

# MASONITE WATER DEAL Sonoma Water Agency skeptical

By GLENDA ANDERSON  
The Daily Journal

Sonoma County Water Agency lawyers apparently have the same concerns about the county's proposed purchase of Masonite's water rights as do local water officials.

In a letter to Mendocino County's Sacramento-based water attorney, Tim O'Laughlin, Alan Lilly warned the county may be buying rights that are not as useful as county supervisors may think. The county has said the cost of those rights is in the neighborhood of \$3 million.

Echoing local skeptics of the purchase, Lilly said the primary water right the county is after — one for 4,200 acre-feet of water — is not available most summers, when the county actually needs it.

According to a modeling study the Sonoma County Water Agency conducted, "no water would be available for diversion under post-1949 rights during the summers of 86 of the 90 years modeled," Lilly said.

Masonite's largest appropriate right, the one for 4,200 acre feet, is a post-1949 right.

In addition, the rest of the year, the diversion rates — listed as 5.9 cubic feet per second — would likely be much less than expected. In fact, it could be as low as .53 cfs, Lilly said.

Lilly said post-1949 water rights owners are pumping Russian River Flood Control and Water Conservation Improvement District water between July and October.

The Russian River district holds the rights to 8,000 acre feet of water in Lake Mendocino. Sonoma County owns the rest of the so-called "project water."

Project water is usually all that's available in the summer because there is no "natural flow," Lilly said. Natural flow, for post-1949 rights, is what would be in the Russian River if Lake Mendocino was not there.

Lilly, again like local water officials, said there's great potential for a challenge to the county's ability to use that water anywhere off the Masonite property and for uses other than industrial.

Those challenges would likely arise when the county petitions the state for changes in place and type of use of the

See MASONITE, Page A-7

who lives in a water... property with her father, h... sister, and her three childre... Burgess said she just move... here from Georgia after h... husband was arrested.

Melissa Shuler, her hu... band, Richard, and their thr... children also reside on th... property. Asked why the... chose to live in a wreckit

## Homeless s

By LAURA CLARK  
The Daily Journal

When the homeless shelte... on North State Street oper... Monday, chances are tenan... from the Lovers Lan... Wrecking Yard will b... among those waiting to g... in.

"The homeless shelter... where the best safety net is... Ukiah Community Center... resources are so thin, we hav... been looking at that Monda... date and saying 'it's jus... around the corner,'" Kathlee... Stone, executive director a... the Ukiah Community Cente... said Friday.

## Fire season windin

The Daily Journal

The California Department of Forestry and Fire Protection is transitioning out of fire season in most of the state, with the exception of San Diego, San Bernardino, Riverside and San Luis Obispo counties.

Recent rains have provided enough moisture to lessen the threat

of wildfire around the stat... the far south, which... extremely dry. Those co... remain on fire season st... time being.

All CDF units north o... out of fire season. The... season means seasonal... are released, dispatch

MENDOCINO COUNTY  
RUSSIAN RIVER FLOOD CONTROL &  
WATER CONSERVATION IMPROVEMENT DISTRICT

FACSIMILE TRANSMITTAL SHEET

TO: <b>John O'Hagan</b>	FROM: <b>Barbara Spazek</b>
COMPANY: <b>Division of Water Rights - SWRCB</b>	DATE: <b>10/24/2002</b>
FAX NUMBER: <b>916-341-5400</b>	TOTAL NO. OF PAGES INCLUDING COVER:
PHONE NUMBER:	SENDER'S REFERENCE NUMBER: <b>N/A</b>
RE: <b>Newspaper Articles</b>	YOUR REFERENCE NUMBER:

URGENT    FOR REVIEW    PLEASE COMMENT    PLEASE REPLY    PLEASE RECYCLE

NOTES/COMMENTS:

John, attached for your scrapbook, please find copies of articles that appeared in the Ukiah Daily Journal over the last two days.

Regards,

151 Laws Ave., Ste D  
Ukiah, CA 95482  
(707) 462-5278  
FAX(707) 462-5681



"I'm simply reading the license. It says year-round provisions from the underflow of the Russian River," said Mendocino County Water Agency Interim Director Jim Stretch.

He said he also does not believe the district's water right is superior to Masonite's. However Stretch, who admits he's new to water issues, said he would look into the contentions.

Even though Masonite's water right may be more seasonal than county officials think, Akerstrom said it's still worth having.

