

November 22, 2022

Hello Ryan,

MCCSD does have groundwater management authority. MCCSD was formed on August 31, 1970, by LAFCo Resolution No. 70-7 to provide a community wastewater system. In 1985, the District called an election and the voters approved adding water powers to the District “[t]o supply the inhabitants of the district with water for domestic use, irrigation, sanitation, industrial use, fire protection, and recreation.” (The ballot cited to this definition from then Water Code section 20681(a).)

In 1987, the Legislature passed AB 786 which established Water Code Section 10700 et seq. and which authorized the District (because it was already authorized to provide water services) to establish programs for the management of the groundwater resources within the District and to function as a water replenishment district. (See, Water Code § 10702.) Exercising this authority, in 1990 the District adopted a Groundwater Management Plan/Groundwater Extraction Permit Ordinance (Ordinance No. 90-1) and assumed responsibility of groundwater management from Mendocino County.

The issue is not unique to MCCSD and the question of whether powers had been authorized properly was common enough among CSDs statewide that the Legislature addressed it on a comprehensive scale in the 2006 CSD Principal Act re-write through SB 135, resulting in Government Code section 61000 et seq.

Government Code section 61000 et seq. re-wrote CSD law and changed the definition of “latent powers” to the following: “those services and facilities authorized by Part 3 (commencing with Section 61100) that the local agency formation commission has determined, pursuant to subdivision (i) of Section 56425, that a district did not provide prior to January 1, 2006.”

Mendocino LAFCo confirmed active powers for all CSDs in Mendocino County in 2005 consistent with the 2006 CSD law re-write, including water and groundwater management powers for MCCSD. (Dec. 29, 2005 Letter from Mendocino LAFCo to CSD boards, attached.) The LAFCo confirmed in the December 2005 letter that MCCSD had active powers for “Water services for any beneficial use in the same manner as a Municipal Water District, including a ground water management program as provided by Water Code Sections 10700-10717, and the District’s Ordinance for Groundwater Extraction Permits and policies to manage and protect groundwater resources, to promote water conservation, increase the use of reclaimed water, reduce ground water extraction and to collect information on groundwater conditions in Mendocino.” Thereafter, Mendocino LAFCo has confirmed active water and groundwater management powers for MCCSD each time in MSR/SOI studies.

The critical point in this timeline was the 2005 confirmation of active powers by Mendocino LAFCo. Under Government Code section 61000 et seq., the powers confirmed by the LAFCo at that time were “active” powers of the District, and remain so today.

Regards,

Uma Hinman, Executive Officer
Mendocino Local Agency Formation Commission