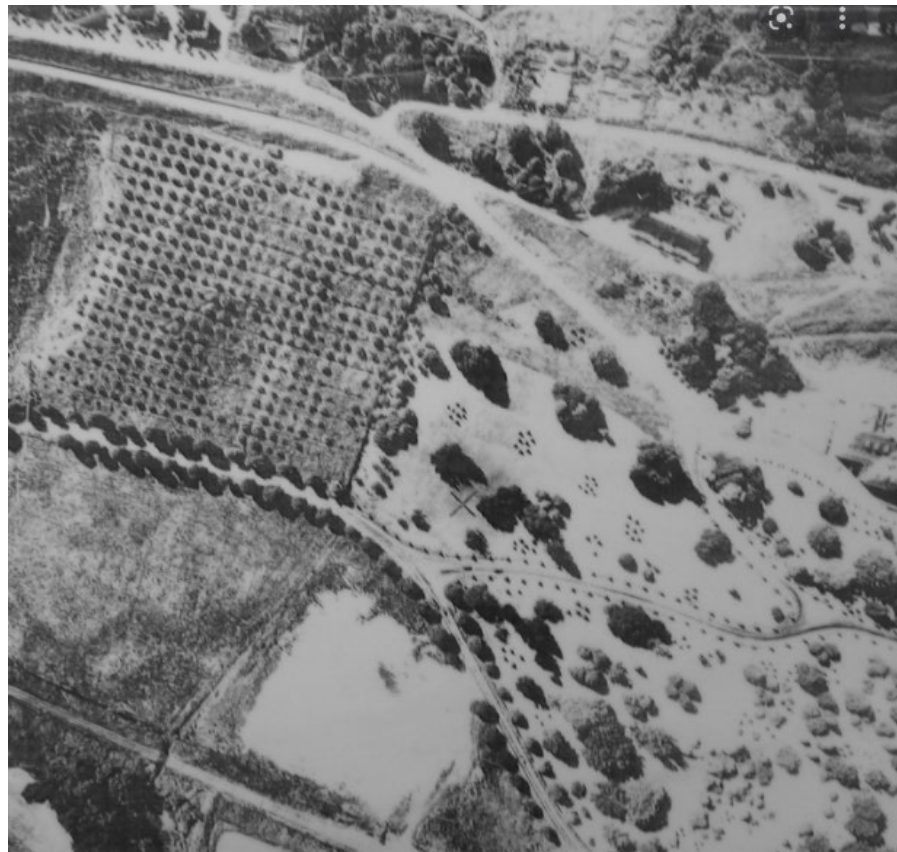


Photo credit: Blackfeet Tribe, Old Browning Landfill, Montana

Defining Contaminated Land and Brownfields



Photo credit: Kansas State University, Chippewa Cree Tribe of Rocky Boy Indian Reservation, Montana



Defining Contaminated Land and Brownfields



Photo credit: Yankton Sioux Tribe, Former Guest House, Marty Indian School Campus

Defining Contaminated Land and Brownfields: Opportunities to Transform



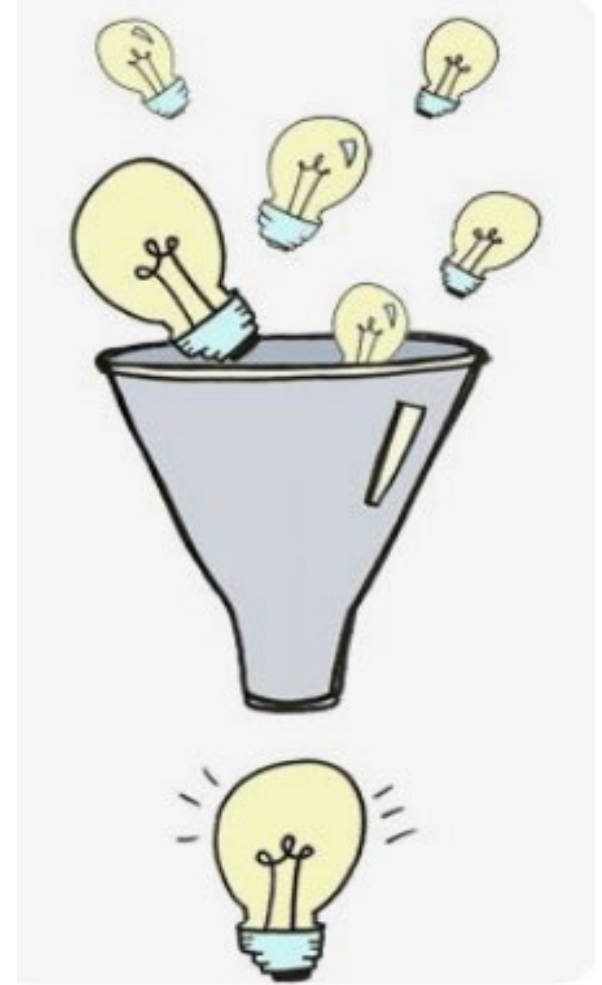
Contaminated Land and Brownfields: **Why do land managers care?**

