

September 12, 2017

VIA U.S. MAIL & EMAIL

(wrhearing@waterboards.ca.gov)

Steven Moore, Vice Chair
State Water Resources Control Board
1001 I Street, 2nd Floor
Sacramento, CA 95814

Re: Douglas and Heidi Cole, Marble Mountain Ranch Request to Reschedule Public Hearing

Dear Mr. Moore:

Thank you for your consideration and granting of our request to reschedule the public hearing originally scheduled for August 22, 2017, with regard to Douglas and Heidi Cole (the “Coles”) and Marble Mountain Ranch (“Ranch”) to November 13, 2017. While this date is later in the Coles’ busy season, it still conflicts with the end of the fly fishing season, which requires Mr. Cole’s presence at the Ranch. Further, current conditions near the Ranch have impeded their ability to take the necessary steps to prepare their defense. Therefore, the Coles’ request that the hearing be rescheduled to after the holiday season.

As you are likely aware, large portions of the national forests near the Ranch have experienced vast wildfires intermittently throughout the last two months, with fires raging most heavily in the last month. Two incidents of those fires have come close enough to the Ranch that guests and all non-necessary personnel have had to evacuate the area. The most recent fire came within a half mile of the Ranch property. That fire continues to burn.¹ In addition to the evacuation orders, the intermittent use of the Ranch as a fire camp for crews fighting the wildfires has swallowed up the Ranch’s available guest resources.

With the lack of resources available for additional visitors at the Ranch and the constant threat of possible evacuation, there is no room at the Ranch for any additional visitors. Thus, the new consultant team that the Coles have retained, following the issuance of Draft Order WR 2017-00XX-DWR, are unable to make their investigations and draft their reports that will be integral to any effort to ensure that the Coles retain their right

¹ United States Forest Service, Inciweb, Orleans Complex Fire (Sept. 11, 2017) <<https://inciweb.nwcg.gov/incident/5430/>>.

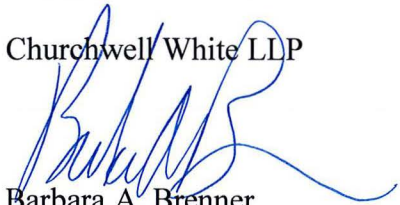
to divert water for both domestic and consumptive use and for hydroelectric power generation.²

To ensure that the Coles and their consultants have the opportunity to properly prepare their defense, they request another rescheduling of the hearing to after the holiday season. This will ensure that the wildfires are no longer posing a threat to the Ranch and that their consultants can safely visit the Ranch to assess the Coles' operation without the unique impacts associated with the use of the Ranch as a fire camp.

Please contact me with any questions regarding this correspondence at barbara@churchwellwhite.com or (916) 468-0625.

Regards,

Churchwell White LLP



Barbara A. Brenner
KAF/dmg

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² The Coles' previous consultant team that had made investigations and assessments of the Coles' diversion operation elected to leave the project following issuance of the enforcement orders in 2016. Since that time, the Coles have sought to retain a new consultant team that was also cost effective. They have successfully retained new consultants to assist them, but those consultants have not been able to visit the Ranch to make their independent assessment of the Coles' diversion. This effort is imperative to properly defend their pre-1914 water right.