



CONTAMINATION, CLEANUP, & RESPONSIBILITY

STRP Workshop
April 27-28, 2016

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Alaska Department of Environmental Conservation



ROAD MAP

- ❑ DEC Organization
- ❑ Site Intake
- ❑ Reporting/Response
- ❑ Cleanup
- ❑ Responsibility
- ❑ Brownfields
- ❑ Example



Alaska Department of Environmental Conservation

Prevention, Preparedness, & Response

Spill
Prevention &
Response

Contaminated Sites - Brownfields

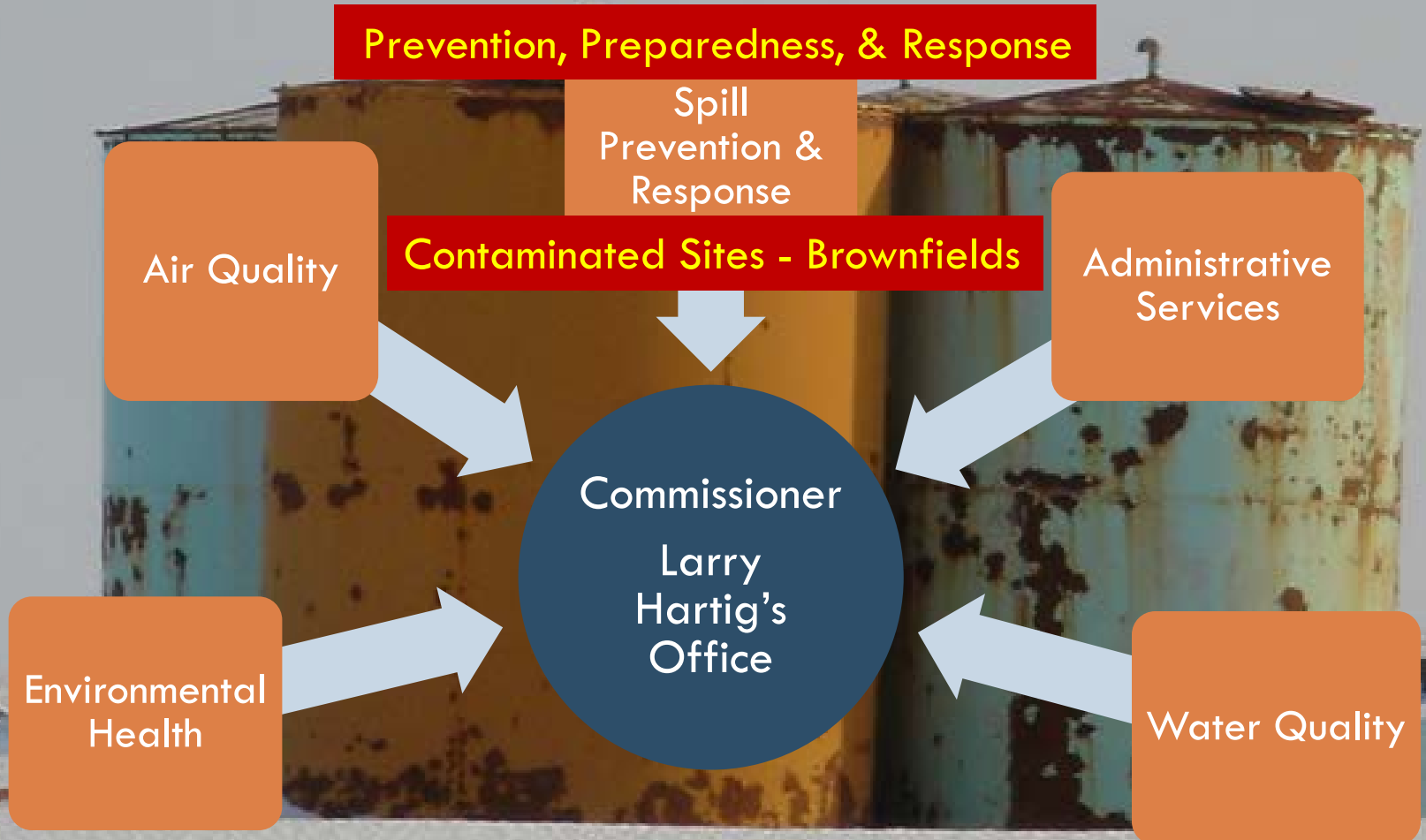
Air Quality

Administrative
Services

Commissioner
Larry
Hartig's
Office

Environmental
Health

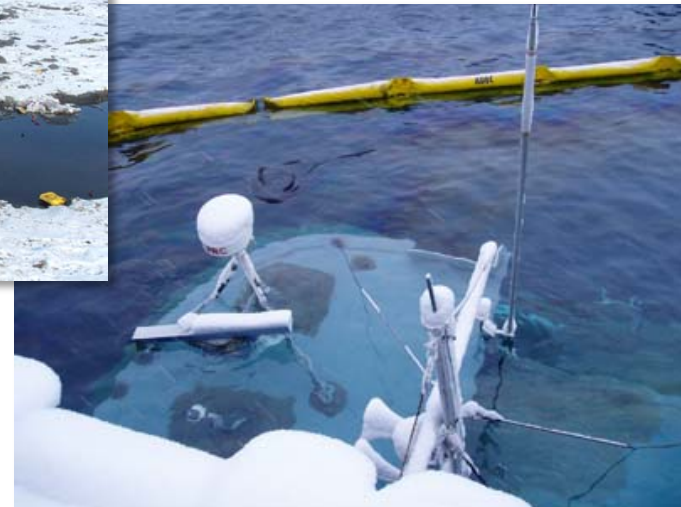
Water Quality



Site Intake

- Release
 - ▣ Initial Response - PPR
 - ▣ Long term - CS

- DEC Prevention Preparedness and Response (PPR) oversees initial response



Definition of “Release”

- ...any spilling, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance.



Historical Activities

- Historical Activities
 - ▣ Initial notification – PPR
 - ▣ Long term - CS



Reporting

- Key Alaska Regulations
 - ▣ **18 AAC 75** – Oil and Hazardous Substance Pollution Control
 - ▣ **18 AAC 78** – Underground Storage Tanks

IT'S THE LAW!
AS 46.03.755 and 18 AAC 75.300

REPORT OIL AND HAZARDOUS SUBSTANCE SPILLS


During Normal Business Hours

call the nearest response team office:


