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**Karuk Community Health Clinic**

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# Karuk Tribe

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**BEFORE THE STATE WATER RESOURCES CONTROL BOARD  
In the matter of Douglas and Heidi Cole  
and Marble Mountain Ranch - Waste and  
Unreasonable Use Hearing**

**Declaration of Craig Tucker, Ph.D. in Support  
of Order Finding Waste and  
Unreasonable Use and Public Trust  
Violations**

**I. Statement of Qualifications**

My name is Craig Tucker and I am the Natural Resources Policy Advocate for the Karuk Tribe. The Karuk Tribe is the second largest federally recognized Indian Tribe in California with over 3,600 members. Our aboriginal territory is located immediately downstream of the Klamath River dams and spans large portions of Siskiyou and Humboldt Counties in Northern California.

I have worked for the Karuk Tribe since 2004, advocating at the local, state, and federal level for policies, regulations, and land use decisions that benefit water quality and fisheries. I have been working on California water policy and advocating for fisheries and water quality since 2000. I have a bachelor's degree in biochemistry from Clemson University (1993) and a Doctorate in Biochemistry from Vanderbilt University (1999).

**II. Testimony**

Marble Mountain Ranch (MMR) has diverted flows from Stanshaw Creek for decades with significant negative impacts to fisheries. Other witness testimony can describe the specific ecological consequences of these diversions, but I can testify that Stanshaw Creek is considered by state and federal agencies to be important cold water refugia for ESA listed Coho Salmon as

well as Chinook salmon and Steelhead Trout. All of these species are Karuk Tribal Trust resources.

Although I have been aware of this issue since starting work with the Tribe in 2004, I became more directly involved in this issue in 2014. Staff from the local watershed group, Mid Klamath Watershed Council (MKWC), were trying to work with MMR owner Doug Cole to develop what was termed a ‘physical solution’ to the diversion problem. Generally the idea was for the Tribe and MKWC to work with Mr. Cole to develop a diversion and power generation system that could meet Mr. Cole’s energy needs with less water. The groups had already hired a third party attorney to review Mr. Cole’s water rights and concluded that Mr. Cole was entitled to a diversion of 1.16 cubic feet per second (cfs) (Lennihan Report). Thus, the physical solution research was predicated largely on the ability to limit diversions to 1.16 cfs.

Mr. Will Harling of the MKWC had been coordinating these ‘physical solution’ efforts and he convened a meeting in December 2014 with the Tribe, agencies, and the Coles to discuss how to move this effort forward noting in an organizational email that, “The landowners are willing to move forward with the development of physical solutions based on the 1.16 cfs figure referenced in Martha Lennihan's report.” See Exhibit 3. I participated in that meeting to discuss this issue. I remember the Coles’ stating a willingness to work with the 1.16 cfs diversion cap. On behalf of the Tribe I remember communicating that we needed a commitment to a minimum instream flow even if that meant there was no water available in the summer for any diversions, which I understand to be a possibility in drought years. Still, this seemed a good starting point for discussions.

In January of 2015, Mr. Leaf Hillman and I visited with Doug Cole at MMR. We walked the length of the diversion and discussed our concerns. We did state flatly that we were committed to resolving the issue and ensuring that flows adequate to meet the needs of fish remained in Stanshaw Creek. We also communicated that the Tribe preferred to work collaboratively with the Coles and we were willing to support grant proposals to state and federal agencies to fund a “physical solution” that ensured that adequate flows were left in stream.

The meeting ended with me thinking that we were likely to engineer our way to an amicable solution and avoid the need for legal action or enforcement by an agency. However, despite the tribal and non-profit assistance that has been offered to Mr. Cole, as of 2017 his water and power system still continues to unnecessarily harm fish.

### **III. Affirmation**

I declare under penalty of perjury to the laws of the State of California that the foregoing is true and correct.

/s/ Craig Tucker

Date: October 6, 2017