



TWG: Significant Degradation

Meeting: #5 **Date:** Oct. 23, 2018
Time: 10-11:30 a.m.

Attendees:

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

Staff Support:

- Heidi Welborn, ADEQ Theresa Gunn, GCI Kelly Cairo, GCI

Discussion Items:

- USACE Meeting
 - Stan, Nancy, Lee, Jennifer and Jeremy will be meeting with Sallie this afternoon. Questions were sent to the team via email.
 - Disconnect between surface and groundwater regulations is under review by federal courts.
 - In Arizona, a discharge to an aquifer (APP regulation) cannot impact groundwater or surface water quality.
- Federal Nexus and NEPA
 - Some members expressed concern about loss of NEPA under a state program
 - 401B guidelines cover most of the NEPA analysis
 - What is missing from a NEPA analysis that is not in the 401B guidelines? How do we/Do we need to fill a potential analysis gap?
 - Socio economic impacts (covered somewhat in degradation)
 - Cumulative impacts are determined during NEPA: this is under the degradation rule but may need to be expanded
 - Group can add recommendation regarding public review
 - Individual permits go out for public notice
 - Should there be public notice on the draft B1 analysis?
 - Should mirror the NPDES/401 certifications public notice – notice should be given before decision on a general permit
 - There is no public notice for nationwide permits?
 - What level of alternative analysis is the responsibility of the applicant versus the agency? Burden is on the agency.
- B1 Guidelines and Exceptions
 - Need to focus on the topics where there are exceptions in Arizona (not applicable)

Recommendation

- Information for Permit TWG: Consider two public notices for individual permits:
 - Receipt of application
 - Draft permit including technical support/analysis document

Future Discussion Needed:

- (8/30) Need to determine if limits can be changed and specific to the state
- (8/30) The criteria established to determine significant degradation are subjective and murky
- (8/30) Can you apply the AA process and adapt to streamline, considering guidance and case law?
- (8/30) Need to standardize the data to be used, where acceptable (i.e., watershed, durations, etc.)
- (8/30) Need to consider the AZ process since NEPA does not apply to non-federally funded projects
- (8/30) Ensure the process allows for public involvement
- (8/30) 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
- (8/30) Public Interest regulation is currently not in the CWA, how will AZ maintain those interests?
- (8/30) How is flood control sig deg considered?
- (9/25) Possible presentation and Q/A from permit administrator side, such as the Corps or EPA
- (10/23) Cumulative impacts addition to B1

Resources Needed:

- State current processes for these categories, such as the process for 401 certifications
- Arizona code on Tier Two streams (alternatives analysis language could be useful)
- ADEQ anti-degradation policy from 2008 that was not finalized (see "Sig-Deg" in the shared folder)

Action Items (10/23):

- Provide questions to Jeremy and Heidi for EPA call on Nov 6th (please provide by Nov 2nd)
- Theresa to coordinate combination of Nancy's version of the white paper
- Minimization avoidance section to be drafted by Jeremy
- Nancy and Lee working on Significant Degradation
- Brian to help with alternative analysis drafting

Next Meeting Agenda:

- Review draft document
- Finalize TWG's understanding of current federal program and recommended State program to confirm: Program gaps and State program implementation options. TWG sub-groups need to prepare to review with full TWG if any program gaps exist, and if so, what is needed, and review recommendations for implementing the significant degradation, alternatives analysis, and avoidance/minimization requirements into the permitting process.
- Nov 6, 10-11:30 at ADEQ