ASTSWMO Mid-Year Meeting
Federal Facilities Subcommittee

Environmental Justice Webinar

April 30, 2021

Logistics

Audio

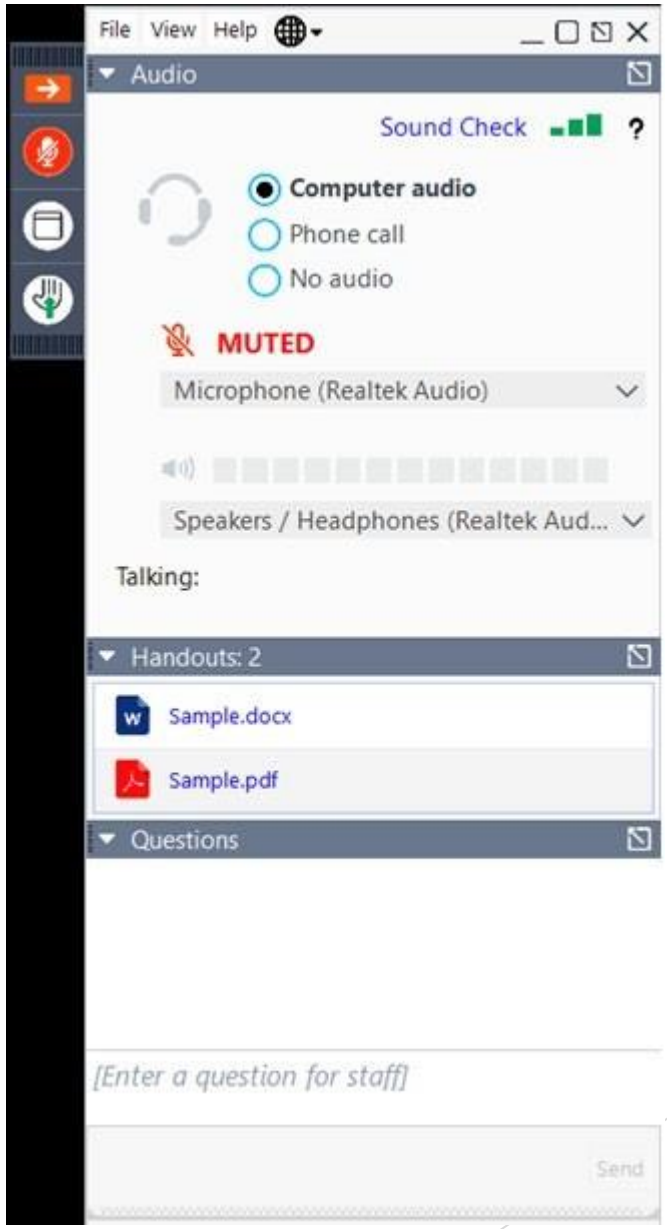
If you cannot hear us speaking right now or hear an echo, make sure your audio settings are configured correctly →

Handouts

Presentations and references available to download here→

Questions Tool:

Submit questions at anytime using this tool →



Agenda

Session Speakers:

- Carlton Waterhouse, U.S. EPA
- Melinda Downing, U.S. DOE

- Jennifer Currie, Alaska Department of Law

Melinda Downing

Environmental Justice Program Manager

Office of Legacy Management

https://www.energy.gov/lm/services/environmental-justice

https://www.energy.gov/lm/services/environmentaljustice/environmental-justice-documents

ANCSA Contaminated Lands –A Case Waiting for Environmental Justice

Jennifer A. Currie
Senior Assistant Attorney General
Alaska Department of Law
ASTSWMO Mid-Year Meeting
April 30, 2021

ANCSA Passage

In 1971 the Alaska Native Claims Settlement Act (ANCSA) was signed into law by Nixon.

At the time it was passed, ANCSA was the largest land claims settlement in United States history

What did ANCSA do?