- Environmental **liability** and **costs**
- Use limitations
- Public & environmental health
- Crime, dumping, vandalism, blight
- Economic opportunities
- Livability



Contaminated Land and Brownfields: **Take-aways**

- Contamination and brownfields are not always apparent
- Contamination is a (manageable!) hurdle to development
- Brownfields are opportunities



Identifying Risk: **Environmental Due Diligence**

A Land Manager's First Line of Defense!



Identifying Risk:

Environmental Due Diligence

What Is It?

Environmental Due Diligence (EDD) is an evaluation of the environmental condition of a property generally completed prior to purchase or sale.

Why Is It Important?

- ✓ It can protect against federal liability
- ✓ Hidden environmental liabilities can be \$\$\$\$\$
- ✓ Environmental liabilities can hold up a transaction

Identifying Risk:

Phase I Environmental Site Assessment

Foundation of Environmental Due Diligence

- Desktop study (no sampling)
- Past and current uses, surrounding area, operations, environmental history
- Often required by lenders and public agencies (BIA)
- Provides protection from federal environmental liability

Identifying Risk: **ASTM E1527**

E 1527-13 (now 1527-21)

- Commercial Real Estate
- Onsite Evaluation

E 2247-16

- Forestland and/or Rural Property
- 120 Acres or Greater
- Onsite Evaluation
- Remote Methods Available

Identifying Risk: **ASTM 1527 (or 2247) for Phase I ESAs**

What's Included?

- Site reconnaissance
- Interviews
- Historical records review
- Environmental records review

What's not included?

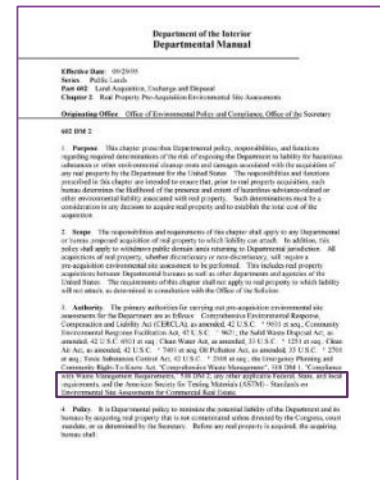
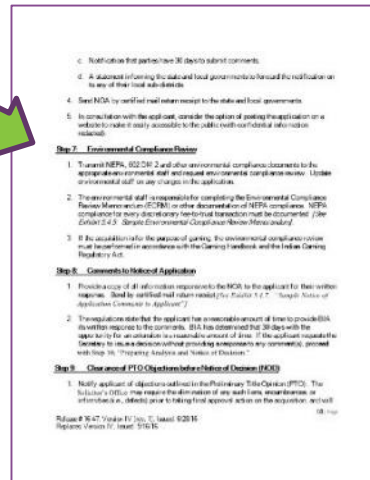
- Regulated building materials (asbestos, lead-based paint)
- Indoor air quality
- Vapor Intrusion
- Sampling or testing
- Wetlands and natural resource issues

Identifying Risk: Fee-To-Trust Requirements

➡ BIA Fee-to-Trust Handbook

➡ Step 7 references DOI DM Part 602: Land Acquisition, Exchange, and Disposal; Chapter 2: Real Property Pre-Acquisition Environmental Site Assessments

➡ DM Part 602 Chapter 2 References the **ASTM** standard for Phase I ESAs



Identifying Risk: **The Phase I ESA in Fee-to-Trust**

- ❑ **Reducing Liability** – Make it Easy for BIA to Approve
- ❑ **Timing the Phase I ESA** – Addressing Shelf Life

Shelf-Life

A Phase I ESA is valid for one year, provided that the interviews, Site reconnaissance, and environmental records reviews are conducted after six months.

