

March 24, 2016

VIA US Mail & Email

Kenneth Petruzzelli (kenneth.petruzzelli@waterboard.ca.gov)
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

***Re: Supplemental Response Regarding the Marble Mountain Ranch/Stanshaw Creek
Water Right Division and North Coast Regional Water Board Inspection Reports and
Notice of Violation***

Dear Mr. Petruzzelli:

After review of your letter dated February 12, 2016, and my further discussion with you, Douglas and Heidi Cole (the “Coles”) remain committed to continuing to work with both the North Coast Regional Water Quality Control Board and the State Water Resources Control Board (collectively, the “Water Boards”) to implement solutions to the issues identified in the inspection reports at Marble Mountain Ranch. The Coles submit this letter to provide additional details about the actions they have already taken, and to establish benchmarks for future actions to achieve the solutions identified in their initial response letter dated January 19, 2016.

The Coles have engaged Joey Howard of Cascade Stream Solutions as their engineer to design and help implement the improvements to the Marble Mountain Ranch diversion and are working closely with Will Harling of the Mid Klamath Watershed Council to identify opportunities for funding and cooperative approaches to resource management. With both Joey Howard’s and Will Harling’s assistance, the Coles are currently amending the scope of an existing grant from the National Fish and Wildlife Foundation (“NFWF”) Coho Enhancement Fund to evaluate water use efficiency. The evaluation will include calculating a water balance for the diversion, evaluating water quality and onsite water needs, identifying opportunities to optimize water needs for power generation, and designing a delivery system that optimizes water conservation. An initial step in improving water efficiency has already been taken as the Coles recently completed installing a filtration system in the water storage tanks at Marble Mountain Ranch. Photographs of the newly installed filtration system on the water tanks are attached to this letter as Exhibit B.

Mr. Petruzzelli
March 24, 2016
Page 2

Engagement with stakeholders in the Stanshaw Creek system has also continued since the January 14, 2016 stakeholders meeting. Those discussions include further review of the Coles' diversion with the United States Forest Service ("USFS"). The USFS's review found that changing the point of diversion for Marble Mountain Ranch is not an acceptable option. The USFS also confirmed that the current maintenance approach of clearing sediment from the diversion and using it to reinforce the berm is an effective approach for maintaining a diversion such as the Coles'.

With minor improvements discussed below, the ditch will remain the diversion method at Marble Mountain Ranch in the interim. The Coles will continue to provide details on the long term use of the diversion to the Water Boards. In addition to ongoing ditch maintenance efforts, the Coles will engage a professional to evaluate all identified erosion areas and create a plan for the Water Boards' review of proposed solutions.

The Coles remain engaged with other stakeholders to address the National Marine Fisheries Services ("NMFS") bypass flow recommendation. The Coles understand the need to provide water for all beneficial uses in the Stanshaw Creek system; however, the responsibility to provide bypass flow is shared among all of the users who divert from the system. On Thursday, March 10, 2016, the Coles received notice that NMFS revised its recommended instream flow for the Stanshaw Creek system. It is the Coles' understanding that those recommendations have been forwarded to the Water Boards.

NMFS revised recommended instream flow indicates that the Coles will be able to divert 10% of instream flow during low flow periods. The diverted water is necessary for the Coles' domestic use. In an effort to implement NMFS's recommendation this year, the Coles are seeking funding to lay a six inch pipe with a headgate directly in the ditch bed to convey consumptive use water to Marble Mountain Ranch during low flow periods.

The proposed piped system will include a temporary headgate to prevent entrainment into the pipe. Once installed, the point of diversion that feeds the interim six inch pipe will be monitored and partitioned once every two weeks during low flow periods to adjust the diversion to reflect the NMFS recommended instream flow. Upon implementation of the piped system, monitoring flows will be taken with a swiffer meter in Stanshaw Creek above and below the point of diversion, and in the diversion ditch just before the headgate. The Mid Klamath Watershed Council will measure the instream flows and share the results with stakeholders within one week of the flow measurement.

The six inch pipe and headgate will provide an interim solution while a permanent improvement can be designed and installed. Joey Howard has previously collaborated with NMFS and the California Department of Fish and Wildlife ("CDFW") to design a permanent stream gauging and bypass flow system for the Coles' diversion. He is in the process of confirming with those agencies that the initially discussed designs are still acceptable. That system will eventually

Mr. Petruzzelli
 March 24, 2016
 Page 3

replace the interim headgate and provide monitoring to implement the NMFS flow recommendation.

Joey Howard is also in the initial stages of designing the long term solution of installing a return flow system to Stanshaw Creek at or near Highway 96. That system will require piping along the highway. Therefore, the design and implementation will require California Department of Transportation (“CalTrans”) approval as well as USFS approval. Since this long term solution will likely take more than a year to implement, Joey Howard is in the process of designing the short term solution of installing a culvert and other erosion control measures at the current Irving Creek outfall point.