Central Alaska: Anchorage	(907) 269-3063 Fax: (907) 269-7648
Northern Alaska: Fairbanks	(907) 451-2121 Fax: (907) 451-2362
Southeast Alaska: Juneau	(907) 465-5340 Fax: (907) 465-5245
Alaska Pipeline: Fairbanks	(907) 451-2121 Fax: (907) 451-2362

Outside Normal Business Hours

Toll Free	1-800-478-9300
International	1-907-269-0667



Northern Alaska
Central Alaska
Southeast Alaska



Alaska Department of
Environmental Conservation
Division of Spill Prevention and Response
www.dec.alaska.gov/spar/spillreport.htm

Hazardous Substance

Any hazardous substance spill, other than oil, must be reported immediately.

Oil – Petroleum Products

To Water

- Any amount spilled to water must be reported immediately.

To Land

- Spills in excess of 55 gallons must be reported immediately.
- Spills in excess of 10 gallons, but 55 gallons or less, must be reported within 48 hours after the person has knowledge of the spill.
- Spills of 1 to 10 gallons must be recorded in a spill reporting log submitted to ADEC each month.

To Impermeable Secondary Containment Areas

- Any spills in excess of 55 gallons must be reported within 48 hours.

Additional Requirements for Regulated Underground Storage Tank Facilities

Regulated Underground Storage Tank (UST) facilities are defined at 18 AAC 78.005 and do not include heating oil tanks.