- Gave Native Alaskans 44 million acres of land.
- Alaska Natives had three years from passage of ANCSA to make land selections.

Provisions of ANCSA

- Native claims in Alaska were extinguished
- In exchange for abrogating Native claims, Natives received approximately one-ninth of the state's land plus $962.5 million.
- Surface rights to 44million acres were patented to the Native village and regional corporations.
- The surface rights to the patented land were granted to the village corporations and the subsurface right to the land were granted to the regional corporation, creating a split estate.

Contamination on ANCSA Lands

- **ANCSA** required the Secretary of the Interior to submit report, within 18 months of November 2, 1995, to House and Senate committees addressing issues presented by the presence of contaminants on lands conveyedor prioritized for conveyanceto Natives.

Contents of Report

The Secretary of the Interior was required to report:

(1) existing information concerning the nature and types ofcontaminants present on such lands prior to conveyance;

(2) existing information identifying the existence and availability of potentially responsible parties for the removal or remediation of the contaminants;

(3) identification of existing remedies;

(4) recommendations for any additional legislation necessary to remedy the problem ofcontaminants on the lands; and

(5) identification of structures known to have asbestos present and recommendations to inform Native landowners on the containment of asbestos.

Department of the Interior 1998 Report

Department of the Interior released its 1998 report, which acknowledged the unjustness of conveying contaminated lands in settlement of aboriginal rights.

Department of the Interior 1998 Report

The report put forth six specific remedies:

- Establish a forum for ANCSA landowners and federal, state, local and tribal agencies in Alaska to exchange information and identify priorities.
- Create and maintain a comprehensive interagency inventory database of contaminated sites in Alaska.
- Apply U.S. Environmental Protection Agency (EPA) policies to exempt ANCSA recipients from landowner liability for prior contamination.
- Report back to Congress on sites that were identified and not covered by existing programs ("orphan sites") and determine whether an additional federal program was necessary to address those sites.

- Review/revise relevant policies covering existing programs governing cleanup of contaminated ANCSA lands.

- Through the EPA Tribal assistance program, train local residents to participate in cleanup programs.

Department of the Interior 1998 Report

- The report stated that "the Department of the Interior will coordinate implementation of these recommendations, although other agencies such

as EPA and the Corps of Engineers may take the lead in certain aspects of the recommendations."

Renewed Interest

Congress requested a report about the contamination on lands conveyed under ANCSA, which resulted in the Department of the Interior's 2016 Report

U.S. Department of the Interior
Bureau of Land Management

Report to Congress

Hazardous Substance Contamination of Alaska Native Claim Settlement Act Lands in Alaska

