



Executive Work Group

Meeting: #1

Date: February 1, 2018

Time: 1:00-3:00 p.m.

Attendees:

- Arizona Chapter of Association General Contractors, Amanda McGennis
- Arizona Department of Environmental Quality, Trevor Baggiore, Chair
- Arizona Department of Transportation, Dallas Hammit
- Arizona Game and Fish Department, Jim DeVos
- Arizona Mining Association, Steve Trussell
- Arizona State Historic Preservation Office, Christopher Cody
- Arizona State Land Department, Lisa Atkins
- City of Phoenix, Karen Peters
- Environmental Protection Agency, Region IX, Tomas Torres
- Home Builders Association of Central Arizona, Spencer Kamps
- Flood Control District of Maricopa County, Mike Fulton
- Pima County Flood Control, Suzanne Shields
- Tucson Audubon Society, Jonathan Lutz
- US Army Corps of Engineers, David Castanon
- US Fish & Wildlife Services, Jeff Humphrey
- City of Tucson, Albert Elias
- Sierra Club, Sandy Bahr

Members' Support Staff

- City of Phoenix, Nancy Allen
- Environmental Protection Agency, Region IX, Elizabeth Goldman
- US Army Corps of Engineers, Sallie Diebolt
- US Fish & Wildlife Services, Beth Forbus
- US Fish & Wildlife Services, Seth Willey

ADEQ Staff

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| <input checked="" type="checkbox"/> Misael Cabrera | <input checked="" type="checkbox"/> David Lelsz |
| <input checked="" type="checkbox"/> Andy Koester | <input checked="" type="checkbox"/> Jill Hankins |
| <input checked="" type="checkbox"/> Heidi Welborn | <input checked="" type="checkbox"/> Mark Joyner |

Consultant Support

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| <input checked="" type="checkbox"/> Brian Lindenlaub, WestLand Resources | <input checked="" type="checkbox"/> Theresa Gunn, GCI |
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Welcome

Misael Cabrera, Director, ADEQ, welcomed the members and thanked them for taking time from their busy schedules to assist ADEQ. Mr. Cabrera challenged the group to not focus on what we can't do but to think about what we can do to be more efficient and more effective while making sure we are as protective of the environment in Arizona. These are important decisions this group will help the Department make. Choose to stand inside the area of possibility not inside the area of impossibility.

Introductions

Trevor Baggiore, Director, ADEQ Water Quality Division will serve as the Chair of the Executive Work Group. Mr. Baggiore introduced the ADEQ 404 staff team. He also introduced Gunn Communications

who will be helping with the group logistics and WestLand Resources who has been hired as a technical consultant to assist ADEQ staff. Work Group members introduced themselves.

Group Charter

Mr. Baggiore reviewed the Executive Work Group (EWG) charter. This is not a technical work group. The purpose of this group is to assist putting together the Roadmap and identifying policy issues. This is an advisory group to provide opinions with the final decisions to be made by ADEQ Director. This is not a public meeting so there will be no call to the public. Members are welcome to bring staff as needed for technical support. Mr. Baggiore reviewed the work group objectives on the last page of the charter. (The charter can be found on the Executive Work Group page on the ADEQ 404 Website: <https://azdeq.gov/node/5610>.)

Questions:

- Q: Will the executive work group be reviewing each of the white papers? A: Yes, we will discuss our future topics when scheduling future meetings.

Overview of the CWA 404 Program Assumption

Mr. Baggiore provided an overview on the CWA 404 Program and the status of ADEQ's planning process. The presentation covered the following highlights

- Overview of the CWA 404 regulatory program
- Other states who have assumed or are pursuing assumption of the program
- ADEQ's current water regulatory program
- The waters for which the state would assume the program
- Components of program assumption
- Why ADEQ is pursuing assumption: more environmental protection; clean water act program consistency; and customer value
- CWA 404 Assumption Process
- Status of the seven technical work groups (TWGs)
- Update on on-going tribal consultation and work group
- Planning Timeline
- Overview of the Roadmap document
- Update on EPA Rulemaking 404G which is the regulation for state assumption
- Impact of the proposed Waters of the United States on the 404 program in Arizona

Comments and Comments:

- C: David Castanon stated in presentations, he uses the statement the program only regulates any dredge and fill activities in a Waters of the United States.
- C: Michigan and New Jersey were assumed many years ago and are going through a lot of changes. Florida is probably a better model to review.
- Q: Was EPA a participant in the tribal work group? EPA has federal Indian Trust responsibilities and will need to be involved in those discussions. A: ADEQ has had discussions with EPA and they plan to conduct separate tribal consultation prior to acting.
- Q: Will a Tribal representative be a part of the Executive Work Group? EPA meets with Tribal leadership quarterly and is willing to help ADEQ staff. A: ADEQ has invited the Tribes to participate and are having ongoing discussions on the appropriate representation.
- Q: What WOTUS assumptions are the TWGs using? A: TWGs are using the current WOTUS definition.

Initial Thoughts on Program Assumption

Members were asked if they have any initial thoughts and concerns about assumption.

- The challenges that have been identified by the TWGs
- Feel this is a challenging endeavor and the identified risks of litigation for Section 106 and the potential costs to the state
- Complexity of the program
- Like the process and the diversity of the group need to step up to the challenge
- Existing relationships with the Corps which enabled the agency to establish priorities and deadlines for permitting
- A lot of difficult issues and we need to feel confident ADEQ can protect the environment to the standard today and it has the resources to manage the program; a little skeptical
- Mixed feelings, spent decades to become more efficient and need to determine how to maintain protection of the environment
- Approach is comprehensive and good; the Corps is officially neutral
- This discussion is valuable even if the program doesn't move forward as it might assist Corps in improving their program
- Need to determine what will impact our partners
- Has shadowed four of the workgroups, they have done a lot of really hard work and need to be recognized
- Several program customers feel the current program may not be perfect but don't think the program is so broken that they need pay a high cost for a permit
- Supportive of the program, think there can be value of having ADEQ administering the program with more clarity specific to the states
- Thanks to ADEQ for taking a complex proposal and unpacking into pieces in the TWGs
- Has been a thoughtful process
- Have a great deal of interest due to the large number of endangered species and need to understand how they can be protected
- Encouraging states to assume the program and interested to make sure the program is as protective of the environment
- Tribal consultation will be very important
- This isn't an esoteric issue we are objecting because want it to be a federal program; our waters are a major concern about the waters they provide for animals and plants and turning into impervious sea of development is a concern
- With climate change waters are becoming more precious; some things are more important than efficiency

Open Discussion

The group agreed to the following.

- Meeting Frequency: Every two week
- Meeting Duration: 2 hours
- Preferred Meeting Days: Thursday mornings (2nd and 4th)

Other request from the members included the following.

- Provide an overview of the existing permitting process
- A discussion on fees needs to be started sooner than later
- Identify the toughest issues and don't leave controversial discussions to the end
- Preschedule topics and meetings

Action Items

- Contact Sandy to discuss Sierra Club participation (Trevor)
- Create a list of which papers (issues) will be addressed at each meeting (ADEQ 404 Team)
- Any questions or concerns, feel free to contact Trevor directly (EWG Members)
- Send Doodle poll to determine best meeting time (Theresa)