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**Cc:** [Unit, Wr Hearing@Waterboards](mailto:Unit.Wr.Hearing@Waterboards)  
**Subject:** Marble Mountain Ranch Hearing: Response to Request to Reschedule Public Hearing  
**Date:** Friday, September 22, 2017 3:03:09 PM

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## **PLEASE TAKE NOTICE**

### **RE: REQUEST TO RESCHEDULE PUBLIC HEARING: Douglas and Heidi Cole and Marble Mountain Ranch - Hearing to determine whether to issue an order finding waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of water and ordering corrective actions**

Ladies and Gentlemen:

On September 12, 2017, the State Water Resources Control Board (Water Board or Board) received a request from Douglas and Heidi Cole and Marble Mountain Ranch (collectively "Marble Mountain Ranch") to reschedule the above-referenced hearing. On September 13, 2017, the Board received a letter from the Water Board Prosecution Team (Prosecution Team), in opposition to Marble Mountain Ranch's request, including an enclosed legal declaration and exhibits. On September 14, 2017, the Board received a letter and legal declaration from Marble Mountain Ranch in response to the Prosecution Team's opposition.

The Prosecution Team initially notified Marble Mountain Ranch that they had requested that the State Water Board schedule a water right hearing regarding the Coles' diversions by letter dated August 30, 2016. On April 20, 2017, the Prosecution Team sent a letter to Marble Mountain Ranch declining to amend the compliance schedule in accord with Marble Mountain Ranch's proposed changes. On June 9, 2017, the Board issued the Notice of Public Hearing, which stated that the hearing would be held August 22–25, 2017, with a July 25, 2017 exhibit submission deadline. On July 11, 2017, the Board received a request for postponement of the hearing from Marble Mountain Ranch. With consideration given to this request and the limited support for hearing postponement received from the Prosecution Team and two other parties to the hearing, Klamath Riverkeeper and Old Man River Trust, the hearing was rescheduled for November 13–17, 2017, with an extended exhibit submission deadline of October 2, 2017.

The September 12, 2017 letter from Marble Mountain Ranch, which requests a second rescheduling of the hearing, informs the Board of intermittent wildfires that have been present in the national forests near the ranch throughout the last two months. The Hearing Team is glad to hear that the ranch itself has been spared and recognizes that the nearby fires have interfered with the operation of the ranch and have likely consumed much of the Coles' attention. However, the Prosecution Team's allegations have been unchanged for over a year. The inability to have a consultant stay at the ranch to conduct work during the time of the fires does not constitute good cause to postpone the hearing. The other reason for postponement of the hearing provided in the pending request was presented in the prior hearing postponement request and was previously addressed.

Therefore, the Hearing Officer denies Marble Mountain Ranch's September 12, 2017 request for a second rescheduling of the hearing dates and associated deadlines. All dates and deadlines provided in the August 16, 2017 [Notice of Rescheduled Public Hearing](#) remain in force and effect.

As a reminder, during the pendency of this proceeding, there shall be no ex parte communications regarding substantive or controversial procedural matters within the scope of the proceeding between State Water Board members or hearing team members and any of the other participants, including members of the prosecution team. Due to the separation of functions, the Hearing Team

cannot participate in settlement discussions. Should the parties reach settlement, they must notify the Hearing Team as soon as possible.

Sincerely,

*Mara C. Irby*

*Environmental Scientist*

State Water Resources Control Board

Division of Water Rights, Hearings Unit

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