

Ute Mountain Ute Tribe

Environmental Programs Department

P.O. Box 448

Towaoc, Colorado 81334-0448

(970) 564-5430

Mr. Allan Steinle
Chief, Regulatory Division
Albuquerque District
U.S. Army Corps of Engineers
4101 Jefferson Plaza, NE
Albuquerque, NM 87109
Allan.e.steinle@usace.army.mil

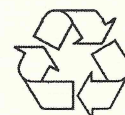
Re: Ute Mountain Ute Tribe 401 Certification of the U.S. Army Corps of Engineers January 6, 2017-2017 Nationwide Permits

The Ute Mountain Ute Tribe (UMUT) has the responsibility under §401 of the Clean Water Act (CWA) to evaluate and certify water quality protections for federal permits or licenses issued for work on Ute Mountain Ute lands.

UMUT has reviewed the U.S. Army Corps of Engineers (Corps) January 6, 2017 Federal Register Notice announcing the reissuance of the Corps' CWA Section 404 Nationwide Permits (NWP) and UMUT is hereby denying water quality certification for all NWPs. In order to protect tribal water resources and ensure compliance with UMUT water quality standards individual project review and compliance with regional and general conditions will be required. Unless an individual certification is provided, the enclosed conditions become binding requirements of any NWP issued for work on UMUT tribal lands.

Projects which qualify for the use of a NWP must contact the UMUT Environmental Programs Department and apply for an individual 401 certification. For any project proponent seeking 401 certification on UMUT lands, adherence to the requirements in the enclosed General conditions are required, and detailed information must be included in the 401 application submitted to the Tribe's Environmental Programs Department for review and approval. If UMUT does not provide a certification within 60 days from when UMUT receives the complete application the enclosed general conditions and relevant Colorado Regional Conditions will apply as our 401 certification conditions. Under no circumstances are any of the 2017 NWPs as published in the January 6, 2017 Federal Register waived.

We are exercising our certification authority for the information presented in the January 6, 2017 Federal Register. We also are adopting the Corps' Colorado Regional Conditions, as submitted to UMUT on June 2, 2016, as § 401 conditions for all NWPs issued on Tribal waters. If the Corps eliminates or



makes substantial changes to any of the published NWP's or conditions, we reserve the right to amend our certification to address any and all changes.

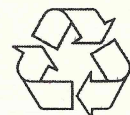
Please contact UMUT Environmental Programs Department: Water Quality Program Manager, Colin Larrick at (970) 564-5437, clarrick@utemountain.org; or Scott Clow, Environmental Programs Department Director at (970) 564-5431, sclow@utemountain.org if you have any questions regarding 401 certification.

Sincerely,



3/13/17

Scott Clow
Ute Mountain Ute Tribe
Environmental Programs Director
520 Sunset Blvd.
Towaoc, CO 81334



General Conditions

- 1) A copy of the certification documentation must be on-site.
- 2) Certification is denied for all activities affecting fens, springs, hanging gardens and difficult to replace wetlands as defined in 33 CFR332(e)(3).
- 3) All equipment must be inspected for fluid leaks and invasive species prior to use on a project. All fluid leaks shall be repaired and cleaned prior to use or when discovered, or if the fluid leak can't be repaired, the equipment shall not be used on site. Equipment used in waters with the possibility of aquatic nuisance species infestation must be thoroughly cleaned before they are used on the project.
- 4) For all NWP, the Applicant must provide to the Tribal Environmental Program a certification application which includes the following:
 - i) The information required in Corps of Engineers Nationwide Permits General Condition 32(b), 33 CFR(C)(32)(b).
 - ii) A summary of previous contacts and discussions with the Tribe's water quality staff regarding the project.
 - iii) A summary of known and tribally identified aquatic resource and cultural resource concerns.
 - iv) A description of best management practices (BMPs) and how the project will utilize construction BMPs to reduce or eliminate water quality degradation as a result of the project.
 - v) A discussion of how the project has been designed to be resilient to the effects of climate change.
- 5) All Corps of Engineers Colorado Regional Conditions.
- 6) Any additional information submitted to the Corps, such as cultural resource reports or summaries, biological assessments for endangered species, drawings, maps, etc., must be included in the certification application.