Identifying Risk: **Two ASTM Standards**

E 1527-13

- Commercial Real Estate
- Onsite Evaluation

E 2247-08

- Forestland and/or Rural Property
- 120 Acres or Greater
- Onsite Evaluation
- Remote Methods Available

Identifying Risk:

Phase I Environmental Site Assessments
CRECs, and HRECs, and RECs, oh my!



Royalty free imagery by Creative Commons

Identifying Risk: **The Phase I ESA – Not Just For BIA**

- ✓ Prior to ANY property acquisition
- ✓ Reduction in sale price
- ✓ Address environmental conditions before buying
- ✓ Address environmental conditions before fee-to-trust application

Identifying Risk:

Recognized Environmental Conditions (RECs)

The presence or likely presence of any hazardous substances or petroleum products in, on, or at a property

- ❑ due to any release to the environment;
- ❑ under conditions indicative of a release to the environment; or
- ❑ under conditions that pose a material threat of a future release to the environment.



Identifying Risk: **Historic Recognized Environmental Conditions (HRECs)**

A past release of any hazardous substances or petroleum products that has been addressed to the satisfaction of the applicable regulatory authority for meeting unrestricted residential use criteria, without subjecting the property to controls.



Identifying Risk: **Controlled Recognized Environmental Conditions (CRECs)**

A REC resulting from a past release of hazardous substances or petroleum products that has been allowed under regulatory authority, to remain in place subject to the implementation of required controls:

- Institutional Controls
- Engineering Controls



Identifying Risk: Phase I Environmental Site Assessments

What to look for . . .



Identifying Risk: **Pipes On Buildings**



Identifying Risk: **Pipes Out of Buildings**



Identifying Risk: **Current or Past Site Use**



Identifying Risk: **Stored Materials**



Identifying Risk: **Uncontrolled Dumping**



Identifying Risk: **Patches in Asphalt or Concrete**



Identifying Risk: **Other Potential Concerns**

- Unusual petroleum or chemical staining on ground surface, asphalt or concrete
- Stressed or dead vegetation
- Spray painting stains
- Strong odors
- Septic systems
- Monitoring wells
- Hummocky topography or soft areas on landscape
- Burn piles



Identifying Risk: **Is this a REC?**



Former Service Stations



Leaking Drums



Dry Cleaners



Chemical Handling



Identifying Risk: **Is this a REC?**



Trash



**Dry Material
Storage Silos**



**Non-compliant
Oil Storage**



Debris Piles



Identifying Risk: **Is this a REC?**



Medical Waste



Asbestos



Wetlands



Mold



Identifying Risk – Tools and Environmental Professionals

- **Phase I ESA Checklists can be found online**
- **Hiring an Environmental Professional:** Someone qualified to conduct and/or supervise a Phase I Environmental Site Assessment, based on experience and education requirements.

Identifying Risk

Take-aways

- Performing environmental due diligence prior to property acquisition is a valuable land planning tool
- Identifying potential environmental risks early leads to better land planning
- Understanding the staging requirements for environmental due diligence can ease the process for property acquisition or sale and fee-to-trust applications
- Hiring an Environmental Professional can provide piece of mind and assurance for proper environmental due diligence

Brownfield Funding: Show Us The \$\$!

Brownfield Funding: **US Environmental Protection Agency (EPA)**

- Since 1990s
- Annual grant competition
 - Assessment, cleanup, planning
- No Match Required
- 128(a) funding – non-competitive
 - Programmatic



www.epa.gov/brownfields



Brownfield Funding: Assessment Grants

- \$500,000 - \$10,000,000
- 3-5 Years to Implement
- Don't need to select sites to apply – just demonstrate need
- Diverse Uses –
 - Community Outreach
 - Inventory/Prioritize
 - Environmental Site Assessments
 - Cleanup Planning
 - Reuse Planning





Brownfield Funding: Cleanup Grants

- \$500,000 - \$5,000,000
- 3 Years to Implement
- One Site or Multiple Sites
- Applicant Must Own Property
- Used to:

