



TWG: Cultural and Historic

Meeting: #1

Date: September 6, 2018

Time: 10 a.m.-12 p.m.

Attendees:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Laura Berglan, Pascua Yaqui Tribe | <input checked="" type="checkbox"/> Linda Mayro, Pima County |
| <input checked="" type="checkbox"/> Alana Hake, representing Lee Decker, Gallagher & Kennedy | <input checked="" type="checkbox"/> Susan Montgomery, Attorney representing Inter-Tribal Assoc. of Arizona |
| <input checked="" type="checkbox"/> Stephen Glass, Gault Group, LLC | <input checked="" type="checkbox"/> Courtney Rose, Pima County |
| <input checked="" type="checkbox"/> Mark Horlings, Maricopa Audubon Society | <input checked="" type="checkbox"/> Peter Steere, Tohono O'odham Nation |
| <input checked="" type="checkbox"/> Robert Linsell, Granite Construction Company, Inc. | <input checked="" type="checkbox"/> Mary Ellen Walsh, State Historic Preservation Office |
| <input checked="" type="checkbox"/> Ronald Maldonado, WestLand Resources, Inc | <input checked="" type="checkbox"/> JR Welch, Archaeology Southwest |

Staff Support:

- David Lelsz, ADEQ Kelly Cairo, GCI

Discussion Items:

Consultation process

- In addition to these TWGs, there will need to be additional one-on-one discussion with the tribes. ADEQ will need to conduct independent tribal consultation. However, the consultation policy does not specify timelines.
- Tribal consultation is an active, ongoing process, not simply project-related. Consultation occurs with the tribes overall, as well as on a permit-by-permit basis.
- Seems unlikely that this group should disband after Dec. 20.
 - Would this group be interested in assisting on the consultation process?
- ADOT did a good job of contacting tribes and meeting regarding the transfer of 401 from FHWA to ADOT.

ADEQ 404 process

- The timeline for this overall process extends into 2020. Only the white papers are due on Dec. 20. ADEQ would like the white papers in hand concurrent with the tribal consultation process.
- ADEQ's intent is to create a program as protective as the current program.
- TWG members feel there should be tribal representatives on the ESA TWG.
- Would 404 primacy on federal lands stay with Corps? No, it will stay with ADEQ.
- Will federal agencies maintain their consultation role with tribes?

Work Group Charter Comments

- Suggestion that the white paper should be reviewed as a draft; want to be sure that ADEQ leadership understands that future actions may be required. Should acknowledge consultation issues outside of cultural resources, such as biological, and section 106.
- This TWG is not part of the tribal consultation process.

- Purpose of the white paper is to identify how this process occurs now, and how it could look under state primacy.
- Goals is to provide the best wisdom in this room to encapsulate the current state and a best future state. Anything upon which there is a concurrence should be included in the white paper. Should address the current state, consider various options for a future state, and address the gap.
- Should amend charter to include tribal consultation.
- Only need to address 404 permits that are NOT on tribal land, since those on tribal land will be handled federally.
- Suggest that the TWG look at meshing the permit process and the 404 process.
- Think about nationwide permits and how these obligations work with tribal consultation.
- Only tribal land is trust land at this point. There are differences regarding fee lands, and these issues should be addressed. The TWG will need to navigate these two different types of lands.
- Sounds vital to the TWG to provide the charter to the tribal leaders prior to the Listening Session.
- Options for additional charter modification include adding “and consultation” to all questions, or assume the concept it is inherent in all of the questions (due to the pending modification to the role of the panel).

Critical Information Resources:

- Tribal consultation policy of ADEQ, Corps

Decisions:

- There was agreement to use a majority process, and that Robert’s Rules of Order would not be used during these TWG working sessions.
- There was agreement to recommend expanding the charter to include tribal consultation as follows:
 - (Role of the panel section, insert prior to last sentence): The role of this panel, even though it may include representatives from tribes, is not intended to be a substitute for tribal consultation under ADEQ’s consultation policy. This working group will propose policy guidance and recommendations for consultation processes associated with the 404 program.
 - (Objectives section, insert duplicate language as second sentence): This working group will propose policy guidance and recommendations for consultation processes associated with the 404 program.
- Next meeting: Wed., Sept. 19, 10:30-12:30
 - Wed., Oct. 3 10 a.m., Tucson, location tba
 - Will attempt to alternate locations; meet every two weeks
- Laura was selected as Vice-Chair

Potential Future Discussion:

- What is the status of the Florida 404 assumption process?
- Ask the Corps what they think the process is.

- What is the current process for tribal consultation, pros and cons. Some issues include: No macro plan of action, timelines, early consultation is needed.

Action Items:

- Kelly to notify group of portal availability for posting materials.
- Kelly to send draft language regarding charter to Steve and David. (Completed)
- Post tribal consultation policy of ADEQ, Corps of Engineers
- All: Review posted materials by next meeting

Next Meeting Agenda

- Address white paper topics