

TWG: COMPENSATORY MITIGATION

Meeting: #6

Date: November 8, 2018

Time: 10:00 am

Attendees:

- | | |
|---|--|
| <input checked="" type="checkbox"/> Robert Anderson, Fennemore Craig | <input type="checkbox"/> Spencer Kamps, Home Builders Association of Central Arizona |
| <input type="checkbox"/> Joe Bardswich, Golden Vertex Corp | <input type="checkbox"/> Dave Kimball, Gallagher & Kennedy |
| <input checked="" type="checkbox"/> Amanda Best, Westland Resources | <input checked="" type="checkbox"/> Keith Knutson, Arizona Game and Fish Department |
| <input checked="" type="checkbox"/> Michael Byrd, Prescott Creeks | <input checked="" type="checkbox"/> Shawn Lowery, Arizona Game and Fish Department |
| <input checked="" type="checkbox"/> Mark Edelman, Arizona State Land Department | <input type="checkbox"/> Amanda McGennis, Arizona Chapter Associated General Contractors |
| <input type="checkbox"/> Julia Fonseca, Pima County Sustainability | <input type="checkbox"/> Myron Smith, KGHM |
| <input type="checkbox"/> Angela Garcia, Salt River Pima-Maricopa Indian Community | <input type="checkbox"/> Brenna White, Department of Interior, National Park Service |
| <input type="checkbox"/> Jonathan Horst, Tucson Audubon Society | |
| <input type="checkbox"/> Bob Iannarino, Psomas | |

Guests and Proxies

- | | |
|---|--|
| <input checked="" type="checkbox"/> Lee Decker, for Dave Kimball, Gallagher & Kennedy | <input checked="" type="checkbox"/> Jennifer Ward, for Joe Bardswich, Golden Vertex Corp |
| <input type="checkbox"/> Scott Thomas, for Robert Anderson, Fennemore Craig | |

Staff Support:

- Andy Koester, ADEQ David Lelsz Heidi Welborn Theresa Gunn, GCI Kelly Cairo

White Paper

- Amanda will continue to flush out the qualitative assessment methodology
- Committee members should use the document on Google docs to make changes and add content
- Like the background information provided by Amanda as it helps explain the current state and provides background for changes
- Paper needs to be reordered to focus on current state, gaps, and ideal state
- Amanda will reorder the document and reduce redundancy
- Need to flush out 3.7.6 with content under section 3
- Theresa provided an update on the CRAM and will prepare information for the paper
- Michael – benefits/challenges with in-lieu fee programs
 - Smaller programs struggle with the capacity to develop a project due to sporadic nature for need for mitigation credits

- Contemplate a statewide mitigation program with one entity managing all mitigation needs in the state (North Carolina DEQ)
 - Tim Baumgartner runs a statewide program in North Carolina
 - Is the program only for the 404 program mitigation or other state mitigation programs?
- ADOT has been Prescott Creeks largest customer in their mitigation program
- Rob will continue to draft additional challenges with current mitigation program
- Rob will add text to provide justification using existing rule language to support recommendation of out of watershed mitigation
- Amanda to reorder the document and send to Theresa today
- Theresa will post new draft to the Google Docs and notify group
- Comments on draft by November 16
- Review paper during the meeting on November 19

Potential for Fees

Andy asked the group to consider where there are tasks such as annual reporting, inspections, etc. which would result in a fee driven product.

- Fees will be a challenge because mitigation is already expensive
- Would not want to put additional costs on ILF sponsors
- Encourage permittees to go ILF
- ILF sponsors send annual reports to Corps and they who has the opportunity to inspect and review the project progress
- Permittee mitigation has reporting and potential inspections requirements
- Ensure current reporting obligations in the white paper so ADEQ could know what to expect
- Will the Corps hand over the responsibility (inspection) of current permits to ADEQ
- Need to capture the uncertainty on who provides oversight of the ILFs – who will they report to
- Restrictive covenants requirement for ADEQ?
 - Covenants to prevent fill of the waters on the site outside of the permit waters
 - Not a requirement to have the restrictive covenants
 - Used to get credit for preserving the other waters on the site but was not allowed after 2008
 - Covenants are preservation of HOA open space
 - Burdensome covenants without getting much mitigation credit
 - Rob will add a discussion on covenants in the permittee responsible mitigation section

Action Items

- All writers to have content added to the white paper by November 16

Future Discussion *(This is a cumulative list. Items will be removed when discussed)*

- Need to determine if the covenants/easements of current permittees need to be amended/recorded to change Corps references to ADEQ

- Need to determine who assumes oversight and enforcement of mitigation plans for current permits which would be transferred to ADEQ

Next Meeting

- November 19, 1:30 p.m.
- Review draft white paper