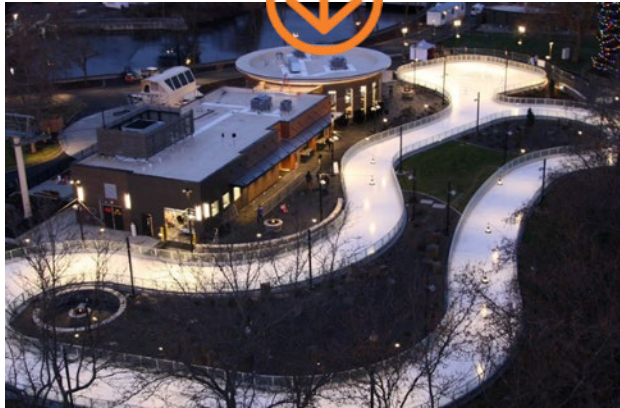
Prepare Cleanup Action Plan

Abatement of Hazardous Building Materials

Cleanup of Soil, Groundwater, Surface
Water and/or Sediments



*Riverfront Park
Spokane WA*



Brownfield Funding: Multi-Purpose Grants

- \$800,000 - \$10,000,000
- 5 Years to Implement
- Assessment, Cleanup and Reuse Planning
- One Large Site or a Multiple Sites in a Focus Area

Brownfield Funding: Bipartisan Infrastructure Law



\$1.5 BILLION Investment Highlights

\$150 MILLION
in Multipurpose Grants

2022 & 2023 OFFERINGS*

UP TO \$10 MILLION per grant
for communities, states, tribes and nonprofits to plan, assess and cleanup sites
No cost share requirement
Proposals due November 2022 • Projects awarded Summer 2023

\$600 MILLION
in Assessment Grants

UP TO \$10 MILLION per grant
for communities, states, tribes and nonprofits to determine extent of
contamination and plan revitalization at brownfield sites
No cost share requirement
Proposals due November 2022 • Projects awarded Summer 2023

\$160 MILLION
in Cleanup Grants

UP TO \$5 MILLION per grant
for communities, states, tribes and nonprofits to cleanup contamination on
brownfield sites
No cost share requirement
Proposals due November 2022 • Projects awarded Summer 2023

\$150 MILLION
in Revolving Loan Fund
(RLF) Grants

UP TO \$5 MILLION per grant
for existing, high-performing RLF grantees to provide loans and subgrants for the
cleanup of contamination and revitalization of brownfield sites
No cost share requirement
Supplemental requests from existing grantees due March 2022
Funds awarded August 2022

Brownfield Funding:

EPA Targeted Brownfield Assessments (TBA)

- Phase I and II Environmental Site Assessments
- Conducted by EPA contractors
- Average \$100,000, no match
- Not for cleanups



Brownfield Funding:

EPA Environmental Justice Grants

- Collaborative Problem-Solving Grants: up to \$200K
- Environmental Justice Small Grants: up to \$100K
- Flexible uses
- <https://www.epa.gov/environmentaljustice/environmental-justice-grants-funding-and-technical-assistance>



Brownfield Funding: State Programs

- Grants and loans
- Sampling, cleanup, demolition, redevelopment
- Technical assistance

The screenshot shows the Minnesota Department of Employment and Economic Development website. The header includes the logo and navigation links: For Job Seekers, For Business, For Government, About Us, Data, and A-Z Index. A secondary navigation bar highlights 'Home', 'For Government', 'Financial Assistance', 'Site Cleanup and Redevelopment Funding', and 'Contamination Cleanup and Investigation Grant Program'. A sidebar menu under 'For Government' lists various programs, with 'Contamination Cleanup and Investigation Grant Program' circled in red. The main content area is titled 'Contamination Cleanup and Investigation Grants Program Overview' and provides details about the program's purpose, funding, and eligibility.

For Government

- Financial Assistance
- Relief Program
- Business Development Funding
- Community Development Funding
- Infrastructure Funding
- Site Cleanup and Redevelopment Funding
- Contamination Cleanup and Investigation Grant Program**
- Cleanup Revolving Loan Program
- Redevelopment Grant Program
- Demolition Loan Program
- Resources and Workshops
- Shovel-Ready Site Certification
- Public Facilities Authority
- Office of Broadband Development
- Business Subsidy Reporting
- Bond Approvals
- Data for Government

Contamination Cleanup and Investigation Grants Program Overview

The Contamination Cleanup and Investigation Grant Program helps communities pay for assessing and cleaning up contaminated sites for private or public redevelopment.

Grants pay up to 75 percent of the costs to investigate and clean up polluted sites. Both publicly and privately owned sites with known suspected soil or groundwater contamination qualify.

Cities, port authorities, housing and redevelopment authorities, economic development authorities, or counties are eligible.

