January 5, 2022

RE: Ute Mountain Ute Tribe 401 Water Quality Certification Use of Nationwide Permit 14 US 160 Four Corners to Aztec Creek Reconstruction Project CDOT Project Code 22193

Dear Mr. Funk:

The Ute Mountain Ute Tribe (UMUT) received a request from the Colorado Department of Transportation (CDOT) for a Clean Water Act (CWA) Section 401 water quality certification (WQC) for Use of Nationwide Permit 14 US 160 Four Corners to Aztec Creek Reconstruction Project CDOT Project Code 22193. The proposed project will not result in the permanent loss of any Waters of the US or Tribal Waters and will have no wetland impacts. This certification applies only to the discharges being authorized under the Army Corps of Engineers (Corps) Nationwide Permit (NWP) 14 in accordance with CWA Section 404 and Section 10 of the Rivers and Harbors Act of 1899 (U.S.C 1344) and this UMUT 401 WQC. The project does not involve routing stormwater through any sediment basins or wet ponds as stipulated in the December 11, 2020 UMUT conditional 401 certification for NWP 14 and CDOT is requesting an individual 401 certification for the project. This certification is based on and relies upon information contained in the documents included in the CDOT WQC request, received on November 29, 2021.

Project Description

Within the Ute Mountain Ute Reservation, the project consists of highway reconstruction of US Highway 160 from the Arizona state line to mile marker (MM) 7.9 in Colorado. In this section there will also be new 6-foot shoulders added to each side and new highway embankments will be constructed with an approximate slope of 4:1. Several existing stormwater culverts throughout this corridor will be extended to account for the widened highway and existing guardrail will be removed and replaced. There will also be new passing lanes installed from MM 3.0-3.8 (westbound) and MM 5.1-5.9 (eastbound). Additionally, bridge repairs are proposed in this segment on structures P-01-G and P-01-A, which span the San Juan River and Aztec Wash, respectively. These repairs consist of placing a new waterproof membrane and replacement of bridge rail. No work is proposed below the decks of the bridges

Impacts to Potential Waters of the U.S Impacts to Waters of the US (WOTUS) have been avoided and minimized to the maximum extent practicable. As stated above, there will be no work under the two existing bridges, which will ensure no impacts to the San Juan River, its adjacent wetlands or the Aztec Wash. Multiple unnamed ephemeral washes also cross the project corridor that are likely tributaries to the San Juan River. At these locations, the existing culverts are sufficient and the culverts that convey them will not need to be replaced or extended. However, there are three locations where CDOT engineers have determined that work within ephemeral tributaries is necessary to ensure the integrity of the highway, which are described below:

1. MM 2.4: At this location, an approximately 2-foot-wide ephemeral stream crosses the highway, which is conveyed by an existing 48-inch diameter corrugated metal culvert. As part of the project, six-foot

shoulders are being added to the north side of the highway to increase safety. This will require placing additional fill on the highway embankment. To support this additional fill, a concrete headwall will be added to the culvert inlet. Use of the headwall allows the shoulders to be installed without extending the existing culvert, which minimizes impacts to the ephemeral stream. Installation of the headwall will likely result in approximately 50 square feet of temporary impacts to the wash for equipment access.

2. MM 6.45: At this location a head cut has migrated up an ephemeral wash that has resulted in an unintended plunge pool below the existing culvert. Continued upstream migration of the headcut could result in undermining of the existing culvert and/or the roadway embankment. To remedy the problem, CDOT intends to fill in and riprap the plunge pool. This activity will result in a permanent discharge of fill material into approximately 130 square feet of the ephemeral stream channel (below the ordinary high water mark), and will result in approximately 470 square feet of temporary impacts as needed for equipment access.

3. MM 7.4: At this location an ephemeral wash is conveyed under US 160 by a series of six 36-inch corrugated metal pipes. The six pipes have overly widened this conveyance and to ensure all stormwater and ephemeral flow is routed through the culverts, CDOT intends to install headwalls and wingalls at the culvert inlet and outlet. This action is anticipated to concentrate the overly dispersed flow. Also, all six pipes are also slightly perched above the bottom of the wash at the culvert outlet so CDOT intends to install a riprap apron at the outlet for scour protection. The activity will result in approximately 185 square feet of permanent discharge into the ephemeral wash (associated with the riprap apron) and approximately 540 square feet of temporary impacts to the ephemeral wash associated with equipment access.

