
State Water Resources Control Board

June 22, 2016

Mr. Don J. McKernan
President
Eastern Kern County Resource
Conservation District
300 South Richmond Road
Ridgecrest, CA 93555

Dear Mr. McKernan:

I am responding to your request of May 13, 2016, for advice from the State Water Resources Control Board (State Water Board) regarding the eligibility of Eastern Kern County Resource Conservation District to serve as a groundwater sustainability agency pursuant to the terms of the Sustainable Groundwater Management Act, Water Code section 10750, et seq.

Definition of “Local Agency”

Any local agency or combination of local agencies overlying a groundwater basin may decide to become a groundwater sustainability agency for that basin. (Wat. Code, § 10723, subd. (a).) A “local agency” is defined by the Act as a “local public agency that has water supply, water management, or land use responsibilities within a groundwater basin.” (Wat. Code, § 10721, subd. (n).)

As you know, resource conservation districts are locally governed special districts. They are considered agencies of the state only for the purpose of contracting with other state agencies. (Pub. Res. Code, § 9003.) The formation of a resource conservation districts must be locally proposed and locally approved. (Pub. Res. Code, §§ 9161-68, 9181, & 9182.) The legislature has also characterized resource conservation districts as local public agencies or local government entities in several different statutory contexts.¹

Resource conservation districts are non-regulatory agencies with planning, management, operation, and informational functions. A resource conservation district may be formed for the control of runoff, the prevention or control of soil erosion, the development and distribution of water, and the improvement of land capabilities. (Pub. Res. Code, § 9151.) Resource conservation districts are authorized to make improvements or conduct operations in furtherance of the prevention or control of soil erosion, water conservation and distribution,

¹ See Delta Protection Act of 1992 (Pub. Res. Code, §29724), Rangeland, Grazing Land, and Grassland Protection Act (Pub. Res. Code, § 10332), Fish and Wildlife Habitat Enhancement Act of 1984 (Fish & Game Code, § 2602, subd. (c)), and the Agricultural Protection Planning Grant Program (Pub. Res. Code, § 10280.5, subd. (e)).

agricultural enhancement, wildlife enhancement, and erosion stabilization. (Pub. Res. Code, § 9409.) The districts are also specifically authorized to disseminate information relating to soil and water conservation and erosion stabilization, (Pub. Res. Code, § 9411), and to manage any soil conservation, water conservation, water distribution, flood control, erosion prevention, or erosion stabilization project located within the district, (Pub. Res. Code, § 9415).

With your inquiry, you attached several documents as evidence of the water management functions of Eastern Kern County Resource Conservation District, indicating that the District is vested with the full range of functions authorized by the Public Resources Code.

Probationary Status and Reporting Requirements

The State Water Board is authorized by the Sustainable Groundwater Management Act to designate a basin as probationary if the board finds that none of the following have occurred after June 30, 2017: (A) a local agency has elected to be a groundwater sustainability agency that intends to develop a groundwater sustainability plan for the entire basin; (B) a collection of local agencies has formed a groundwater sustainability agency or prepared agreements to develop one or more groundwater sustainability plans that will collectively serve as a groundwater sustainability plan for the entire basin; or (C) a local agency has submitted an alternative that has been approved or is pending approval pursuant to section 10733.6. (Wat. Code, § 10735.2, subd. (a)(1).)

The State Water Board considers Eastern Kern County Resource Conservation District to be a local agency for purposes of Water Code section 10735.2, based on the documentation that you provided to us. Therefore, the board would not designate a basin as probationary under Water Code section 10735.2, subdivision (a)(1), if Eastern Kern County Resource Conservation District, or a collection of local agencies that includes Eastern Kern County Resource Conservation District, has satisfied one of the three conditions described.

In addition, the State Water Board would not consider the reporting requirements of Water Code section 5202, subdivision (a)(2), to apply to a person who extracts groundwater within the management area of Eastern Kern County Resource Conservation District, if the District assumed responsibility to be a groundwater sustainability agency.

This letter offers a non-binding, advisory opinion. It is not a declaratory decision and does not bind the State Water Board in any future determination.

Sincerely,



Erik Ekdahl
Director, Office of Research , Planning, and Performance

cc: Via Email
David Gutierrez
Department of Water Resources