
State Water Resources Control Board

May 24, 2016

Ms. Karissa Kruse
President
Sonoma County Winegrape Commission
400 Aviation Blvd., Suite 500
Santa Rosa, CA 95403

Dear Ms. Kruse:

I am responding to your request of April 20, 2016, for advice from the State Water Resources Control Board (State Water Board) regarding the eligibility of the Sonoma County Winegrape Commission 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, the California Food and Agricultural Code authorizes the formation of local winegrape growers commissions. (Food & Agr. Code, § 74861.1.) These local commissions are local branches of state government. (*Id.* ["There are, in state government, local commissions for producer regions."]) The Secretary of the California Department of Food and Agriculture is an ex officio member of each local commission. The secretary has the authority to require the commission to correct or cease any existing activity or function that is determined by the secretary not to be in the public interest or that is in violation of Chapter 12.7, Part 2, Division 22, of the Food and Agricultural Code. (Food & Agr. Code, § 74863.) In addition, the secretary has extensive other oversight responsibilities for the local commissions. (See, e.g., Food & Agr. Code, §§ 74905, 74906, 74908, 74972.)

The State Water Board does not consider local winegrape growers commissions to be local agencies as defined by SGMA, because these commissions are state governmental entities whose actions are subject to significant oversight by the Department of Food and Agriculture.

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 does not consider a local winegrape growers commission to be a local agency for purposes of Water Code section 10735.2. Therefore, the board may designate a basin as probationary under Water Code section 10735.2, subdivision (a)(1), if a local winegrape growers commission claims to be the exclusive groundwater sustainability agency for the basin or a portion of the basin. In addition, the State Water Board would consider the reporting requirements of Water Code section 5202, subdivision (a)(2), to apply to a person who extracts groundwater in an area in which a local winegrape growers commission claims to be the exclusive 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 E-mail
David Gutierrez
Department of Water Resources