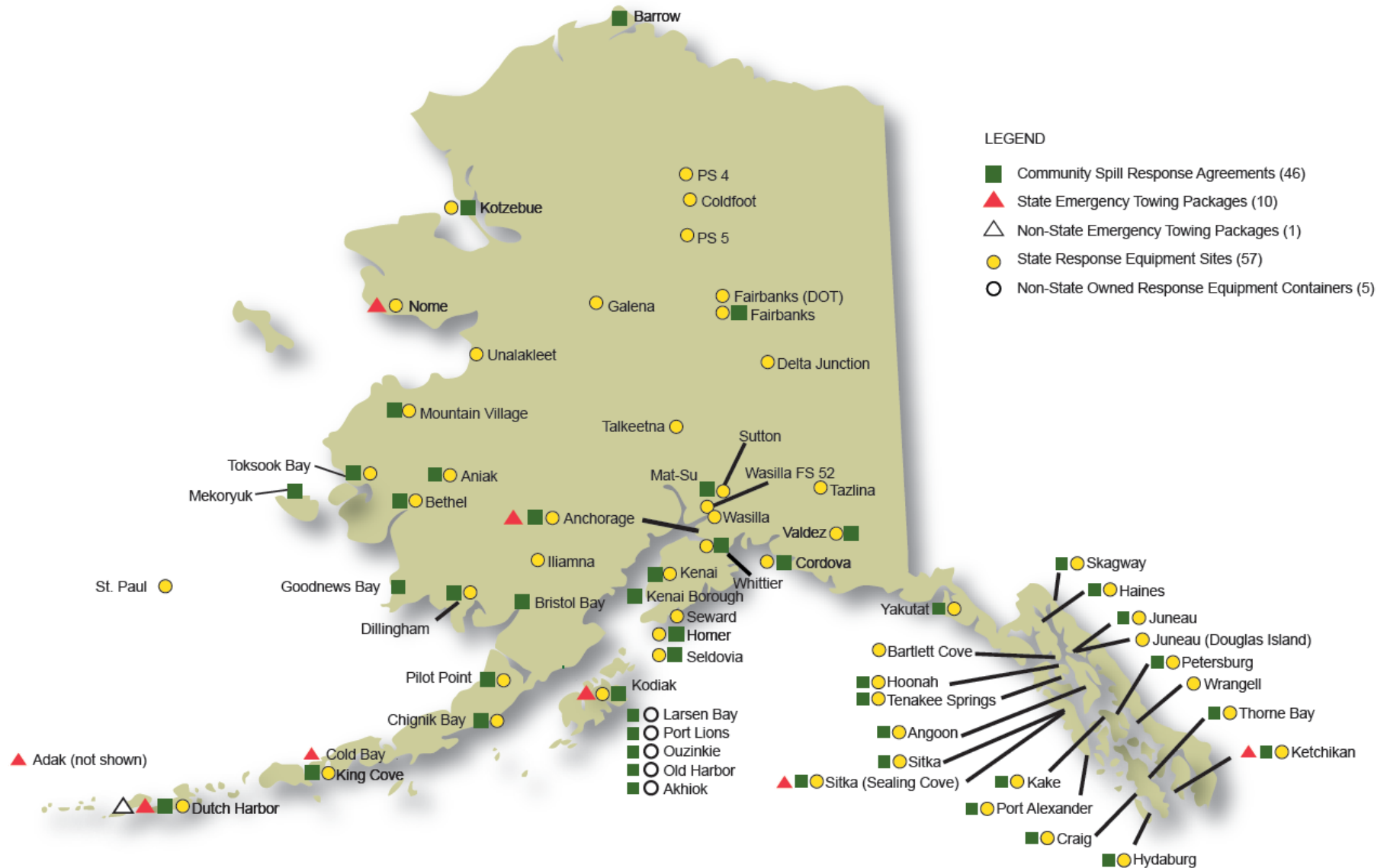
If your release detection system indicates a possible discharge, or if you notice unusual operating conditions that might indicate a release, you must notify the ADEC UST Program within 7 days.

