TWG: Fees

Meeting: #8  Date: December 11, 2018  Time: 10:00 a.m.

Attendees:
☐ Sandy Bahr, Sierra Club
☒ Mason Bolitho, Haley & Aldrich
☒ Jeremy Browning, Gov Group
☒ Marina Estrella, City of Phoenix
☒ Adam Hawkins, Global External
☐ Christopher "Kit" MacDonald, U.S. Forest Service - Coconino and Kaibab National Forests

☐ Amanda McGennis, Arizona Chapter Associated General Contractor
☒ Rebecca Hudson Nunez, Freeport-McMoRan
☒ Marcia Sorensen, City of Peoria
☒ Jerry D. Worsham II, Cavanagh Law Firm
☒ Duane Yantorno, Asarco

Staff Support:
☐ David Lelsz, ADEQ  ☒ Theresa Gunn, GCI  ☒ Mark Joyner, ADEQ

Use of CWA Section 106 Funding for 404 Assumption
Conflicting legal opinions on whether the funds can be used for the 404-program development.

White Paper Status
The group reviewed the current draft.
• Programmatic permits will be included in the paper dependent of recommendations from the Permits TWG
• Edited the drawbacks to put emphasis on no drawbacks to the current process but the amount of time to receive a permit is a drawback
• Certification section add note: ADEQ will not be certifying (401) permits they issue but will certify the permits issued by the Corps and Tribes
• Group agreed the index is good
• Agency funding: ADOT averages 3-4 individual permits annually in addition to regional and nationwide permits
• JD section (page 5): issue covered by footnote 3
  o Duane to add paragraph for JDs being an hourly fee due to the variability in complexity
  o Decision to be made and may not be part of a permit
• Inspection fees has been addressed
• Complex permits may exceed the fees cap and may require additional staff work with no additional funding
  o Add comment dataset did not include the complex permits which took additional time and the additional nationwide permits issued during specific situations (fires)
  o Include this information in the Individual 404 Permit discussion on page 3
• Recommendation #4 (page 12): Majority of group agreed to remove recommendation 4
• Add recommendation to pursue legislation for reallocation of federal funds
• Missing information on flat fees similar to APP
• Add text that the legislation allowed ADEQ to charge fees to state agencies
• Also missing section on annual fees
  o Need to discuss how many ADEQ permit programs rely heavily on annual fees
• Expedited program: do we want to include
  o Historically, permitees could pay for an ADEQ consultant to expedite the review of the permit
• Recommendations: remove the word “options” in first paragraph
• The person drafting the minority opinion identify themselves
• City of Phoenix will write a dissenting opinion on being a fee-based program
• Need to discuss the impact of fees on small businesses and landowners
• Group agreed adding a fee for permittee mitigation would not be
• Add to GAP analysis that review of annual reports and other documents will require staff time

Action Items:
• Additional text on potential JD fees (Duane)
• Add text on federal funding (Adam)
• Add text on flat and annual fees (Mason)
• Send edits and additional text to Rebecca (All) by Friday
• Notify authors of dissenting opinions to identify themselves in the paper (Jerry)
• Add text to document about document review (Mason)

Next Meeting Agenda
• Final review of white paper
• Last meeting: Wednesday, Dec 19, 9 a.m.; Room 6645