Requirements | **Forms** | **Grant Management** | **Funded Projects** | **Contacts**

Requirements

Applications

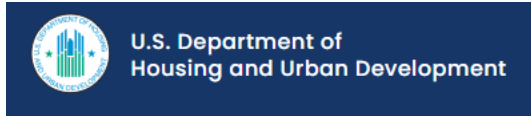
Applications are due by **4:00 p.m. May 1 and November 1 each year.**

For Spring Cleanup and Investigation applications

The application deadline is **4:00 p.m. on May 2, 2022**. Our mail room is open and is processing mail sent through the USPS as usual. **Applications can also be dropped off in person to our offices on May 2 only, please follow the procedures below:**

1. Contact Irene at Irene.Dassier@state.mn.us.
2. State you are submitting a Contamination Cleanup or Investigation grant application.

Brownfield Funding: Capital Stacking



State/Regional Programs:

- Grants, loans, incentives
- State/Tribal Brownfields
- Economic Development
- Housing
- Transportation
- Community Development
- Infrastructure/Public Works

Foundations:

- Usually for nonprofits

Brownfield Funding:

Take-aways

- Layer federal, state, regional, and foundation funding
- BIL = MAJOR Increase in EPA funding – now's the time to think big!
- EPA brownfield grants are flexible: assessment, cleanup, reuse planning, conceptual design, outreach, health studies . . . and more!

Tribal Brownfield Funding Stories

Tribal Brownfield Funding Stories

- 50+ tribes have received Competitive EPA Brownfield Grants
- Many have received several!
- EPA is prioritizing environmental justice

Brownfields Grant Fact Sheet Search

Please use the filters on the left to sort/search for specific grant fact sheets.

Search Criteria:

Grant Type(s): All

Award Year(s): All

[Export Results to Excel](#)

To display additional columns (hazardous, petroleum, job training and pilot funding) in the table below, hover over a column heading and click the arrow to display the Columns selection menu.

Grant Recipient Name	EPA R...	State/T...	Grant Type	Count	Announce Ye...	Total Grant F...	
Absentee Shawnee Tribe of Oklahoma	6	OK	Assessment	1	2004	\$200,000.00	
Absentee Shawnee Tribe of Oklahoma	6	OK	Job Training	1	2006	\$200,000.00	
Absentee Shawnee Tribe of Oklahoma	6	OK	Job Training	1	2008	\$200,000.00	
Absentee Shawnee Tribe of Oklahoma	6	OK	Cleanup	1	2008	\$156,466.00	
Bay-Lake Regional Planning Commission	5	WI	Assessment	1	2018	\$300,000.00	
Bear Paw Development Corporation of No...	8	MT	Assessment	2	2009	\$800,000.00	
Beartooth Resource Conservation & Devel...	8	MT	Assessment	1	2004	\$200,000.00	
Blackfeet Tribe	8	MT	Assessment	1	2003	\$200,000.00	
Blackfeet Tribe	8	MT	Cleanup	1	2018	\$200,000.00	
Blackfeet Tribe	8	MT	Assessment	1	2020	\$300,000.00	
Cher-Ae Heights Indian Community of the ...	9	CA	Cleanup	1	2009	\$200,000.00	
Cheyenne River Sioux Tribe	8	SD	Cleanup	1	2010	\$200,000.00	
Cheyenne River Sioux Tribe	8	SD	Cleanup	1	2014	\$200,000.00	
Cheyenne and Arapaho Tribes	6	OK	Job Training	1	2022	\$200,000.00	
Cheyenne and Arapaho Tribes of Oklahoma	6	OK	Assessment	1	2001	\$200,000.00	
Cheyenne and Arapaho Tribes of Oklahoma	6	OK	Cleanup	1	2020	\$260,000.00	
Cheyenne and Arapaho Tribes of Oklahoma	6	OK	Cleanup	1	2021	\$300,000.00	
Chippewa County/Kinross Township	5	MI	Assessment	1	1996	\$200,000.00	
Colville Reservation, Confederated Tribes ...	10	WA	Area-Wide Planning	1	2010	\$175,000.00	
Colville Reservation, Confederated Tribes ...	10	WA	Cleanup	1	2011	\$196,720.00	
Colville Reservation, Confederated Tribes ...	10	WA	Assessment	1	2019	\$300,000.00	
Comanche Nation of Oklahoma	6	OK	Assessment	1	1998	\$200,000.00	
Concurrent Technologies Corporation (Nor...	4	NC	Job Training	1	2005	\$200,000.00	
Confederated Salish and Kootenai Tribes ...	8	MT	Cleanup	1	2007	\$188,750.00	
Confederated Salish and Kootenai Tribes ...	8	MT	Cleanup	1	2011	\$200,000.00	
Confederated Salish and Kootenai Tribes ...	8	MT	Assessment	1	2013	\$400,000.00	
Confederated Salish and Kootenai Tribes ...	8	MT	Assessment	1	2016	\$200,000.00	
Confederated Salish and Kootenai Tribes ...	8	MT	Cleanup	1	2017	\$100,000.00	