2016 Update to the U.S. Department of the Interior 1998 Report to Congress

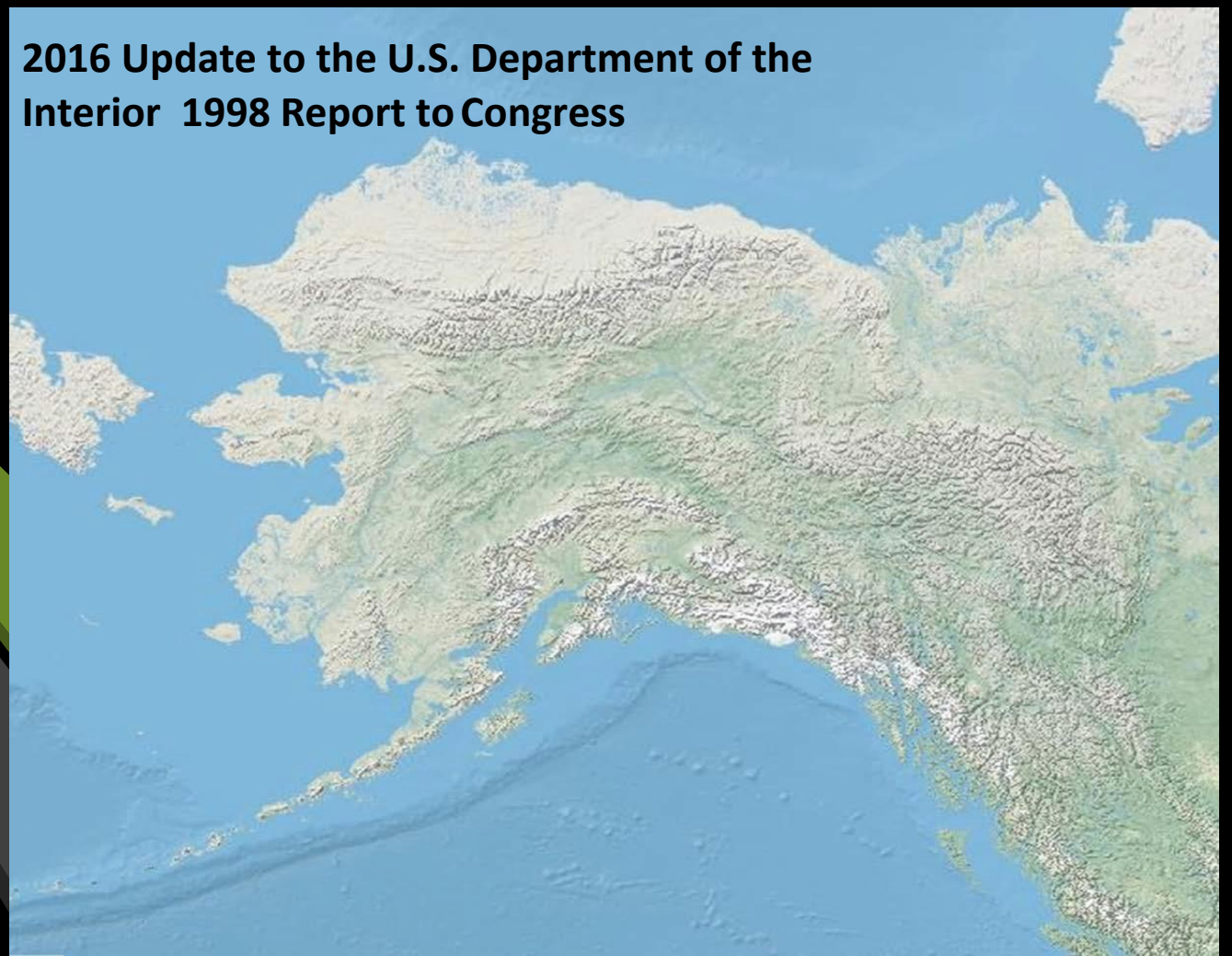


Figure 2: Current clean-up status of conveyed contaminated sites, as of September 9, 2015, from ADEC data

Figure 2 shows the clean-up status of the 920 contaminated sites that have records that show they were conveyed to an ANCSA corporation, based on ADEC data as of September 9,2015.

