TWG: JURISDICTION DETERMINATION

Meeting: #8  Date: December 5, 2018  Time: 1:00-3:00 p.m.

Attendees:
☒ Michael Bryce, Graham County, AZ
☒ Mike Cabrera, Pima County Flood Control
☒ Tricia Gerrodette
☐ Ned Hall, Freeport-McMoRan Inc.
☐ Adam Hawkins, Global External Relations
☒ Jill Himes, Himes Consulting, LLC
☐ Spencer Kamps, Home Builders Association of Central Arizona
☐ Theresa Knoblock, Tierra Right of Way Services
☒ Dennis Krahn, Eldorado Holdings
☒ Brian Lindenlaub, Westland Resources, Inc.
☐ Sheila Logan, Hilgart Wilson
☒ Robert Lynch, Robert S. Lynch & Associates
☒ Roger McManus
☒ Jack Moody, Slater Hanifan Group
☒ Mark Murphy, NV5, Inc.
☐ Leigh Padgitt, City of Phoenix
☐ Marinela Papa-Konomi, MCDOT
☐ Betsi Phoebus, Jacobs
☐ Jessica Rybczynski, Aztec
☐ Jennifer Simpkins, Kimley-Horn
☐ Scott Thomas, Fennemore Craig

Proxy
☒ Todd Dillard for Robert Lynch, Robert Lynch & Associates

Staff Support:
☒ David Lelsz, ADEQ
☐ Theresa Gunn, GCI
☒ Jill Hankins, ADEQ

White Paper

Group reviewed the latest version of the white paper.

- Section 2.2: Move types of waters before the determinations (2.1)
- Delete 2.5 and discuss Ordinary High-Water Mark in 2.1.1 (new 2.2.1) under JD
- Group discussion on whether ADEQ should assume the program
- Come up with a broad range of options with pros and cons of each instead of consensus on
- Group consensus to change “ideal state” Section 3 to Best Program Characteristics
- Group agreed to the these three options:
  1. Do nothing (partial assumption)
  2. Assume with minor changes
  3. Assume and change the program (screening) (mapping waters)
- Is a stand-alone JD permit/license for which ADEQ has authority to make and/or to charge fees? This remains an open question.
- Change the order of the Appendix sections

EPA Veto of JDS
- Address in the EPA MOA the authority of EPA to veto JDs. Group prefers EPA not have veto authority.

Significant Nexus Analysis
- Add SNA discussion to Option 3
**State Forms**
- Option 2 – just change logo forms and option 3 make the forms applicable to Arizona and more user friendly

**Fees for AJDs and PJDs**
- A land owner can ask the Corps to determine the waters on their land today
- Can ADEQ pre-determine the waters for the state?
- ADEQ should accept applications with analysis completed by landowner, landowner consultant or qualified person
- Should ADEQ have staff doing the field work to make determinations for applicants? May need to provide this service to small landowners who does not have funds to have a third party do the analysis.
- What about violations? ADEQ staff will have to go to the field to review the location of the waters.
- Can the screening tool be used to assist the smaller landowners?
- Add text to the paper that ADEQ is accepting the responsibility for enforcement, violations and support to private land owners.
- Can fee be based on the size and scope of the project?
- If a JD Fee is charged there needs to be equitable consideration for hardship of the small landowner
- There may need to be different timeframes for JDs by outside consultant and by ADEQ
- Add the need for an ADEQ educational program about the program

**Future Discussion Needed:** *(This is a cumulative list. Items will remain until discussed)*
- All previous items have been addressed

**Action Items**
- In track changes accept Scott’s changes but leave comments by Thursday (Leigh)
- Leigh to draft text for the three options and add to the paper (Section 5) by Thursday
- Mark Murphy to draft text for the Appendix sections by Friday
- Sheila is working on a draft screening tool
- Post new draft of paper and inform TWG a paper is ready to review end of day Friday (Dec 7)
- Comments on paper by Thursday Dec 13

**Next Meeting**
- Next meeting: December 19, 1-4
- Review white paper comments