Tribal Brownfield Funding Stories:

Turtle Mountain Band of Chippewa Indians – North Dakota

Belcourt Residences

- Asbestos: 21 buildings, 70+ apartments
- 2017: EPA TBA - asbestos survey
- 2018-2020: \$1.2M EPA Brownfield Cleanup Grants – asbestos abatement
- 2019: HUD \$3M CARES Act Grant – demolition and redevelopment

Overall EPA Brownfield Funding to Tribe:
\$2.6M



Tribal Brownfield Funding Stories:

Ko-Kwel Wharf

Coos Bay, Oregon



Tribal Brownfield Funding Stories:

Ko-Kwel Wharf - Coos Bay, Oregon

- 50.5-acre former timber mill, shipbuilding, and manufactured gas plant
- 2004: Coquille Tribe purchased, RV parking, shipping terminal
- 2019: \$25K Business Oregon Grant - Environmental Assessment
- 2019: \$25K Oregon Dept. Land Conservation & Development Grant – Master Planning
- 2020: \$350K EPA Brownfield Assessment Grant - finish assessments, plan for cleanup, develop reuse vision and strategy
- Evaluating additional private and foundation funding sources

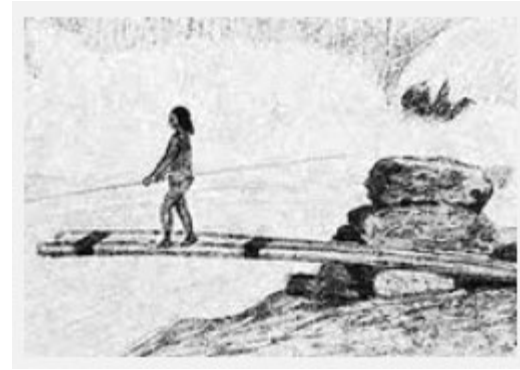
Former Blue Heron Paper Mill

Oregon City, OR

**Confederated Tribes
of Grand Ronde**

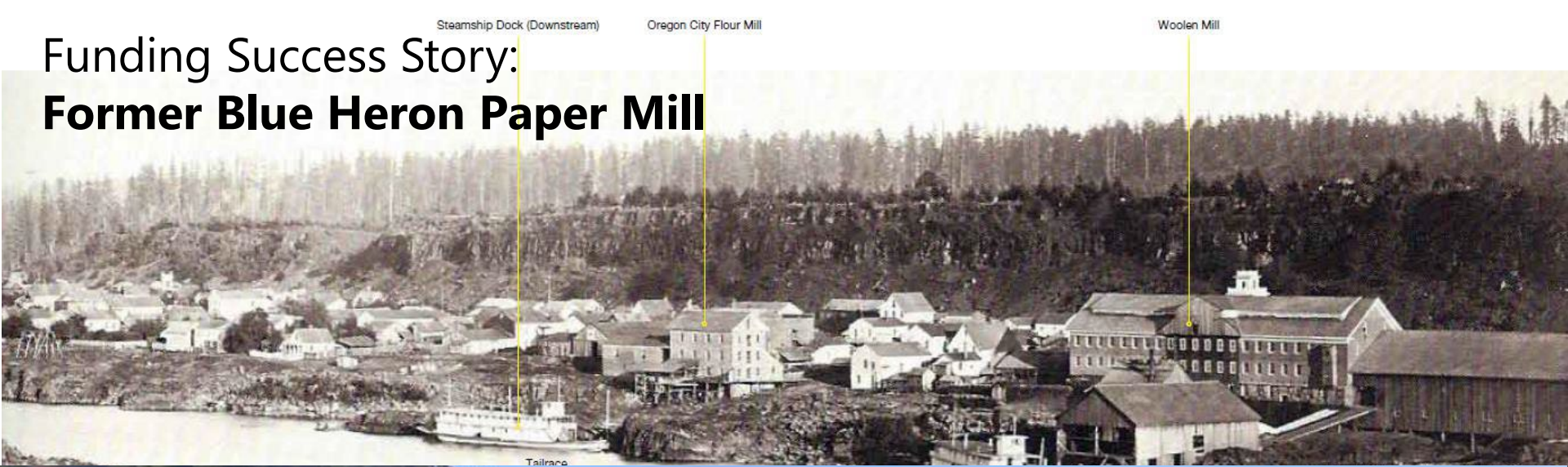
Funding Success Story: **Former Blue Heron Paper Mill**