Information Required by 40 CFR § 121.5(b) 1. Identify the project proponent(s) and a point of contact: The project proponent is CDOT. The point of contact is as follows: Tim Funk, PWS CDOT Region 5 Wetland Specialist 3803 N. Main St Durango, CO 81301 970-759-5012 Timothy.funk@state.co.us

2. Identify the proposed project: The overall scope of work is referred to by CDOT as the US 160 Four Corners to Aztec Creek Reconstruction Project and is described above. With regards to NWP 14, CDOT believes the action consists of three separate “single and complete” projects, which correspond to the three separate and distant locations where work will occur within WOTUS. These three projects are described above.

3. Identify the applicable federal license or permit: As stated above the federal permit that will be employed for this project is NWP 14.

4. Identify the location and nature of any potential discharge that may result from the proposed project and the location of receiving waters: At the MM 6.45 and 7.4 project locations, the permanent discharge will consist of the placement of clean riprap within the ephemeral washes. At both locations the riprap will be underlain with geotextile fabric to prevent settling. To install the riprap at MM 7.4, the current streambed will be excavated as needed so that the riprap is installed at grade. At MM 6.45 one of the project goals is to fill in the plunge pool that has formed below the culvert outlet so clean fill may be placed under the riprap and fabric as needed to bring this plunge pool back up to grade. At MM 2.4 there will be no permanent discharge. Equipment access here and at the other locations may result in temporary impacts through the dislodging of existing soil and stream substrate. All areas below the Ordinary High Water Mark (OHWM) will be returned to pre-existing existing upon completion of the project.

5. Include a description of any methods and means proposed to monitor the discharge and the equipment or measures planned to treat, control, or manage the discharge: The project will require use of the U.S. Environmental Protection Agency (USEPA) Permit COR10I000 for stormwater discharges within Indian country within the State of Colorado. A Stormwater Pollution Prevention Plan (SWPPP) has been drafted and per EPA requirements and CDOT specifications, the project site will be inspected at least once per week and following all rain events. **A copy of the finalized SWPPP and the Notice of Intent (NOI) will be provided to the UMUT when submitted to USEPA**.

6. Include a list of all other federal, interstate, tribal, state, territorial, or local agency authorizations required for the proposed project, including all approvals or denials already received: As stated above, the project will require coverage under the USEPA's National Pollutant Discharge Elimination System General Permit for Discharges from Construction Activities. Specifically, due to the project location within the Ute Mountain Ute Reservation and the Navajo Nation (for the segment extending into Arizona), the project will require coverage under CO10I000 and AZR10I000. As the SWPPP has not yet been finalized, the NOIs have not yet been filed.

7. Include documentation that a prefiling meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request: A request for a pre-filing meeting was submitted via email to the UMUT on September 13, 2021. The meeting was held virtually via Google Meet on October 8, 2021.

8. Contain the following statement: The project proponent hereby certifies that all information contained herein is true, accurate, and complete to the best of their knowledge and belief.

9. Contain the following statement: The project proponent requests that the certifying authority (UMUT) review and take action on this CWA 401 certification request within the applicable reasonable period of time.

UMUT is the certifying authority in the project area and it is the responsibility of the applicant to determine the proper CWA Section 401 authority through coordination and recommendations of status through the UMUT or certification of land status by the Bureau of Indian Affairs (BIA). The project proponent (CDOT) is responsible for obtaining all other permits, licenses, and certifications that may be required by federal, state, or tribal authorities, including an EPA Construction General Permit.

Section 401(a)(1) of the CWA requires applicants for Federal permits and licenses that may result in discharges into waters of the U.S. to obtain certification that the potential discharges will comply with the applicable provisions of the CWA, including Sections 301, 302, 303, 306, and 307.

UMUT has the authority to provide CWA Section 401 certifications for discharges occurring within lands on the UMUT Reservation and makes the certification decisions for discharges that may result from the proposed project. UMUT considered all applicable provisions of the CWA and tribal water quality requirements when reviewing the potential impacts of this project. UMUT is granting the certification, without additional conditions, for the activities detailed in CDOTs November 29, 2021 WQC request for project code 22193 and authorized under the Corps' NWP 14.

This certification is specifically associated with the CDOT project code 22193 and expires concurrently with project completion. If you have any questions, please contact Colin Larrick at 970-739-3741 or

clarrick@utemountain.org .

Sincerely,
Colin Larrick
Water Quality Program Manager
Ute Mountain Ute Tribe
Environmental Programs Department

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