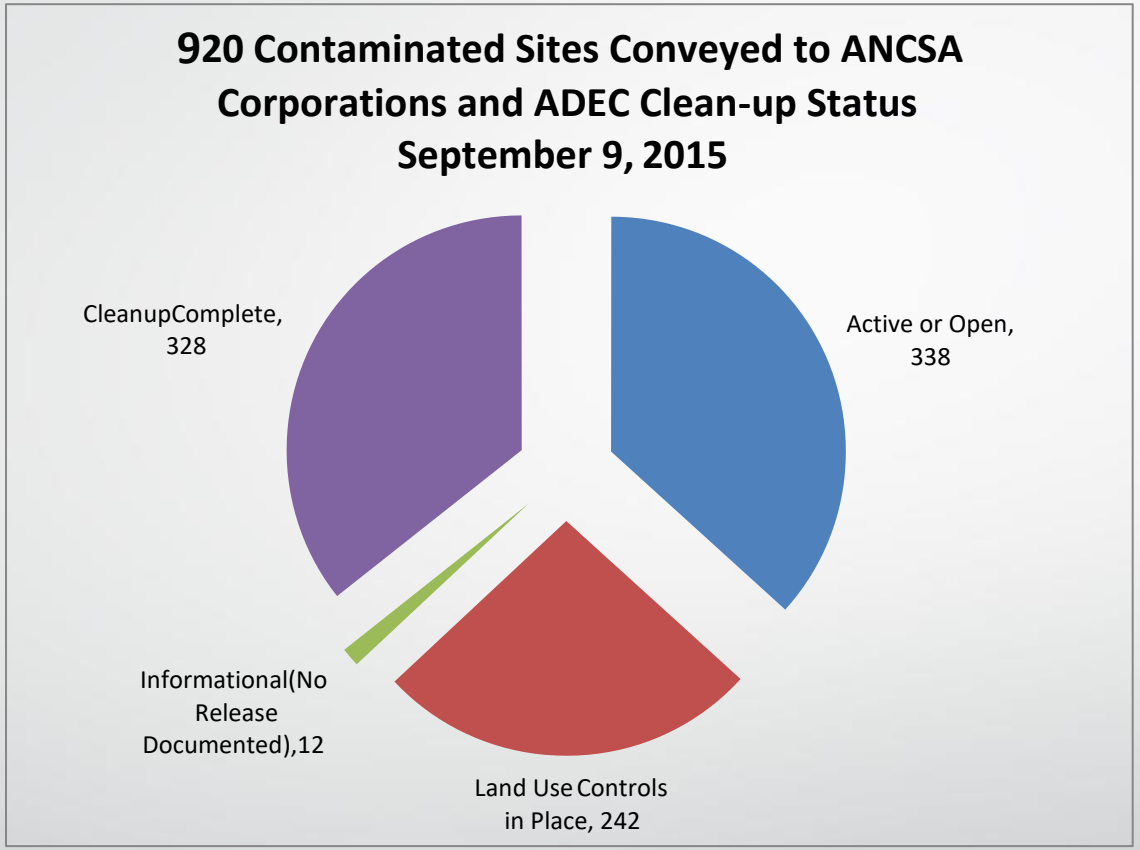
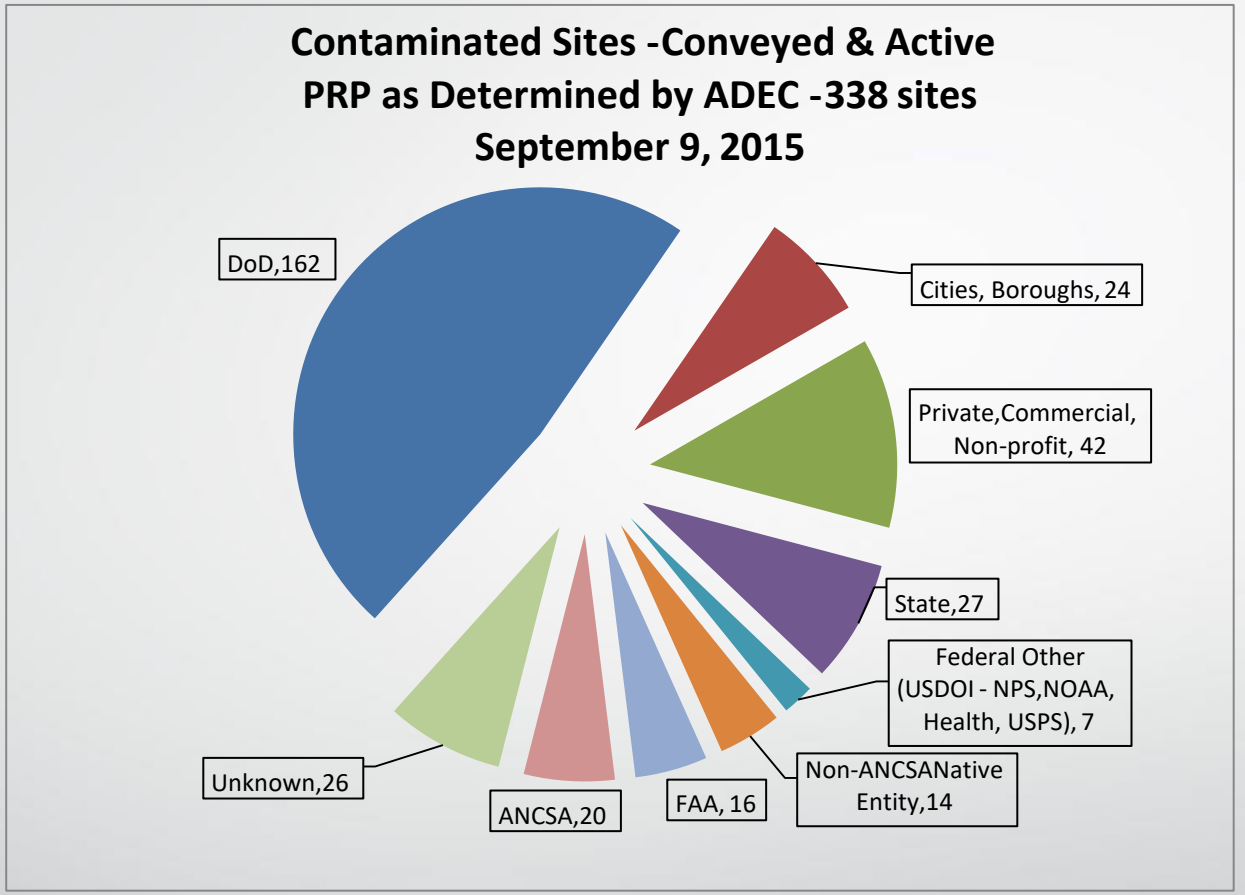