Sacred cultural, fishing, and gathering place for people whose descendants became the Confederated Tribes of Grand Ronde.



Fish at Willamette Falls, 1913
Lamprey at the falls 1913

Funding Success Story: **Former Blue Heron Paper Mill**



Funding Success Story: **Former Blue Heron Paper Mill**

- By 1959 entire site occupied by Blue Heron pulp and paper mill.
- Mill shut down 2013
- Vacant and privately owned for a decade



Funding Success Story: **Former Blue Heron Paper Mill**

2019:

- Grand Ronde Tribe Phase I ESA
- Enters into agreement with Oregon DEQ
- Purchases site

2020:

Application for EPA Brownfield Assessment and Cleanup Grants – not successful

2021:

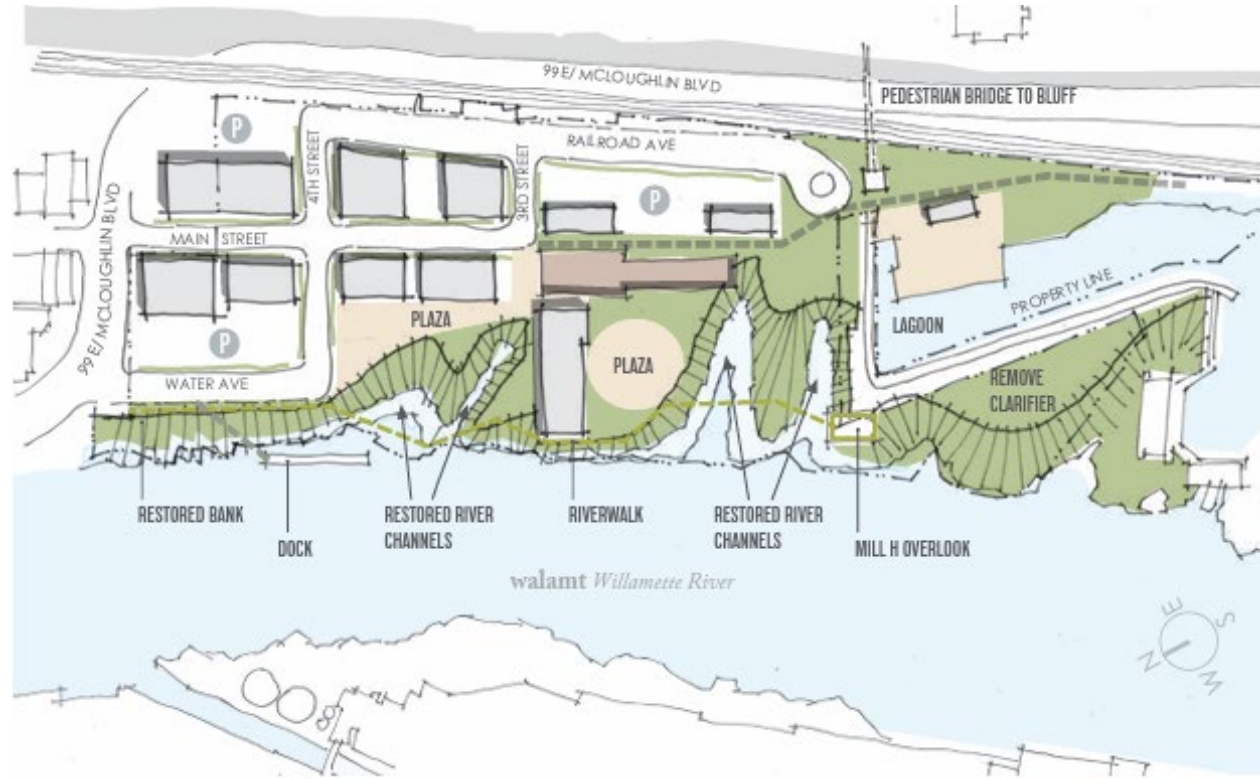
Hired grant writer, applied for \$800K EPA Brownfield Multipurpose Grant – Success!



