



Groundwater is a vital resource, together let's protect it.

midcountygroundwater.org • 5180 Soquel Drive • Soquel, CA 95073

**SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY
Board of Directors Meeting**

Thursday, December 14, 2023, at 6:00 p.m.
Capitola Library, 2005 Wharf Road, Capitola

AGENDA

The public may attend and provide public comment in person.

The meeting will also be publicly streamed (viewing only) via Zoom webinar:

<https://us06web.zoom.us/j/86791440734>

Webinar ID: 867 9144 0734; Webinar audio by phone (669) 444-9171

1. **Call to Order**
2. **Roll Call**
3. **Appreciation for Service by Rosemary Menard**
4. **Oral Communications Related to Items Not on the Agenda**
Issues within the purview of the Santa Cruz Mid-County Groundwater Agency. Guidelines attached.
5. **Consent Agenda (Page 4)**
 - 5.1 Approve September 21, 2023 Meeting Minutes
 - 5.2 Approve 2024 Board Meeting Schedule
 - 5.3 Approve Submission of Application under Library Community Use Policy
6. **General Business (Page 18)**
 - 6.1 Resolution on the Appointment of Private Well Owner Representatives
 - 6.2 Presentation and Acceptance of Annual Independent Audited Financial Report for Fiscal Year 2022-23
 - 6.3 Ratify Selection of Legal Counsel on Sustainable Groundwater Management Act Implementation Actions and Approve Fiscal Year 2023-24 Budget for Legal Services
 - 6.4 Receive Information and Provide Direction on the Periodic (5-Year) Evaluation of the Groundwater Sustainability Plan
 - 6.5 Receive Information and Provide Direction on Well Metering Program for Non de minimis Users

7. Informational Updates (Page 82)

7.1 Treasurer's Report

7.2 Staff Reports

- GSP Implementation Status Update
- SGMI Grant Update

7.3 Annual Status Report on Fair Political Practices Commission Compliance

8. Future Agenda Items

9. Written Communications and Submitted Materials

9.1 Email communication from Becky Steinbruner dated November 4, 2023

10. Adjournment

Next Board Meeting: If approved by the Board, March 21, 2024

GUIDANCE FOR ORAL AND WRITTEN COMMUNICATIONS AND DISABILITY ACCESS

ORAL COMMUNICATIONS

MGA Board meeting agendas set aside time for oral communications regarding items not on the agenda but within the purview of the MGA. Oral communications are also heard during the consideration of an agenda item.

Anyone wishing to provide public comment should come to the front of the room to be recognized by the Board Chair. Individual comments are limited to three (3) minutes; a maximum time of 15 minutes is set aside each time for oral communications. The time limits may be increased or decreased at the Board Chair's discretion. Speakers must address the entire Board; dialogue is not permitted between speakers and other members of the public or Board members, or among Board members.

While the Board may not take any action based upon oral communications, an issue raised during oral communications may be placed on the agenda for a future Board meeting.

Organized groups wishing to make an oral presentation to the Board may contact Laura Partch at 831-662-2053 or admin@midcountygroundwater.org, preferably at least two weeks prior to the meeting.

WRITTEN COMMUNICATIONS

Written communications to the Santa Cruz Mid-County Groundwater Agency (MGA) Board may be submitted as follows:

- Via email: comment@midcountygroundwater.org
- Via mail or hand delivery: MGA Board of Directors, c/o Emma Olin, 5180 Soquel Drive, Soquel, CA 95073

Deadlines for Submittal:

- Written communications received by 4:00 p.m. on the Tuesday of the week prior to a regularly scheduled (Thursday) Board meeting will be distributed to the Board and made available on the MGA's [website](#) at the time the Agenda is posted.
- Written communications received after the 4:00 p.m. deadline will be posted on the MGA [website](#) and Board members informed of the communications at the earliest opportunity. Please note, communications received after 9:00 a.m. the day before the Board Meeting may not have time to reach Board members, nor be read by them prior to consideration of an item.
- Written communications received at a Board meeting will be distributed to Board members and posted on the MGA [website](#) at the earliest opportunity.

Any written communication submitted to the Board will be made available on the MGA website at <http://www.midcountygroundwater.org/committee-meetings> and constitutes a public record. Please do not include any private information in your communication that you do not want made available to the public.

