
North Coast Regional Water Quality Control Board

April 24, 2017

Mr. Douglas Cole et. al.
100 Tomorrow Road
Somes Bar, CA 95569
guestranch@marblemountainranch.com

Dear Douglas and Heidi Cole:

Subject: February 8, 2017, Letter Regarding Proposed Time Schedule for Projects and Marble Mountain Ranch

The purpose of this letter is to respond to your letter, dated February 8, 2017, proposing a "time schedule to complete many of the projects outlined in the State Water Resources Control Board's ("State Water Board") Draft Order WR 2017-00XX-DWR ("Draft Order"), and the North Coast Regional Water Quality Control Board's ("Regional Water Board") Cleanup and Abatement Order RI-2016-0031 ("CAO")."

The CAO is a final order of the Regional Water Board. Unless rescinded or revised, the time schedule in the CAO cannot be changed. For issues of delayed compliance, the CAO, page 13, paragraph 14, states:

If for any reason, the Dischargers are unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Dischargers may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Assistant Executive Officer.

To date, the CAO has not been revised nor has the Assistant Executive Office issued a letter authorizing any extensions. The time schedule in the CAO was based on a proposed time

schedule you provided to us by letter dated March 24, 2016. The final CAO extended all of the deadlines that would have passed before we issued the CAO, effectively granting you extensions.

On August 26, 2016, you asked us to extend deadlines in the CAO. You anticipated submitting a proposed Restoration Monitoring Plan ("RMP") by March 31, 2017, rather than September 10, 2016, a ditch evaluation report by March 31, 2017, rather than by October 15, 2016, and completing the energy audit and water efficiency studies by October 29, 2016, rather than by October 15, 2016.

On October 18, 2016, Regional Water Board staff issued you a Notice of Violation ("NOV") notifying you that you were in non-compliance with Directives 2 and 4a. You achieved partial compliance with Directive 4b by submitting the water quality sampling plan on September 9, 2016. However, other portions of Directive 4b were incomplete and the proposed water quality sampling plan, which would not sample Irving Creek, was deemed adequate, but only because discharges to Irving Creek were not occurring. If discharges to Irving Creek resume, the proposed water quality sampling plan will be insufficient.

On February 8, 2017, you notified Regional Water Board staff that you would require additional extensions and would cease work on other project milestones. You stated that you would delay assessing the slope of the Irving Creek outfall until February 29, 2017 (Directive 4a). You would also delay stabilizing the headcut at Irving Creek from October 15, 2016 to December 31, 2017 (Directive 4b). You would not fully implement the water quality sampling plan (Directive 4b) and would not complete the energy audit or water efficiency study (Directive 1) or restore the eroded Irving Creek outfall and ditch outlet (Directive 5).

On March 17, 2017, Regional Water Board staff issued you a NOV providing notice to you that you are in violation of the CAO. The March 17, 2017 NOV also addresses your requests for time schedule extensions and the Assistant Executive Officer's basis for denying your requests. Due to the ongoing delay in implementing project milestones you proposed to meet CAO directives, and subsequently, in correspondence, your stated intent to abandon other CAO requirements, I decline to modify the CAO to grant extensions at this time. Instead, the Regional Water Board staff will exercise enforcement discretion in determining whether to take further enforcement action to address the violations described in the NOVs and in determining what form any further enforcement action should take.

Insofar as your February 8, 2017, letter addresses water right issues, the Regional Water Board's authority does not extend to the regulation and enforcement of water rights. Please direct any questions regarding the Draft Order to the enforcement staff at the Division of Water Rights.

If you have any questions, please contact Stormer Feiler of my staff by email at Stormer.Feiler@waterboards.ca.gov, or by phone at (707) 543-7128, or his supervisor,

Diana Henriouille, by email at Diana.Henriouille@waterboards.ca.gov, or by phone at (707) 576-2350.

Sincerely,

Matthias St. John
Executive Officer

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Certified-Return Receipt Requested

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