

PT EXHIBIT 23

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

In the Matter of License 5763 (Application 15679)
Millview County Water District

NOTICE OF PROPOSED REVOCATION

SOURCE: Russian River (Subterranean Stream) tributary to Pacific Ocean

COUNTY: Mendocino

You are hereby notified, pursuant to Water Code section 1675 et seq., that the State Water Resources Control Board (State Water Board) is proposing to revoke License 5763 because the Licensee has ceased to put the water granted under the license to a useful or beneficial purpose.

The facts and information upon which the proposed revocation is based are as follows:

1. The State Water Board issued License 5763 on June 30, 1959 pursuant to Application 15679 to Masonite Corporation. The Division of Water Rights' (Division) transferred License 5763 to Millview County Water District (Millview) on April 5, 2007. The Division records show Millview (Licensee) as the owner of License 5763. The license authorizes the Licensee to divert 5.9 cubic feet per second (cfs) by direct diversion from the Russian River (subterranean stream) from January 1 through December 31 for industrial purposes.
2. Triennial Reports of Licensee from 1963 through 1977 showed Licensee was diverting water year-round. The Division did not receive the triennial Report of Licensee for 1978 through 1980. The Report of Licensee for 1980 to 1982 showed water was diverted year-round.
3. On July 29, 1985, the Division conducted a field inspection to verify whether Licensee was in compliance with the terms and conditions of the license. As a result of the inspection, Division staff required installation of a flow measuring device in the main conveyance line to measure river diversions. Division staff recommended the license be amended by deleting Well 4 as a point of diversion.
4. Report of Licensee for 1994 through 1996 states water was diverted year-round as follows (flows reported in million gallons per day and converted to cfs): 1994 = 0.72 cfs; 1995 = 0.79 cfs; and 1996 = 0.53 cfs.
5. Report of Licensee for 1997 through 1999 states water was diverted year-round as follows: 1997 = 0.79 cfs; 1998 = 0.80 cfs; and 1999 = 0.31 cfs.

The 1999 water usage reflected a downsizing in one of the main Masonite plant production lines. The 1997 to 1999 Report of Licensee was the last report filed with the Division.

6. The Division was notified on March 6, 2001 that Masonite Ukiah Mill would be closing due to lack of demand for hardboard siding. The facility would continue to operate for the next 60 to 90 days and then close.

7. The Division sent a letter to Licensee on March 16, 2001 asking if diversions had ceased under License 5763. The letter stated that if the water right had been abandoned, the Division would proceed with revocation. The Licensee did not respond to the letter.
8. The Division met with representatives of Mendocino County, Masonite Corporation and Sonoma County Water Agency on December 10, 2002 concerning License 5763. Masonite confirmed that it shut down its Ukiah plant served by License 5763 in 2001. Consequently, water use ended in 2001.
9. On July 7, 2006, SCS Engineers prepared a Revised Remedial Action Plan for Site Closure for the former Masonite Facility and submitted it to the North Coast Regional Water Quality Control Board. On page 2, the report states that the molded door facing line was shut down permanently in 2000; the exterior siding and softboard lines were shut down in June 2001; and all softboard processing ceased in December 2001. No operations have occurred since that time.
10. On July 26, 2006, Masonite submitted a Petition for Long Term Transfer that included a change in the point of diversion, place of use, and purpose of use of License 5763. License 5763 authorizes the use of Well Nos. 3, 4, and 5. The petition requested to transfer the right to use Well No. 6. Well No. 6 is not part of License 5763. The petition also requested that the license be transferred to Millview. Attachment 1 to the transfer petition states Masonite's use of water ended when the plant closed in 2001.
11. By letter dated April 5, 2007, the Division re-assigned the license to Millview.
12. On August 1, 2007, Millview indicated that it would like to permanently modify the water right. Therefore, Millview wanted to permanently change the point of diversion, place of use and purpose of use. To implement the requested modifications, Millview requested that the Long-Term Transfer Petition be considered a Change Petition. Additionally, Millview modified the petition for change to exclude Well No. 6 and instead include Well Nos. 3, 4, and 5 as the proposed points of diversion within Millview's proposed place of use boundary.
13. Section 1675 of the Water Code provides: "If at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675,1, may revoke the license and declare the water to be subject to appropriation in accordance with this part."
14. The Division's most recent record regarding water use, the 2006 Petition for Long-Term Transfer, documents that no water has been used since 2001. A site visit conducted by the Division on April 17, 2008, confirmed that the diversion pumps had not been in use.

Based on the above facts, the Division concludes that:

1. Licensee has failed to observe the terms and conditions of License 5763 to a useful or beneficial purpose.
2. Licensee has not, or has ceased to, put the water granted under License 5763 to a useful or beneficial purpose.
3. Licensee has not applied the water to beneficial use for at least five consecutive years. Licensee's water right should, therefore, be revoked pursuant to Water Code section 1675. The unused water should revert to the public and be regarded as unappropriated public water. (Wat. Code § 1241.)

As required by Water Code section 1675.1, you are hereby notified that the State Water Board will revoke License 5763, based on the above facts and conclusions, unless a written request for a hearing, signed by or on behalf of the Licensee, is delivered or mailed to the State Water Boards' Division of Water Rights at the address listed on the cover letter within 15 days after receipt of this notice.

STATE WATER RESOURCES CONTROL BOARD

for James W. Kassel
Victoria A. Whitney
Division Chief

Dated: MAY 09 2008