DISABILITY ACCESS: Please contact Laura Partch at admin@midcountygroundwater.org or 831-662-2053 for information or to request an accommodation.



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SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY
Board of Directors Meeting
Thursday, September 21, 2023

DRAFT MINUTES

1. Call to Order

The meeting was called to order at 6:00 by Chair Kennedy.

2. Roll Call

Directors present: Curt Abramson, David Baskin, Zach Friend (remote), Jon Kennedy, Jim Kerr, Manu Koenig, and Marco Romanini; Alternate Directors Doug Engfer and Frances Basich Whitney.

Directors absent: Carla Christensen, Fred Keeley, Tom LaHue, and Rob Marani.

Staff present: Ralph Bracamonte, Rosemary Menard, and Sierra Ryan.

Consultants present: Tim Carson, Rob Swartz, and Laura Partch (Regional Water Management Foundation (RWMF)).

Others: Bryce Matsumura (Department of Water Resources (DWR)) and three members of the public.

3. Oral Communications Related to Items Not on the Agenda

Becky Steinbruner requested information on a public hearing and the State AEM helicopter survey.

4. Consent Agenda

4.1 Approve June 15, 2023 Meeting Minutes

MOTION: Director Baskin; Second, Director Koenig. To approve the consent agenda. Motion passed unanimously; Director Whitney abstained.

5. General Business

5.1 Receive Information on the Development of the Groundwater Extraction Metering Program for Non-De Minimis Users

Staff provided background on the Groundwater Extraction Metering Program for Non-De Minimis Users (Metering Program), described proposed next steps, and responded to questions from the Board. The Board discussed registration for existing wells, status of permitting, notice to parcels that may be subject to the Metering Program, administrative costs, ownership of meters, authorities of Groundwater Sustainability Agencies (GSAs) under the Sustainable Groundwater Management Act (SGMA), and the intent to obtain legal counsel with expertise in SGMA implementation related issues moving forward.

Public Comment: Becky Steinbruner appreciated issues raised in the Board discussion and encouraged the MGA to gain the trust of private well owners through informational meetings. Ms. Steinbruner inquired about the availability of the MGA Metering Plan.

Staff responded that the Metering Plan was posted on the MGA website, and noted that the MGA has funding in the SGMI grant that may support efforts related to well registration and metering.

No Board action was required or taken.

5.2 Consider the Temporary Board Committee Recommendations and Appoint the Private Well Owner Representative Director and Alternate Director

At the June 15, 2023 meeting, the Board established a temporary Board committee for the appointment of a Private Well Owner (PWO) Director and Alternate Director. Following the work of the committee in finalizing the application and conducting outreach, seven applications were received.

All applicants were interviewed by the committee. Not all of the applicants were familiar with Sustainable Groundwater Management Act, the MGA, or the GSP. As a result, the subcommittee recommended that during the next solicitation for PWO Director(s), the MGA offer information sessions and online resources to educate potential applicants. Other ideas were discussed by the Board, including a one-page summary of the roles and responsibilities of PWO Director and more user-friendly information on the website.

The committee used a ranked-choice voting process and recommended the reappointment of Jim Kerr as Director and Robert Schultz as Alternate Director. The appointments will come back to the Board in December for approval of the term effective date by Board resolution as required in the Bylaws.

Public Comment: Becky Steinbruner appreciated the process, the new appointments, and encouraged the Board and PWO representatives to engage in outreach to the community.

MOTION: Director Romanini; Second, Director Baskin to reappoint Jim Kerr as Director and Robert Schultz as Alternate Director as representatives of Private Well Owners. Motion passed unanimously by roll call vote of Member Agency Directors.

6. Informational Updates

6.1 Treasurer's Report

No comments or questions.

6.2 Staff Reports

- GSP Implementation Status Update

Trout Unlimited continued with dry season stream monitoring which started last year, and with groundwater monitoring which is being conducted on a quarterly basis. It is anticipated that a remaining data gap identified in the 2020 GSP will be addressed by the installation of a shallow groundwater monitoring well located along Olive Springs Road. Construction of this monitoring well will be funded by the Sustainable Groundwater Management Implementation grant (SGMI Grant). Montgomery and Associates are moving forward with gathering and evaluating data for the annual GSP report for Water Year 2023 and will be reporting to the Board at the December meeting.

