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## State Water Resources Control Board

July 11, 2017

*VIA ELECTRONIC MAIL*

Steven Moore  
Vice Chair  
State Water Resources Control Board  
1001 I St., 2<sup>nd</sup> Floor  
Sacramento, CA 95814  
[wrhearing@waterboards.ca.gov](mailto:wrhearing@waterboards.ca.gov)

**RE: DOUGLAS AND HEIDI COLE AND MARBLE MOUNTAIN RANCH REQUEST TO RESCHEDULE HEARING AND NOTICE OF INTENT TO APPEAR**

Dear Board Member Moore:

On July 11, 2017, the Prosecution Team received a request from Douglas and Heidi Cole and Marble Mountain Ranch (collectively the "Diverter") to postpone the hearing until "December 2017, at the earliest." The hearing is currently scheduled to begin August 22, 2017 and continue, if necessary, until August 25, 2017.

The Diverter's legal counsel contacted me on June 30, 2017 to inquire about postponing the hearing date. The Prosecution Team agrees to some postponement, but preferably no later than September. Furthermore, my wife and I are expecting our first child in early December and I anticipate taking paternity leave. As a result, the Prosecution Team objects to any postponement that would result in completing the hearing later than early November.

In addition, the Diverter has stated on its Notice of Intent to Appear (NOI) that it intends to present roughly 6 ½ hours of direct testimony. It further intends for five of its witnesses to present an hour of testimony each. The Hearing Notice states that each party is limited to one hour and each witness is limited to 20 minutes. The Prosecution Team anticipates submitting a request for additional time when a formal service list is available with an offer of proof demonstrating good cause for the additional oral direct testimony. The Prosecution Team acknowledges that the Key Issues described in the Hearing Notice present broad and complex issues, but the Diverter has nonetheless made no offer of proof demonstrating the necessity for 5 ½ additional hours of oral direct testimony. The Prosecution Team therefore objects to the Diverter's NOI.

Since a formal service list is not yet available, the Prosecution Team has copied this letter to the list of e-mail addresses used by the Hearing Team for the Diverter's July 11, 2017 letter.

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FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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Sincerely,

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

Kenneth Petruzzelli  
Attorney III  
State Water Resources Control Board  
Office of Enforcement

Cc: (via e-mail only)

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