Figure 3: Current summary of conveyed contaminated site status from ADEC Database as of September 9, 2015 (Note: potentially responsible party status is clearly stated as preliminary on the ADEC site.)



The 2016 DOI Report

In 2016, the Department of the Interior Bureau of Land Management (BLM) submitted an update to the 1998 report, acknowledging the BLM had not acted on remedies 3, 5 and 6 in the original report.

The 2016 DOI Report

It included three additional recommendations for a cleanup plan:

- The Alaska Department of Environmental Conservation (DEC) should finalize the comprehensive inventory and implement a remedial action process.
- The establishment of a formal contaminated lands working group.
- The initiation of a site cleanup process.

The 2016 DOI Report

- In stark contrast to the Department of the Interior's willingness in 1998 to take a leadership role to facilitate cleanup of ANCSA contaminated lands, the 2016 update proposed that ADEC and EPA oversee cleanup of the sites.

BLM Put Onus On State of Alaska

- "Now that the [inventory] has been completed and the Orphan Site Database has been developed, it is critical that those agencies in Alaska with regulatory authority over or responsibility for cleanup of contaminated sites on ANCSA lands, utilize the data to prioritize action in the State."

What do federal agencies need to do?

- Continue to verify the contaminated sites list
- Do site verification where necessary
- Make progress on site remediation

Biggest Challenges to Date

- No single agency tasked with doing the cleanup; and
- No comprehensive approach toward funding the cleanups

Conclusion

- The Federal government traded these contaminated lands for aboriginal land rights.
- The Federal government is responsible for the entire cleanup process on these lands.
- It is time for the Federal government to right this wrong.

Atka Formerly Used Defense Site

White Alice Communication Site
Northeast Cape St. Lawrence Island

Thank you

Recordings from the ASTSWMO Mid-Year will be available at: http://astswmo.org/category/webinar/

For contacts and information about the ASTSWMO Federal Facilities Subcommittee visit: http://astswmo.org/federal-facilities/

Please complete the evaluation after exiting the webinar.