



TWG: Significant Degradation

Meeting: #1

Date: August 30, 2018

Time: 2:30 pm

Attendees:

- | | |
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| <input checked="" type="checkbox"/> Nancy Allen, City of Phoenix | <input checked="" type="checkbox"/> Robert Kellock, USAF Retired |
| <input checked="" type="checkbox"/> Rion Bowers, Bowers Environmental Consulting | <input type="checkbox"/> Bruce Larson, WestLand Resources, Inc. |
| <input checked="" type="checkbox"/> Jeremy Casteel, HilgartWilson | <input checked="" type="checkbox"/> Brian Lindenlaub, WestLand Resources, Inc. |
| <input checked="" type="checkbox"/> Lee Decker, Gallagher & Kennedy | <input checked="" type="checkbox"/> Jennifer Martin, Sierra Club |
| <input type="checkbox"/> Angela Garcia, Salt River Pima-Maricopa Indian Community | <input type="checkbox"/> Karla Reeve Wise, PDEQ |
| <input checked="" type="checkbox"/> Stanley Hart, Save the Scenic Santa Ritas | <input checked="" type="checkbox"/> Monica Salguero, ASARCO |
| | <input type="checkbox"/> Myron Smith, KGHM |
| | <input checked="" type="checkbox"/> Van Wolf, Salmon, Lewis & Weldon, P.L.C. |

Staff Support:

- | | |
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| <input checked="" type="checkbox"/> Heidi Welborn, ADEQ | <input checked="" type="checkbox"/> Theresa Gunn, GCI |
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Discussion Items:

- TWG Charter Discussion
 - The executive committee is yet to be formed.
 - ADEQ is taking over an ongoing process, we should use the current process as a guide and identify gaps
 - Need to make a list of assumptions of what we are going to work from
 - Not reinventing the wheel; changing the axel to get better performance; streamlining
 - Current state; how are the regs interpreted; what works and what doesn't work
- 404(b)(1) Analyses
 - Alternative analysis (AA) –
 - Applicant proposes alternatives and regulator chooses option that has the least environmentally damaging impact (LEDPA).
 - Applicant defines purpose of project and develops a project purpose and then looks at alternatives which meets project purpose without affecting waters; a clearly defined purpose and need statement is important
 - A proposed project may also not create significant degradation: threats to species, threats to public drinking water, public interests, recreational
 - The AA and the determination of Significant Degradation are two different processes
- If required by a federal agency, projects will still go through the NEPA process.
- Is state going to adopt the nationwide and individual permit? –State is required to adopt general permits where possible; could also have some state specific general permits other than nationwide (this is part of the Permit TWG scope)

- Corps has always been more questioning on an AA than an EIS – especially for project purpose

Decisions:

- The TWG will meet every two weeks starting September 11 at 10 am.
- Jennifer Martin was selected as the TWG Vice Chair

Future Discussion Needed:

- What is the process for AZ projects that do not qualify nationwide program
- Need to determine if limits can be changed and specific to the state
- The criteria established to determine significant degradation are subjective and murky
- Can you apply the AA process and adapt to streamline, considering guidance and case law
- Explore what is necessary for alternative analysis (Corps has a template)
- We need to create our own template as nobody uses same source data; we need to standardized template
- Minimize is often misunderstood; not only avoid impact but leave a better place
- Need to consider the AZ process since NEPA does not apply to non-federally funded projects.
- Ensure the process allows for public involvement
- In at least one jurisdiction, about 60-70% of permits are declined due to poor project purpose; could requirements be put in rule or guidance
- Public Interest regulation is currently not in the CWA, how will AZ maintain those interests
- How is flood control sig deg considered

Action Items:

- Jeremy to gather information and send links to the group
- Theresa to send a meeting invite for future meetings
- All members to provide information to Jeremy by July 7 on the current process for AA and Sig Deg
- Heidi to share PPT from EPA training with Jeremy

Next Meeting Agenda:

- Current State discussion
- Identify the gaps