- Sustainable Groundwater Planning Grant Update

The MGA's Sustainable Groundwater Planning grant (2018 – 2023) from DWR was recently completed. This grant provided funding for the GSP development, the GSP advisory committee, stakeholder engagement, the groundwater model, data management system, monitoring, and the initial work on the groundwater extraction metering plan. The total grant award for Round 2 of the grant was \$1.5 million with a 50% local cost share, and Round 3 contributed another \$500,000 with \$170,000 local cost share.

- SGMI Grant Update

This grant includes five components and while work is underway, some of the components have had more activity than others. Staff provided a brief update regarding the recent activity. Staff will be providing updates at each Board meeting. Staff requested input from the Board on the degree of detail to provide to the Board in the future.

A Board member expressed interest in updates on issues that may impact project completion under the grant.

6.3 Legal Counsel on SGMA Implementation Actions

Staff will be moving forward with obtaining specialized SGMA legal counsel and expects to have more information on that at the December Board meeting. Staff noted that the MGA also has new legal counsel within the County Counsel's office.

Public Comment: Becky Steinbruner sought clarification regarding the new legal counsel. Staff clarified that Santa Cruz County still serves as the MGA's general counsel but the primary individual assigned to support the MGA within the County Counsel's Office recently changed.

7. Future Agenda Items

- Follow up on the lack of a response from KISTERS to the letter sent regarding the data breach.
- For long-term planning purposes, provide an assessment of projects that do not have grant funding and how they will be handled.
 - Staff responded that these projects will be addressed as part of the 5-Year GSP Evaluation. The Periodic Evaluation of the GSP will be discussed at the December meeting.

8. Written Communications and Submitted Materials

8.1 Letter of Support Small GSA Coalition Update

This issue was raised by staff at a previous Board meeting; the letter is now provided to the Board. No updates were reported.

9. Adjournment

The meeting was adjourned at 7:20 by Chair Kennedy.

Next Board Meeting: December 14, 2023

39/19December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 5.2

Title: 2024 Board Meeting Schedule

Attachments: None

Recommended Board Action: Approve the 2024 Board Meeting Schedule

For 2024, the following four (4) regular Board meeting dates are proposed. Meetings will start at 6:00 p.m. and be held at the Capitola Branch of the Santa Cruz Public Libraries at 2005 Wharf Road in Capitola.

Regular Meeting Schedule

- March 21
- June 20
- September 19
- December 12 (Note, this is the 2nd Thursday)

In 2024, the MGA will be completing the Periodic (5-Year) Evaluation of the Groundwater Sustainability Plan (GSP). It *may* be that more than four (4) meetings are warranted if Board direction or action is necessary to complete the Periodic Evaluation on schedule. If additional meeting(s) are necessary, the Board may consider amending the regular meeting schedule or convening a special meeting. If additional meetings were deemed necessary, the intent (as feasible) is to schedule meetings to occur on the 3rd Thursday of the month. As a courtesy for Board member reference in planning and scheduling, these dates are listed below. If meeting(s) are necessary, they will be publicly noticed consistent with the Brown Act.

- April 18
- May 16
- July 18
- August 15
- October 17
- November 21

Recommended Board Action:

1. By MOTION, approve the 2024 Board meeting schedule.

Submitted by:

Tim Carson

Program Director

Regional Water Management Foundation

On behalf of the MGA Executive Staff

Ron Duncan, General Manager, Soquel Creek Water District

Ralph Bracamonte, District Manager, Central Water District

Rosemary Menard, Water Director, City of Santa Cruz

Sierra Ryan, Water Resources Manager, County of Santa Cruz

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 5.3

Title: Approve Submission of Application under Library Community Use Policy

Attachments:

1. Santa Cruz Public Library ("SCPL") Community Room Use Policies
2. Santa Cruz Public Libraries Community Room Use Application

Recommended Board Action: Approve submission of an application under the SCPL Community Use Policy to reserve the Ow Family Community Room for MGA Board meetings through June 2025.

To continue using the Ow Family Community Room at the Capitola Library Branch after hours for MGA Board meetings, the MGA must submit the attached application under the SCPL Community Use Policy. Legal counsel has approved the submission of this application to SCPL. Once approved by the Board, MGA's insurance carrier will issue the Certificate of Coverage required under the policy.