He noted the Russian River district has been encouraging its members which include the city of Ukiah and most of the small water-purveying districts in the valley to apply for, use and report their own winter and spring water rights. That way, the Russian River district could save its water right for the dry months, Akerstrom said.

The problem with that scenario, Stretch said, is the county would have to buy water from the district.

First District Supervisor Mike Delbar said he was told the Masonite water right was equal to the district's right.

But, in any case, he said purchasing that right is not the answer to the county's water problems.

The long-term answer is raising Coyote Dam so more water can be stored for dry times.

Akerstrom agrees. He noted there is plenty of water available in Mendocino County in the winter months.

"We don't have a water shortage problem; we have a storage problem," he said.

[RETURN TO TOP](#)

**TOWER RECORDS.COM**  
**FIND IT ALL. THEN DISCOVER MORE.**



Normally, the water resource agency doesn't make determination until someone files such a protest, he said.

In addition, those objecting to the transfer or use of that water could require that the county conduct a full environmental impact report, claiming that, since that water was never before taken from the Russian River underflow, it could cause serious environmental impacts to start doing so now.

Protesters also could require an impact report by claiming that switching the water's use from industrial to residential would have growth-inducing impacts.

O'Hagan said it might be possible for the county to find out how much water is truly available if Masonite applies for some of the changes in the water right permit before the purchase is sealed, but he could not say for sure. It also might be able to request that the board make a ruling on at least Masonite's actual water usage.

The public will have a chance to voice concerns or applaud the county's efforts to secure a water right before that point. The county plans to hold hearings sometime between now and Dec. 17, when the Board of Supervisors is scheduled to vote on the sale. Escrow is expected to close Dec. 31 if the sale goes forward and all goes well.

The hearings will involve the county's declaration that the sale would have no negative environmental impacts, something the board apparently approved doing in closed session.

The board's other closed sessions on the issue, which supervisors kept mum about other than a cryptic sentence on their board agenda, has been criticized by local water officials. They noted supervisors would be better informed about water rights had they had open discussions with people who have years of experience with Russian River water rights, such as other water agency officials and attorneys. Instead, the board has largely relied on information provided by its new interim water director, who has no prior water experience.

It was apparent from discussions with supervisors and the water agency director that they were unaware Masonite's water right is not superior to the Russian River district's 8,000 acre feet and that they can't necessarily pump water all year, even though the right is considered year round. In dry summers there may not be water available to pump, local water officials have said.

County officials also appeared to believe that because Masonite Corp. licensed its water use in the late 1950s, it has priority over entities that have not. Holding a license has not proved to make such guarantees.

There has been speculation in the community that the amount of water Masonite has failed to use will be up for grabs and that the county could simply apply for the right, rather than buy it from Masonite.

If the unused water does go public, however, it would likely be made available first to one of the more than 180 people waiting in line for a water right, local water officials said.

---

---

# SUNDAY

Nov. 17, 2002

---

---

## Masonite

*Continued from Page A-1*

water.

Those challenges could, and likely would, include a challenge to the county taking more water than Masonite did in the last five years. By law, a water right that is not put to "benefi-

cial use" for five years can be lost.

Of the 4,200 acre-foot right, Masonite did not take more than 574 acre feet in any one year from the Russian River underflow.

While Masonite increased its water usage reports to the state via claims of recycling and conserving water, those are unlikely to overcome the fact that

water was never actually removed from the river, Lilly said.

"It is very unlikely that the state water board would rule that the future limits on Masonite's water right would equal the full instantaneous rates that are stated in the license," he said.

Lilly said other water-rights holders, or environmentalists,

also could claim injury — their ability to use water or fish habitat — during permit change hearings if the net diversion of water from the river changes.

"The state water board will impose conditions to assure that the net diversions will not be increased if the requested changes are made," he said.

Lilly said his list of concerns

---

do not constitute an exhaustive analysis. But, should the county proceed with the purchase and attempt to make changes to the water-rights permits, he said the Sonoma County Water Agency will do an indepth analysis and pass on that report to the state.

It was for the above reasons that local officials, most recently county Planning Commissioner John McCowen,

asked the county to proceed with caution. He said the purchase agreement should include a clause that reduces the price of the water right should the amount of water Masonite allegedly holds not materialize.

The county has scheduled a Dec. 20 public hearing on the water right and its negative declaration of environmental impact for the purchase.