UST Program: (907) 269-3055 or 269-7679

Reporting Requirements

- Immediate for
 - ▣ Hazardous substance release
 - ▣ Oil to water
 - ▣ >55 gallons of oil to land
- Within 48 hrs for 10-55 gallons of oil
- Monthly for smaller oil releases

CSRAs, Response Equipment Containers, & Emergency Towing Packages



Statutory Requirements for Cleanup

- “A person causing or permitting the discharge of oil shall immediately contain and clean up the discharge...”
- “A person who causes a release of a hazardous substance shall make reasonable efforts to contain and clean up the hazardous substance promptly after learning of the release...”

Site Cleanup Rules

- Oil/hazardous substance releases that aren't adequately cleaned-up under initial response
- Historic releases from past activities
- Responsible Persons and anyone else who undertakes a cleanup activity at a site subject to the rules

Site Cleanup Rules

- Work must be conducted by a “Qualified Environmental Professional” following DEC approved plans

- Site Characterization
 - ▣ Define the nature and extent of contamination
 - ▣ Propose cleanup levels



Cleanup Operations

- Cleanup Workplan
 - ▣ Schedule for cleanup, monitoring, and reporting
 - ▣ Sampling and analysis plan
 - ▣ Waste management plan
- Cleanup Report
- Long Term O&M, Monitoring



Site Closure

- Cleanup Complete: Unrestricted use
- Cleanup Complete with ICs
 - ▣ Limitations on land use or activity
 - ▣ Conditions noted in publicly available locations and land management systems
 - ▣ Periodic inspections and reporting

Alaska's Mini-CERCLA Statute

- Strict Liability

- ▣ Liable without regard to fault or negligence

- Joint and Several Liability

- ▣ One party may be held liable for the entire amount
 - ▣ May be able to apportion liability between parties

- Retroactive

- ▣ Liability extends back to before law was adopted

Liabilities



- Response and cleanup costs incurred by the state, municipality, or a village
- Damages
- Increased costs of certain government projects and services

Who is liable?

- ❑ Owner and persons with control over hazardous substance at time of the release
- ❑ Owner and operator at the time of release
- ❑ Current owner and operator
- ❑ Generators or Arrangers
- ❑ Transporters

Liability Defenses

State of Alaska

- Act of war
- Act of God
- Innocent Landowner – “Due Diligence”
- Involuntary Acquisition of Property by a State or Local Government Unit
- Native Corporations – ANCSA
- State government – Alaska Statehood Act

CERCLA 107

- Act of war
- Act of God
- Innocent landowner
- Contiguous property owner
- Bona fide prospective purchasers
- Units of state or local government that acquire ownership or control involuntarily through bankruptcy, tax, delinquency, or abandonment
- Government entities that acquire property through eminent domain

