

Ute Mountain Ute Tribe

Environmental Programs Department

P.O. Box 448

Towaoc, Colorado 81334-0448

(970) 564-5430

April 25, 2023

Daniel Delgado
Senior Regulatory Project Manager
Department of the Army
Corps of Engineers, Albuquerque District
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435
RE: SPA-2012-00347

Dear Mr. Delgado:

Thank you for corresponding with us for 401 certification on the re-issuance of the Regional General Permit (RGP) for emergency repair and protection activities. In general, we support the principles of the RGP. We do have some unique concerns and requirements for the application of the permit on Ute Mountain Ute Tribal Lands in New Mexico. Therefore, we hereby certify RGP SPA-2012-00347 with the following conditions:

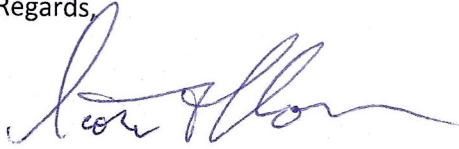
1. Because of the limited number of Ute Mountain Ute Tribal Waters and the need for protection of those finite resources, all such Tribal Waters within the boundaries of the Ute Mountain Ute Reservation in New Mexico shall be considered *Critical Resource Waters* subject to the provisions of General Permit Condition 3. In implementing a permit on such waters, however unlikely, notification to this office is required. We will work expeditiously to coordinate the Tribe's requirements with the Corps in the issuance of the permit or follow-up in the circumstance of a post action permit that has been initiated unilaterally.
2. General Condition 6- Site Access- must be coordinated with the Tribe, through our Department. Reach out to us when you intend to come onto the Reservation and we can accompany your staff for that purpose.
3. Notification to our Tribal Historic Preservation Officer, Terry Knight, needs to be undertaken to comply with our Cultural Resources Management Plan. Coordination with Terry is required for compliance with General Condition 10 regardless of listing in the National Register of Historic Places. I can facilitate that if a permit is issued on the Reservation, but an email to him at tknight@utemountain.org with a copy to me will be helpful.
4. Post-Activity Reporting subject to General Condition 26 needs to be copied to our office, to my attention.

We appreciate the language in General Condition 7, protecting Tribal Rights. As a federal agency with trust responsibilities to tribes, Army Corps of Engineers allusion to this responsibility is embraced.



I understand that this 401 certification appears heavily dependent on my personal participation in the process should an emergency permit be required on Tribal lands. We are actively working on hiring a new Water Quality Program Manager here and anticipate that the point of contact for Clean Water Act issues will transition to that person once hired, but until that occurs the Tribe relies on me as their Clean Water Act expert. Thank you for requesting certification for the RGP for emergency permitting actions in New Mexico.

Kind Regards,

A handwritten signature in blue ink, appearing to read "Scott Clow". The signature is fluid and cursive, with a long horizontal stroke at the end.

Scott Clow

Director

