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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION IX**
**75 Hawthorne Street**
**San Francisco, CA 94105**

August 3, 2017

The Honorable Russell Begaye
The Navajo Nation
100 Parkway – P.O. Box 7440
Window Rock, Arizona 86515

Re: Invitation to Consult and Coordinate on Establishing a Water Monitoring Program under the Water Infrastructure Improvements for the Nation Act

Dear President Begaye:

I am writing to extend an invitation to conduct government-to-government consultation and coordination on the development of a long-term water quality monitoring program for rivers impacted by the Gold King Mine (GKM) release.

In December 2016, Congress enacted the Water Infrastructure Improvements for the Nation (WIIN) Act which authorizes the EPA, for the years 2017 through 2021 and subject to the availability of appropriations, to work with states, tribes and local governments to develop and implement a long-term water quality monitoring program for rivers impacted by the GKM release. The EPA's fiscal year 2017 appropriation law subsequently provided $4 million for this new monitoring program. This funding is in addition to, and separate from, any water monitoring funds provided to your tribe directly related to response to the release.

As specified by the WIIN Act, the long-term water quality monitoring program requirements include:

- collecting water quality samples and sediment data;
- providing the public with means of viewing data by, at a minimum posting on the EPA website;
- any other reasonable measures necessary to assist affected states, tribes, and local governments with monitoring; and
- additional program activities related to monitoring that the Administrator deems necessary.

As you are aware, three tribes have Indian Country along the rivers impacted by the GKM release – the Southern Ute Indian Tribe, the Ute Mountain Ute Tribe and the Navajo Nation. On July 6, 2017, the EPA invited states and tribes to participate in the first of what we anticipate will be a series of multi-jurisdictional calls followed by a face-to-face meeting to plan for this new water quality monitoring program. The EPA held a second call with states and tribes on July 25th. Your environmental staff have also had the opportunity to coordinate directly with other jurisdictions downstream of the release, namely the states of Colorado, New Mexico, Utah and

Arizona, and the other tribes through email and conference calls. During these initial discussions, the EPA and the affected jurisdictions have discussed the desire to develop coordinated priorities by building upon previous state and tribal monitoring and next steps identified during the multi-jurisdictional San Juan River workshop held in November, 2016.

In addition to these multi-jurisdictional calls and meetings, the EPA is offering the opportunity to initiate formal consultation with the Navajo Nation regarding this monitoring program. The goal of the consultation would be to conduct an individual meeting to hear from your tribe any information you would like the EPA to consider in the development of the long-term water quality monitoring program including tribal priorities and expectations. The EPA is offering the individual consultation to ensure affected jurisdictions have the opportunity to provide comments on the development of this monitoring plan.

The EPA welcomes the opportunity to consult and coordinate with your tribe. If you choose to consult about this monitoring program, this consultation and coordination process will be conducted in accordance with the *EPA Policy on Consultation and Coordination with Indian Tribes* (www.epa.gov/tribal/consultation/consult-policy.htm). Information about this consultation will be posted on EPA's Tribal Consultation Opportunities Tracking System ([ HYPERLINK "https://tcots.epa.gov/" ]). Accordingly, we will work with your tribal government to develop a consultation plan including a description of the process, opportunity for input, and timeline for us to provide feedback and complete the consultation. We will send a draft consultation plan for your review as soon as practical after we receive your reply to this letter. If your tribe decides not to request tribal consultation on this plan, we will continue to coordinate with your environmental program staff in the development of the long-term water monitoring program.

The Region requests that you reply in writing to this letter within the next 30 days indicating whether or not the tribe desires to consult. If we do not hear from you within the next 30 days, we will assume you prefer not to consult at this time.

The EPA contact person for this consultation and coordination process is Gail Louis, Manager of the Tribal Water Section. Please do not hesitate to contact Ms. Louis at (415) 972-3467 or at [ HYPERLINK "mailto:louis.gail@epa.gov" ] should you have any questions about this action.

I look forward to hearing from you on this important matter.

Sincerely,

Tomás Torres
Director, Water Division
U.S. EPA Region 9

cc: Dr. Donald Benn, NNEPA, [ HYPERLINK "mailto:donbenn@navajo-nsn.gov" ]
Ronnie Benn, NNEPA, [ HYPERLINK "mailto:ronnieben@navajo-nsn.gov" ]
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