US EPA Region 10 Brownfield Revitalization Program Assistance Overview

Grant Program	Brownfields Assessment Funding	Brownfields Cleanup Revolving Loan Capitalization Funding	Brownfields Cleanup Funding	Environmental Workforce Development & Job Training Funding	Targeted Brownfields Assessments (TBA) Technical Assistance	State/Tribal Response Programs (Capacity Building to Address Contaminated Sites)	Area Wide Planning
Purpose	To promote the cleanup and reuse of brownfields, to provide financial assistance for brownfields revitalization, and to establish or enhance State and Tribal response programs. Brownfields are real properties, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant as defined in Public Law 107-118.						
Eligible Applicants	<p>Local Governments, Land Clearance Authorities, or similar quasi-governmental agencies under control of local government. Government entities created by State legislatures, Regional Councils, state chartered Redevelopment Agencies, States, and Federally-recognized Tribes other than in Alaska.</p> <p>Alaska Native Regional Corporations, Alaska Native Village Corporations, Metlakatla Indian Community, and Intertribal Consortia are eligible.</p> <p>*For Cleanup Grants only: Recipients must own the property to be cleaned up and may not be a responsible party for contamination of the property. Eligible recipients for cleanup grants include nonprofit organizations in addition to the organizations identified above.</p> <p>**Alaskan Tribes can work with other eligible entities to obtain assistance for their communities.</p>			<p>Colleges, universities, nonprofit training centers exempt from taxation under 26 U.S.C. 501(c)(3), community job training organizations;</p> <p>-Local government entities, states, cities, counties, or other authorities created by State legislatures, i.e. Regional Councils, state chartered Redevelopment Agencies, or similar quasi-governmental agencies under control of local government.</p> <p>-Federally-recognized Indian Tribes are eligible other than in Alaska except for the Metlakatla Indian Community.</p> <p>Intertribal Consortia comprised of eligible tribes are eligible.</p> <p>-Alaska Native Regional Corporations, Alaska Native Village Corporations.</p>	<p>States, cities, towns, counties, U.S. Territories, Federally-recognized Tribes and nonprofit organizations.</p>	<p>States and Federally-recognized Tribes that are focused on establishing or enhancing existing programs that address contaminated sites in their jurisdiction. Programs that include, or are taking reasonable steps to include the following elements:</p> <ul style="list-style-type: none"> •Timely survey and inventory of brownfield properties •Oversight/enforcement mechanisms to ensure that necessary response activities are completed, protect human health and the environment, and are conducted in accordance with State and Federal laws. •Provide opportunity for public participation •Have mechanism to approve cleanup plans and certify response completion 	<p>Local government entities, states, cities, counties, or other authorities created by State legislatures, i.e. Regional Councils, state chartered Redevelopment Agencies, or similar quasi-governmental agencies under control of local government.</p> <ul style="list-style-type: none"> •A state that is serving in a fiscal and administrative capacity on behalf of a local community, where the local community leads the BF AWP process. •Indian Tribe other than in Alaska. (The exclusion of Alaskan tribes from brownfields grant eligibility is statutory at CERCLA §104(k)(1). Intertribal Consortia, comprised of eligible Indian Tribes, are eligible for funding in accordance with the EPA's policy for funding intertribal consortia published in the Federal Register on 11/4/02, at 67 Fed. Reg. 67181.) •Alaska Native Regional Corporation, Alaska Native Village Corporation, and Metlakatla Indian Community. •Nonprofit organizations, including institutions of higher education. Nonprofit organizations must meet the definition of that term in Section 4(6) of the Federal Financial Assistance Management Improvement Act of 1999.
Award Amount	Initially up to \$200,000 per property/community.	Initially up to \$1,000,000; additional funding possible	Up to \$200,000 per property	Initially up to \$200,000; additional funding possible	Varies with project need. Direct technical assistance (not	Up to \$1,200,000. -Tribal programs average from \$65,000 to \$150,000 depending on number of sites and	Up to \$200,000
Matching Share	No Matching Share	20% Matching Share	20% Matching Share	No Matching Share	Not applicable	No Matching Share	Not applicable
Call for Proposals	September/October (fedgrants.gov; varies)	September/October (fedgrants.gov; varies)	September/October (fedgrants.gov; varies)	October/January (fedgrants.gov; varies)	Ongoing	Contact Region 10 prior to submitting a request to ensure goals and activities meet criteria.	September/October
Application Due Date	November/December (varies)	November/December (varies)	November/December (varies)	December/February (varies)	Ongoing	<ul style="list-style-type: none"> • Guidance out November/December • Funding requests due January 31. • Sample request document available online 	FY15 Deadline is September 22, 2014
Selections Announced	May/June (varies)	May/June (varies)	May/June (varies)	June/July (varies)	Ongoing (varies)		April/May

The thing about liability defenses...

