



## **TWG: PERMIT PROCESS**

**Meeting:** #1

**Date:** September 5, 2018

**Time:** 2:30-4:30 p.m.

### **Attendees:**

- Sandy Bahr, Sierra Club - Grand Canyon Chapter
- Tricia Balluff, City of Phoenix
- Rion Bowers, Bowers Environmental Consulting
- Mike Cabrera, Pima County Flood Control
- Tom Klimas, WestLand Resources, Inc.
- Theresa Knoblock, Tierra Right of Way Services
- Emily Lester, ADOT
- Sheila Logan, HILGARTWILSON, LLC
- Amanda McGennis, Arizona Chapter Associated General Contractors
- David McIntyre, McIntyre Environmental LLC
- Susan Montgomery, Inter-Tribal Assoc. of Arizona

- Marinela Papa-Konomi, MCDOT
- Betsi Phoebus, Jacobs
- Karla Reeve-Wise, PDEQ
- Suzanne Shields, Pima County Regional Flood Control District
- Jennifer Simpkins, Kimley-Horn
- James Stewart, ASARCO
- Laura Stewart, ACS (Archaeological Consulting Services, Ltd.)
- Scott Thomas, Fennemore Craig
- Marc Wicke, SRP
- Duane Yantorno, ASARCO

### **Staff Support:**

- Andy Koester, ADEQ
- Heidi Welborn, ADEQ
- Kelly Cairo, GCI

### **Discussion Items:**

- When a topic may be handled by more than one work group, the chair will discuss the issue with ADEQ to determine which TWG can best address that topic.
- Notes are anticipated to be provided in two days; however, the first notes may take longer due to additional review required in establishing the format.
- ADEQ and/or Andy will reach out to states with a group of questions as needed.
- Work Group Charter Comments:
  - (Groups noted below will research the current state of the 404 program for each topic.)
  - Permit transition
    - Would like to look at AZPDES transition process, the good, bad and ugly.
    - What is the timeframe for transition of existing permits? Construction? How does it affect a 30-year project?
    - Florida is in the process of exploring state assumption.
    - Need a Michigan and New Jersey expert to use as a reference, and an expert on federal state assumption regulations.
    - Laura, Jennifer, Tom, Scott
  - Licensing time frames (LTF) or permitting time frames AND types of permits
    - Permit types may also want to address public process
    - Karla, Duane, Marc, James, Sheila
  - Forms and online tools AND public process
    - The public process for permitting does not include tribal consultation, the public process component of this exercise should only include the current state of the 404 permitting process.

- Lack of a NEPA public process with state assumption is a concern.
- Should review MI and NJ current process.
- Suzanne, Susan, Marinela, Emily, Sandy
- Federal nexus projects
  - Currently, every project is a federal nexus project
  - Discussion will reference permit types
- EPA objection process
  - Tricia, Amanda
- The charter lacks consideration regarding whether ADEQ should pursue this course of action.
- There is not a state level public process comparable to NEPA.
- Tribes require a higher degree of coordination/consultation; section 106 of NHPA needs to be considered for federal nexus projects.
- Many activities occur under “nationwide” which affects the current process.

### **Critical Information Resources:**

- SB1493
- AZPDES transition rule
- List of current Nationwide Permits
- Regional General Permits
- TWG charter
- EPA memo regarding 404 (c) upcoming proposed rule changes
- 33 USC 1344 – Permits for dredged or fill material
- 404(b)(1) guidelines
- 40 CFR Part 232 – 404 Program Definitions
- MI and NJ MOAs with EPA
- USACE current checklists and permit process (ADOT has updated 404(b)(1) form and ADEQ may also have the latest USACE forms, many are also available online)
- Current check list and permit process from the Corps so we know what is in place now (Andy will see what 404b1 on ADOT website)

### **Decisions:**

- Determine the current state for each of the seven topics to be addressed in the white paper. Provide references. Post to appropriate section in the white paper template on the group site (to be established) by Sept. 18 for review prior to the next meeting.
- Next meeting: Sept. 20, 10 a.m. - noon, then every two weeks on Thursdays at the same time.
  - Meetings could be at SRP or ADEQ. Marc will check room availability.
- Duane was selected as Vice-Chair

### **Potential Future Discussion:**

- White paper topics are to include methods for addressing NEPA considerations. Should also maintain the federal trust responsibility to engage tribes regarding activities occurring off tribal lands (which may ultimately affect the tribal land).
- Coordination of 404 and 33 U.S.C. 408 permits (408 permits require NEPA).
- Coordination for those who need a 404 from both the state and federal governments.
- How will ADEQ and a federal authority work together? Could investigate how the 401 process works.

### **Action Items:**

- Kelly will notify the TWG when the notes are available and attach them to the email.
- Tricia will post many of the critical information resources when the shared site becomes available.
- Suzanne will provide an outline of the current process for the group to review and to look for omissions.
- Tricia will post an article about other states attempting assumption.
- Emily will send a list of timeframes used by ADOT to the group
- Tricia will post a draft white paper so that items can be placed into the document as work proceeds.

### **Next Meeting Agenda**

- Results regarding the current state in each of the topic areas
- Continued work addressing the white paper topics