To implement all of the long terms solutions for the Marble Mountain Ranch diversion and ditch, the Coles will develop a Restoration and Monitoring Plan (“RMP”). Will Harling, Joey Howard, and the Coles anticipate submitting the RMP to the Water Boards by April 15, 2016. It will outline both the steps the Coles will take in implementing resource improvements and the funding they anticipate applying for to implement the improvements. The proposed elements of the plan are included as an attachment to this letter as Exhibit A.

Detailed below are the major steps the Coles believe are necessary to achieve both the long term and short term solutions contained in the initial response letter dated January 19, 2016. The Coles will also submit quarterly progress reports addressing compliance actions. These progress reports will include an update on project development and permitting, a description of steps taken to develop and implement the required plans, and any unforeseen circumstances that may affect progress on meeting identified deadlines. The progress reports will continue until the RMP is fully implemented or as necessary to guide implementation of resource improvements at the diversion and ditch for Marble Mountain Ranch.

Proposed Steps and Reporting Dates for the Long Term Solutions Identified in the Coles’ January 19, 2016 Letter

1. Return flow to Stanshaw Creek at or near Highway 96

Task	Reporting Date
Develop implementation plan with the input of stakeholders and permitting agencies	September 1, 2016
Secure funding for implementation	May 2016, March 2017, or as available
Submit plans for review and approval by CalTrans, CDFW, USFS, NMFS	April 2017
Bid the project	September 2017
Receive final approval from all permitting agencies	January 2018
Begin construction	March 2018
Project completion	June 2018

Provide monitoring reports to demonstrate stability of improvements	Through January 1, 2022
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2. Line or pipe the entire diversion and install headgate with flow meter

Task	Reporting Date
Submit NFWF Coho Enhancement Fund Grant Application	May 2016
Discuss inspection report requirements for restoration and maintenance with the Water Boards	October 2016
Submit CDFW Fisheries Restoration Grant Program ("FRGP")	March 2017
Submit applications for other funding opportunities	As available
Complete approved RMP resources improvements	January 1, 2018
Submit a completion report for the RMP including an as built report	March 31, 2018
Provide monitoring reports to demonstrate stability of improvements	Through January 1, 2022

Proposed Steps and Reporting Dates for the Short Term Solutions Identified in the Coles' January 19, 2016 Letter

1. Complete diversion ditch maintenance and lay interim 6 inch pipe and headgate

Task	Reporting Date
Secure funding to lay 6 inch pipe and headgate	May 31, 2016
Lay 6 inch pipe and install headgate	July 1, 2016
Professional evaluation of ditch and grading	May 31, 2016
Propose corrective measures	July 1, 2016
Provide monitoring and flow reports	Once every two weeks during low flow periods after July 1, 2016
Maintain ditch	In progress reports

2. Install a culvert and other erosion control measure at the Irving Creek outfall point

Task	Reporting Date
Stabilize the head cut and slope at the Irving Creek outfall	April 15, 2016
Report of project completion with photographs	May 15, 2016

Mr. Petruzzelli
 March 24, 2016
 Page 5

3. Conduct audits of electric generation facility and domestic demand to identify additional potential conservation measure to implement

Task	Reporting Date
Complete update of water filtration system. Photographs of newly installed filtration system on water storage tanks are attached as Exhibit B.	February 2016
Complete the energy audit and water efficient study described in the January 19, 2016 letter	July 1, 2016
Create plans to implement any feasible recommendations from the audit and study	October 1, 2016


Public Drinking Water Permit Issue

The January 19, 2016 initial response letter noted that Marble Mountain Ranch's diversion serves roughly 50 people who live or are staying at Marble Mountain Ranch at any one time. While the operator of a diversion that serves that many people may often be required to secure a public drinking water permit, Marble Mountain Ranch's diversion does not meet the definition of a public water system. Marble Mountain Ranch serves up to 50 people, especially during the busy summer months, but does not serve "at least 25 individuals daily at least 60 days out of the year." (Health and Safety Code section 116275(h).) Therefore, Marble Mountain Ranch is not a public water system as defined in the Health and Safety Code.

We look forward to continuing to work with you and the Water Boards in achieving the goals outlined herein for resource improvements at Marble Mountain Ranch. Please contact me with any questions.

