

## **TWG: PERMIT PROCESS**

**Meeting:** #10      **Date:** Jan. 24, 2019      **Time:** 9 a.m.-12 p.m.

### **Attendees (Conference call participants):**

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|--|--|
| <input type="checkbox"/> Sandy Bahr, Sierra Club - Grand Canyon Chapter                  | <input checked="" type="checkbox"/> <i>Betsi Phoebus, Jacobs</i>   |
| <input checked="" type="checkbox"/> Tricia Balluff, TWG Chair, City of Phoenix           | <input checked="" type="checkbox"/> <i>Karla Reeve-Wise, PDEQ</i>  |
| <input checked="" type="checkbox"/> <i>Rion Bowers, Bowers Environmental Consulting</i>  | <input type="checkbox"/> Suzanne Shields, Pima County Regional Flood Control District                    |
| <input checked="" type="checkbox"/> <i>Mike Cabrera, Pima County Flood Control</i>       | <input type="checkbox"/> Jennifer Simpkins, Kimley-Horn  |
| <input checked="" type="checkbox"/> Tom Klimas, WestLand Resources, Inc.                 | <input checked="" type="checkbox"/> <i>James Stewart, ASARCO</i>   |
| <input type="checkbox"/> Theresa Knoblock, Tierra Right of Way Services                  | <input checked="" type="checkbox"/> <i>Laura Stewart, ACS (Archaeological Consulting Services, Ltd.)</i> |
| <input type="checkbox"/> Sheila Logan, HILGARTWILSON, LLC                                | <input checked="" type="checkbox"/> Scott Thomas, Fennemore Craig  |
| <input type="checkbox"/> Amanda McGennis, Arizona Chapter Associated General Contractors | <input type="checkbox"/> Marc Wicke, SRP   |
| <input type="checkbox"/> David McIntyre, McIntyre Environmental LLC                      | <input checked="" type="checkbox"/> Duane Yantorno, TWG Vice-Chair, ASARCO                               |
| <input checked="" type="checkbox"/> Marinela Papa-Konomi, MCDOT                          |  |

### **Staff Support:**

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> Andy Koester, ADEQ | <input type="checkbox"/> Jill Hankins, ADEQ | <input checked="" type="checkbox"/> Mark Joyner, ADEQ | <input checked="" type="checkbox"/> Kelly Cairo, GCI |
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### **Discussion Items:**

#### Welcome and Administration

- Action item: Kelly to provide mobile-friendly conference call format for upcoming meetings.

#### Finish Gaps and Options Discussion

In addition to comments noted on the live document, highlights of discussion included:

- Tricia will incorporate today's comments on Jan. 25.
- Action item: All to review entire document prior to next meeting.

#### Permit Transition Section/Gaps Table

- The group added language to differentiate between "pending" and "substantially underway."
- Duane noted the importance of the Corps relinquishing authority to avoid confusion on the part of the permittee.
- There are a variety of reasons permittee seek an extension. The group agreed to the language shown in the chart.
- Action item: Duane to review/add information regarding extensions, renewals and minor modifications to timeframes section.

#### Licensing Time Frames/Gaps Table

- Where has the JD group come out on time frames? Scott explained that since many JDs do not lead to a permit, the JD TWG wonders whether a JD will be considered a "license" in order to apply licensing time frames to the JD process. Though unresolved, the issue is flagged in the JD white paper.
- A maximum timeframe would be the result of sequential timeframes. Timeframes for some processes also occur in parallel.

- Action item: Tricia to review definition of “complete application” for accuracy from a timeframe point of view. This affects mitigation and public notice timeframes.
  - There was a concern about public notice occurring too early, before substantive information is available. However, when notice occurs too late, it is difficult to change the project. Additionally, applicants do not want two public notice comment periods.
- Action item: Tricia to add R18-1-525 water quality timeframe information from Duane regarding “Set LTF based on complexity...” row shown in current table.
- Stopping the clock is officially called “tolling.” ADEQ uses “suspension of time frames.”
- Action item: Scott to check on IGAs and timeframes, which may or may not require a statute change. If state agencies include “and political subdivisions” the issue may be resolved.
- Mark explained that ADEQ intends to provide a summary of the 404 assumption process, provide white papers, and indicate a direction the department intends to move in a future public process.

#### Federal Nexus/Gap Table

- The group discussed the merits of recommending MOAs with an extensive list of federal and state agencies versus developing working relationships.
- The group considered whether there might be situations in which, even with a federal nexus, additional formal consultation and agreements could be needed. The group agreed to include language regarding the potential need for formal agreements in some situations.

#### Discuss Extant Comments in Paper

- Action item: Scott to redline citizen suit information in 4.1.3 for additional TWG discussion.
- Action item: All to review language in “G” regarding the three options.
- Decision: The group agreed to represent TWG votes as a percent of those present who participated in the vote, and mention that not all TWG members were present.
  - Action item: Tricia to update percent language throughout.
- Action item: All to check language in NWP and RGP sections to make sure transition information is captured correctly.

#### Next Steps

- Next meeting: February 7, 9 a.m.-12 p.m., to include continued review of extant comments.
- Tricia will incorporate comments by Jan. 25. Duane will provide LTF info to Tricia on Jan. 25.
- All to review full document, available Jan. 26. Tricia asked the group to look for rule/law updates that would need to occur. She requested substantive comments, not copy editing, at this time. She also noted that previously agreed upon decisions will not be re-opened for debate.

#### **Assignments and Action Items:**

- (1/10) Tricia to ensure that the white paper states that recommendations are limited to the 404 program only. (Done.)
- (1/10) Tricia to ensure that citizen suit information is properly represented. (Done.)

- (1/10) Scott to develop NEPA “no” discussion. (Done.)
- (1/10) Tricia to adapt language from Sandy’s paper for the NEPA “yes” discussion. (Done.)
- (1/10) Duane to send gaps and options information for LTF to Tricia by COB Jan. 14. (Done.)
- (1/10) Marinela to check on whether current state regulations cover EPA requirements by Jan. 18. (Done.)
- (1/10) Tricia to update/clarify language notations from Scott. (Done.)
- (1/10) Tricia to search on use of word “project” and verify that it is used appropriately. (Done.)
- (1/24) Kelly to provide mobile-friendly conference call format for upcoming meetings. (Done/ongoing)
- (1/24) Tricia to incorporate today’s comments by Jan. 25. (Done.)
- (1/24) All to review entire document prior to next meeting, including:
  - Language in “G” regarding the three options
  - Language in NWP and RGP sections to make sure transition information is captured correctly.
- (1/24) Duane to review/add information regarding extensions, renewals and minor modifications to timeframes section. (Done.)
- (1/24) Tricia to review definition of “complete application” for accuracy from a timeframe point of view. This affects mitigation and public notice timeframes. (Noted in document.)
- (1/24) Tricia to add R18-1-525 water quality timeframe information from Duane regarding “Set LTF based on complexity...” row shown in current table. (Done.)
- (1/24) Scott to check on IGAs and timeframes, which may or may not require a statute change. If state agencies include “and political subdivisions” the issue may be resolved. (Done.)
- (1/24) Scott to redline citizen suit information in 4.1.3 for additional TWG discussion.
- (1/24) Tricia to update percent language throughout. (Done.)

**Potential Future Discussion:**

- (12/13) May want to recommend ADEQ consider the timing of the public process in the white paper.