

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

**DIVISION OF WATER RIGHTS**

**ORDER WR 2006-0020-DWR**

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In the Matter of Unauthorized Diversion by the

**Monson-Pacific, Inc.**

Cease and Desist Order No. 262.31-13

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SOURCE: Unnamed Stream tributary to Gird Creek thence Russian River

COUNTY: Sonoma County

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The State Water Resources Control Board (State Water Board) is authorized under California Water Code section 1831 to issue a Cease and Desist Order (CDO) when it determines that any person is violating or threatening to violate any of the following:

- (1) The prohibition set forth in section 1052 against the diversion or use of water subject to division 2 (commencing with section 1000) of the Water Code other than as authorized by division 2.
- (2) Any term or condition of a permit, license, certification, or registration issued under division 2 of the Water Code.
- (3) Any decision or order of the Board issued under part 2 (commencing with section 1200) of division 2 of the Water Code, section 275, or article 7 (commencing with section 13550) of chapter 7 of division 7 of the Water Code, in which decision or order the person to whom the cease and desist order will be issued, or a predecessor in interest to that person, was named as a party directly affected by the decision or order.

On July 27, 2006, and in accordance with the provisions of section 1834 of the California Water Code, the State Water Board, Division of Water Rights (Division) provided notice of the CDO against Monson-Pacific, Inc., (Monson-Pacific) for the violation and threatened violation of the prohibition against unauthorized diversion and use of water.

**FACTS AND INFORMATION**

The facts and information upon which this CDO is based are as follows:

1. Records of the Sonoma County Assessor's Office show that Monson-Pacific is the current owner of Sonoma County Assessor's Parcel Number 131-040-015 and has owned the property since at least August 29, 1986. Aerial photographs show that two reservoirs are located on this property and have been in existence since at least July 11, 1993.
2. By letter dated July 5, 2005, the Division notified property owners within the Russian River watershed in Sonoma County whose property contained reservoirs that, according to Division records, they did not have a water right authorizing the storage of water. The letter included a questionnaire about the existing reservoir, source of water, current water usage, and any existing basis of water right, when applicable. Each party receiving the questionnaire was requested to complete and return the form to the Division. The Division's letter also informed recipients of the State Water Board's discretionary authority to initiate enforcement action for any unauthorized diversion without further notice. Monson-Pacific was one of the contacted property owners.

3. Monson-Pacific failed to respond to the Division's letter of July 5, 2005.
4. On January 31, 2006, Division staff conducted an inspection of the Monson-Pacific property, Sonoma County Assessor's Parcel Number 131-040-015, located at 3400 Geysers Road. Division staff observed two reservoirs constructed on an unnamed stream tributary to Gird Creek. The reservoirs were storing water at the time of inspection and Monson-Pacific confirmed that the reservoirs were used for irrigation of a vineyard. Division staff observed a stream channel existing upstream and downstream of both reservoirs. Division staff estimated the capacities of the two reservoirs to be 38 acre-feet and 58 acre-feet.
5. The water being collected to storage in the reservoirs is subject to appropriation under the State Water Board's permitting authority. The Division has no record of a water right authorizing the storage of water in the reservoirs, and Monson-Pacific did not provide evidence supporting an existing basis of right. Monson-Pacific has collected water to storage and used stored water without a basis of right since at least 1993.
6. By letter dated April 03, 2006, the Division notified Monson-Pacific of its inspection findings and that it should consider corrective actions by submitting an application to appropriate water for the existing reservoirs. The letter again notified Monson-Pacific that unauthorized diversions of water are subject to enforcement at the discretion of the State Water Board.
7. Wagner & Bonsignore, a consulting engineering corporation, contacted Division staff on April 13, 2006 following receipt of the Division's April 3, 2006 letter and indicated that it would be preparing an application to appropriate water by permit for the storage of water in Monson-Pacific's reservoirs. Wagner & Bonsignore requested a 45-day extension of time to complete the application. The Division approved the request, but informed Wagner & Bonsignore that approval of the extension of time does not preclude the State Water Board from considering or taking enforcement action.
8. On June 1, 2006, the Division received a new application for Monson-Pacific's reservoirs. The application supports the conclusion that the two reservoirs were constructed onstream prior to 1993 and that the reservoirs are used for irrigation, frost and heat protection of an existing 90-acre vineyard and for recreational and fire protection purposes. The application, however, identifies the existing capacities of the reservoirs at 15 acre-feet and 49 acre-feet, approximately 32 acre-feet less than the Division's staff estimates.
9. The Division issued a Draft Cease and Desist Order and Administrative Civil Liability against Monson-Pacific on July 27, 2006 for the alleged violations stated above.
10. On August 14, 2006, Monson-Pacific requested a hearing before the State Water Board on the subject Administrative Civil Liability Complaint. Monson-Pacific did not request a hearing on the proposed Cease and Desist Order.

**IT IS HEREBY ORDERED**, pursuant to sections 1831 through 1836 of the Water Code, that:

1. Monson-Pacific shall cease and desist from further construction of any new water diversion facility identified in its application filed with the Division on June 1, 2006, until the State Water Board issues a permit authorizing the new diversion facility.
2. Monson-Pacific shall diligently pursue processing of the application filed with the Division on June 1, 2006, by satisfying all Division requests for information, environmental documents, maps, and fees within the designated time frames, or any extension of time granted by the Division.
3. Monson-Pacific shall comply with any written directive of the Chief of the Division of Water Rights regarding the unauthorized diversion of water in its reservoirs until such time as the State Water Board issues a water right permit or directs otherwise.

Upon the failure of any person to comply with a CDO issued by the State Water Board pursuant to chapter 12 of the Water Code (commencing with section 1825), the Attorney General, upon the request of the State Water Board, shall petition the superior court for the issuance of prohibitory or mandatory injunctive relief as appropriate, including a temporary restraining order, preliminary injunction, or permanent injunction. (Wat. Code, § 1845, subd. (a)) Any person or entity that violates a CDO issued pursuant to chapter 12 may be liable for a sum not to exceed one thousand dollars (\$1,000) for each day in which the violation occurs. (Wat. Code, § 1845, subd. (b)) Civil liability may be imposed by the superior court or administratively by the State Water Board pursuant to Water Code section 1055.

STATE WATER RESOURCES CONTROL BOARD

*ORIGINAL SIGNED BY*

*Victoria A. Whitney, Chief  
Division of Water Rights*

Dated: December 8, 2006