Confederated Tribes
of **Grand Ronde**

Funding Success Story: **Former Blue Heron Paper Mill**

- Assessment and cleanup underway
- Reuse vision: public open space, access to Falls, economic development



Resources for Land Managers

Resources for Land Managers:

Agency Contacts

State Agencies – Call and ask if they:

- Have a database of contaminated sites
- Have grant funding or technical assistance available
- Have database of environmental consultants
- Have environmental consultants on retainer

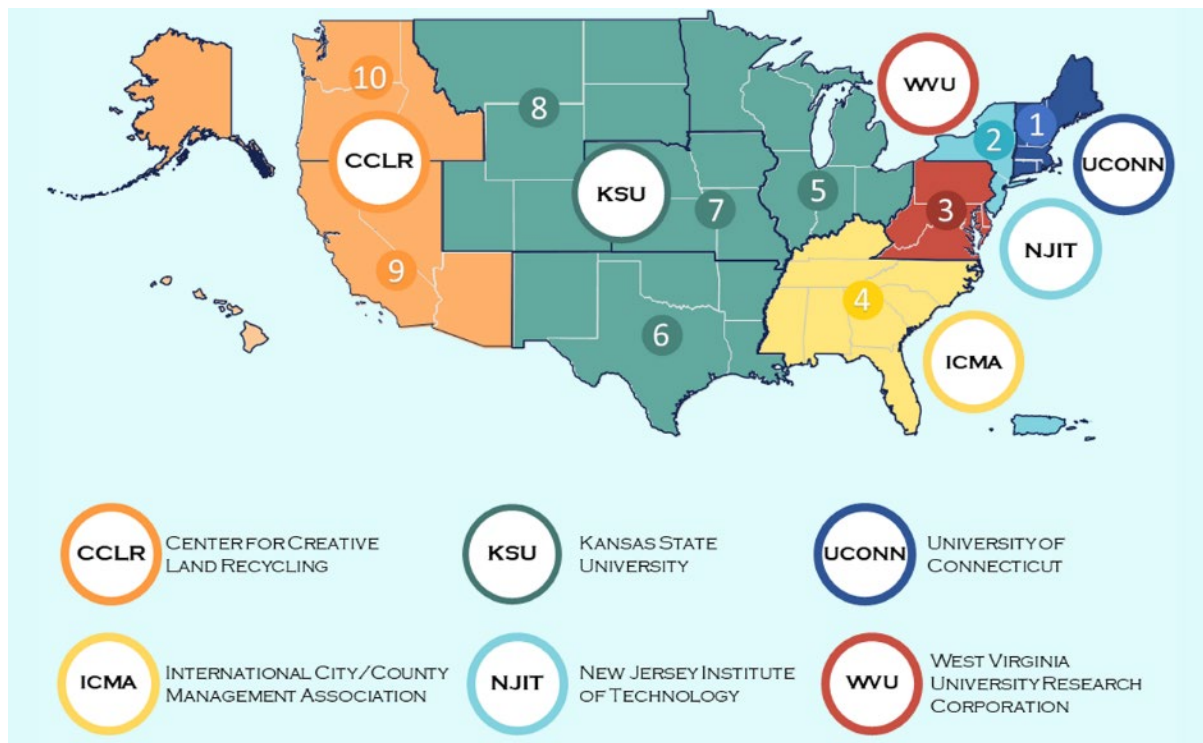
US EPA Brownfield Regional Contacts:

- Technical Assistance
- Grants!
- Tribal liaison

Resources for Land Managers:

EPA Technical Assistance for Brownfields (TAB)

- EPA-funded local experts
- Environmental, real estate, legal, and more
- Connect with additional resources
- Find funding for investigation and cleanup



<https://www.epa.gov/brownfields/brownfields-technical-assistance-training-and-research#TAB>

Resources for Land Managers:

Environmental Consultants

Ask about:

- Expertise/experience with ASTM E1527 and ASTM 2247
- Experience with Tribal projects and Fee to Trust
- References
- Recommendations from cities, counties, EPA (they often have consultants under contract)

Q&A