- To obtain the defenses above...
 - ▣ upon discovery of contamination, must report and begin operations to contain and cleanup; so these are partial defenses as to past cleanup costs/damages



Now what?!

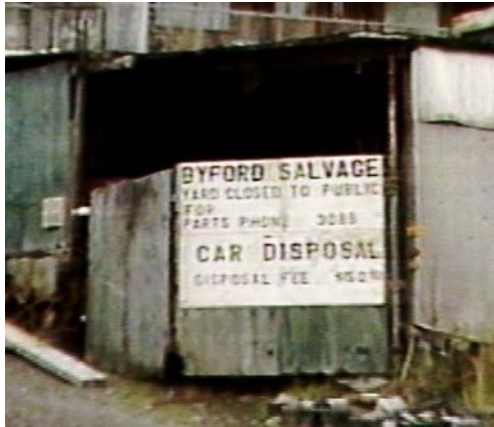
- Brownfields
- Native American Lands Environmental Mitigation Program (NALEMP)
- Indian General Assistance Program (IGAP)
- ASTDR
- HUD
- USDA



Prevention/Preparedness



Byford Salvage Yard 1988



An estimated 1,500 automobiles were disposed on site

Wrangell Junk Yard



Smashed batteries and fragments present throughout the property.

Wrangell Junk Yard



Leaking petroleum and/or other liquids
(POL)

Wrangell Junk Yard



Ubiquitous Scrap Metal and Auto Parts

Wrangell Junk Yard



Effort to remove scrap metal underway in 2012

Wrangell Junk Yard



2014 aerial photo of the property cleared of debris by City and Borough of Wrangell for the EPA Targeted Brownfield Assessment

Wrangell Junk Yard

Document Path: R:\4 START 4\Wrangell Junkyard\02 Execution\GIS\Map\mid\Report\Figs\2015_04_27\Fig4-4.mxd