Regards,

Churchwell **White** LLP


 for Barbara A. Brenner

BAB/kaf

cc: With Attachments to All

Douglas and Heidi Cole
 92520 Highway 96
 Somes Bar, CA 95569

Mr. Petruzzelli
March 24, 2016
Page 6

Konrad Fisher
100 Tomorrow Road
Somes Bar, CA 95568

Klamath National Forest
Ukonom Ranger District
c/o Mr. Jon Grunbaum
P.O. Drawer 410
Orleans, CA 95556

State Water Resources Control Board
Taro Murano
tmurano@waterboards.ca.gov

North Coast Regional Water Quality Board
Diana Henrioulle
diana.henrioulle@waterboards.ca.gov

Stormer Feiler
Stormer.Feiler@waterboards.ca.gov

Department of Fish and Wildlife
Gary Curtis
gary.curtis@wildlife.ca.gov

Department of Fish and Wildlife
Donna Cobb
donna.cobb@wildlife.ca.gov

National Oceanic Atmospheric Administration
Margaret Tauzer
margaret.tauzer@noaa.gov

National Oceanic Atmospheric Administration
Bob Pagliuco
bob.pagliuco@noaa.gov

Craig Tucker
Natural Resource Policy Advocate
Karuk Tribe
ctucker@karuk.us

Mr. Petruzzelli
March 24, 2016
Page 7

Will Harling
Mid Klamath Watershed Council
will@mkwc.org

LeRoy Cyr
United States Forest Service
lcyr@fs.fed.us

Joey Howard
Cascade Stream Solutions
joey@cascadestreamsolutions.com

Exhibit A

EXHIBIT A
Marble Mountain Ranch Supplemental Response
Proposed Restoration and Monitoring Plan Elements

I. Vegetative and Hydrological Restoration

The Restoration and Monitoring Plan (“RMP”) will include plans for restoring the vegetative and hydrological functions of the damaged streams to ensure the long term recovery of the affected stream, and include plans for replanting the slopes and streamside areas with native vegetation to prevent erosion and sediment delivery to streams.

II. Best Management Practices

The RMP will include and apply best management practices for all current and planned work associated with construction activities affecting, or having the potential to impact, the ditch outfall, unnamed tributary and Irving Creek. The RMP will contain, at a minimum, design and construction standards, specifications, and designs for stream restoration, surface drainage controls, erosion control methods and standards for unanticipated precipitation during restoration, compaction standards, an implementation schedule, a monitoring and reporting plan, and success criteria meeting the requirements specified herein.

III. Maps and Project Design Specifications

The RMP will include map(s) and/or project designs at 1:12,000 or larger scale (e.g., 1:6000) that delineate existing site conditions including existing channels, the projected restored slopes and stream channels, illustrating all restoration plan work points, spoil disposal sites, re-vegetation planting areas, and any other factor that requires mapping or site construction details to complete the scope of work. LiDAR has been collected through a separate Mid Klamath Watershed Council (“MKWC”) project and will be available to guide this analysis.

IV. Time Schedule

The RMP will include a time schedule for completing the work including receiving any necessary permits from state, county and/or federal agencies that may be required. The time schedule will adhere to regulatory deadlines prescribed by the State Water Resource Control Board (“SWRCB”) or North Coast Regional Water Quality Control Board.

V. Stabilization Plan

To ensure a successful re-vegetation/earthen stabilization effort and site restoration is effective, the Discharger and partners, including MKWC and Cascade Stream Solutions (“CSS”), provided funding is secured, will monitor and report for five years. All tree and shrub plantings will have a minimum of 85% success of thriving growth at the end of five years with a minimum of two consecutive years (two growing seasons) of monitoring after the removal of irrigation. Plantings will be adequately spaced to ensure adequate vegetative cover to control surface erosion and

increase soil stability. In the event the re-planting fails, re-planting will occur and the monitoring will be extended for another five years until the 85% success rate of vegetation re-establishment is accomplished.

VI. Monitoring Plan

A monitoring plan for all site restoration and replanting will be implemented to determine the success of stream restoration efforts and revegetation. The monitoring plan will include regularly scheduled inspections, and established monitoring photo points of sufficient number to document the site recovery for five years or until the site is restored, improvements are complete, vegetation is reestablished, erosion is no longer ongoing and monitoring is no longer necessary. These photo-documentation points shall be selected to document the stability of the tributaries. The Coles with assistance from MKWC and CSS, will prepare a site map with the photo-documentation points clearly marked. Prior to and immediately after implementing the restoration and/or improvement, photographic documentation of the pre- and post-conditions of the tributaries at the pre-selected photo-documentation points will occur. The Coles, MWKC and CSS will submit the pre-restoration photographs, the post-restoration photographs, and the map with the locations of the photo-documentation points to the SWRCB as part of the as-built report as defined below.

VII. Quarterly Reporting

The monitoring plan will include regularly scheduled quarterly inspection dates. Monitoring reports will be submitted to the SWRCB within 30 days of each inspection. Monitoring reports will summarize monitoring results; describe any corrective actions made or proposed to address any failures of the site and restoration measures (features to be assessed for performance and potential failure include, but are not limited to, erosion controls, stream bed and bank erosion, sediment discharges, work, and re-vegetation); and include narrative and photo documentation of any necessary improvements and evidence of successful restoration and site recovery for five years, or until site recovery is considered complete. At the conclusion of restoration work, when the site is stable and the monitoring program has been fulfilled, we will submit a summary report by January 1, 2022, or January 1, of the year that site remediation and replanting is determined to be stable.

Exhibit B