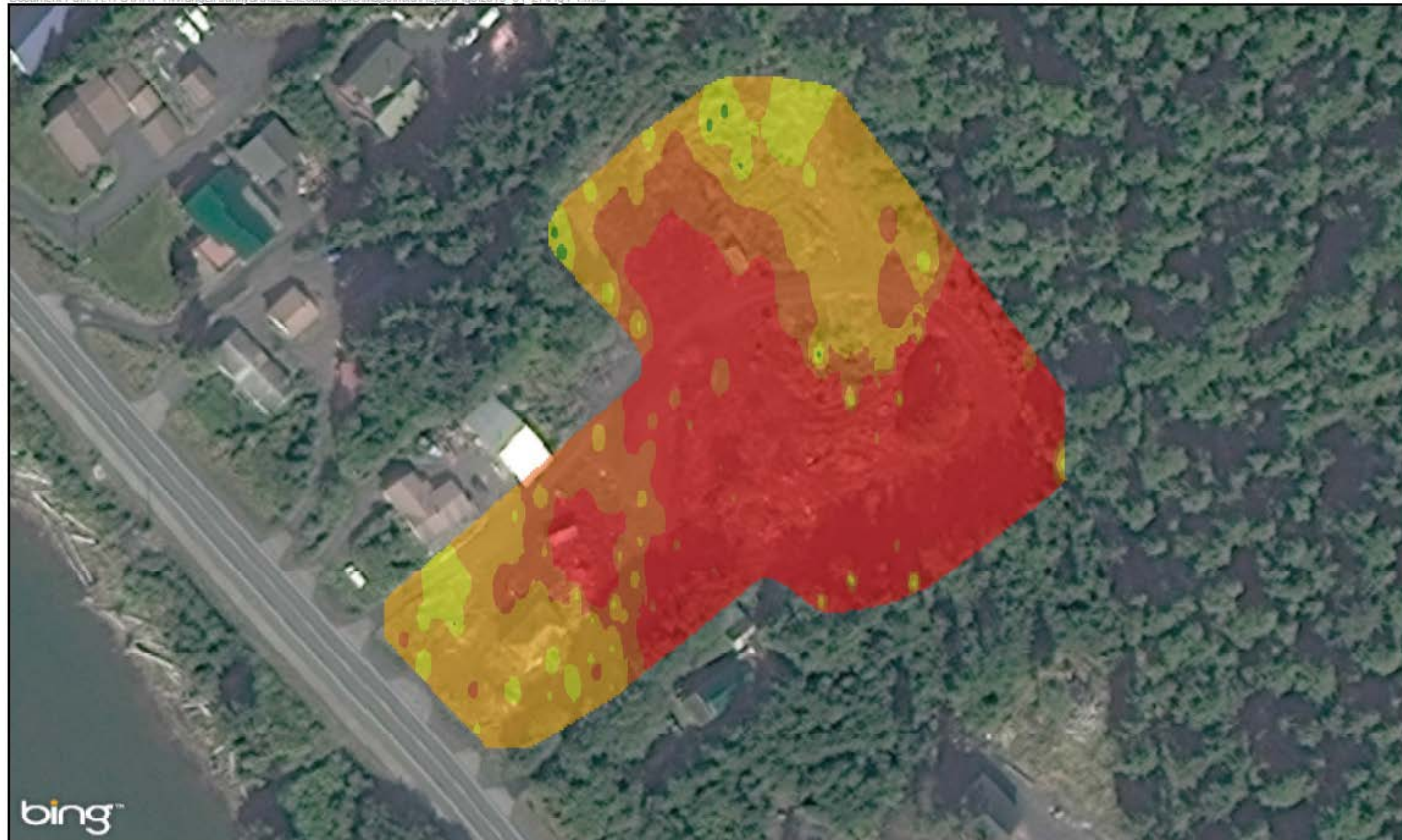
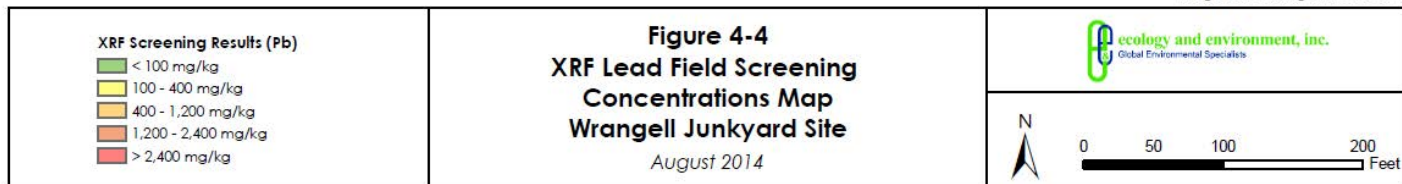


Image Source: Bing/Microsoft 2015



Wrangell Junk Yard



Impacts extend to the intertidal area across Zimovia Highway

Wrangell Junk Yard



Access Road and Equipment Pads Constructed

Wrangell Junk Yard

- Based on test pits and trenching, contamination extends uniformly to the glacial till or hard pan layer throughout the site.
- Glacial till is found at depths ranging from 2-6 feet throughout the site.
 - ▣ Contamination extends onto at least four adjacent properties.
- Contamination consists of a mixture of lead and petroleum mixed with buried junkyard debris.

New estimated volume is 18,350 cubic yards, or more than 4.5 times the original estimate by EPA.

Future Land Use for the Site

- ❑ City's Highest Priority and Best Use:
 - ❑ Sell entire parcel for residential development; or
 - ❑ Subdivide parcel and sell individual residential lots.

- ❑ Other uses considered:
 - ❑ Community Cemetery
 - ❑ Possible rezone for commercial or community use such as a Community Greenhouse

- ❑ All future development of City land is subject to a public master planning process

Thank you!

□ Questions?