Recommended Board Action:

1. By MOTION, approve submission of an application under the SCPL Community Use Policy to reserve the Ow Family Community Room for MGA Board meetings through June 2025.

Submitted by:

Tim Carson

Program Director

Regional Water Management Foundation

On behalf of the MGA Executive Staff

Ron Duncan, General Manager, Soquel Creek Water District

Ralph Bracamonte, District Manager, Central Water District

Rosemary Menard, Water Director, City of Santa Cruz

Sierra Ryan, Water Resources Manager, County of Santa Cruz

Santa Cruz Public Libraries (“SCPL”) Community Room Use Policies

1. USE OF FACILITIES

USER agrees to the following rules when using or hosting an event in any property operated by the Santa Cruz Public Libraries (aka “SCPL”) as a Library Branch and other related uses (aka “PROPERTY”):

- a) USER and its authorized employees, members, and agents may use PROPERTY for authorized purposes and upon the terms and conditions described herein.
- b) USER acknowledges that USER has no ownership or vested rights in any way related to the use of any PROPERTY.
- c) Rooms may be reserved two months in advance of the event and up until two(2) business day prior to the event. Rooms can't be reserved more than four times by one individual or group in one calendar year. (SCPL, including its sponsored programming, Friends of the SCPL, and government agencies are exempt from this provision.)
- d) Publicity material must express that the SCPL neither approves nor disapproves of any viewpoint by including this language on all publicity material:

“This event is not sponsored by the Santa Cruz Public Libraries, and all participating cities of the Santa Cruz Public Libraries Joint Powers Agency are neither responsible nor liable in any way related to the event or activities of the users of the meeting rooms.”
- e) Groups may use rooms only for the hours booked in advance. All set-up and clean-up must be accomplished within the reserved time. Groups must return any space to the condition in which they found it unless staff requests otherwise.
- f) All meetings must be open to the general public, unless otherwise approved. (SCPL and government agencies are exempt from this provision.)
- g) All programs shall not discriminate against any individuals or groups of individuals based on race, religion, creed, color, national origin, sex, sexual orientation, gender identity, age, physical or mental disability, or citizenship. The arrangement of the room must also comply with ADA access.
- h) All participants must abide by the SCPL’s Code of Conduct.
- i) Spaces/rooms are not intended for commercial use. No admission fee may be charged; no collections may be taken on the premises, no fund or business solicited or direct sales made except for sales by the SCPL or Friends of the SCPL or their agent. Some exceptions may apply and can be approved by the Library Director.
- j) Signs, posters, and decorations may be displayed with prior permission from the branch manager of the SCPL facility.
- k) PROPERTY are fragrance-free facilities. No incense may be used. Fire regulations prohibit the use of candles. However, exceptions for special events may be approved by the Library Director.
- l) Alcoholic beverages may be served only with special permission from the Library Director.
- m) USER is responsible for cleaning and for any damage to PROPERTY or the facility. Repair or cleaning costs may be assessed if damage occurs.
- n) No food or other items may be left or stored in the meeting room or kitchen.
- o) Trash and recyclables that do not fit into the provided receptacles must be removed by the USER. SCPL may assess charges for damage or cleaning.
- p) SCPL assumes no responsibility for the loss or theft of personal belongings.
- q) The USER must lock and secure PROPERTY upon exiting.
- r) The USER must complete and sign the “End of Event Checklist.”

- s) SCPL reserves the right to cancel a reservation due to circumstances beyond its control. SCPL will notify the group of the reservation cancellation as soon as possible.
- t) PROPERTY is not intended for private parties, such as weddings, birthday parties or other types of private celebrations.
- u) Failure to comply with these terms could disqualify the group or individual from reserving library space in the future.

2. **KEY POLICY**

USER must retrieve keys or access code no earlier than 24 hours before the event during library hours. If the event ends after the Library closed, USER must lock and secure PROPERTY and place the keys or access code in the book deposit box.

In the event the Library key is lost or misplaced, USER must pay a \$250 re-keying fee.

3. **AMENITIES PROVIDED BY LIBRARY:**

SCPL agree to provide USER:

- a) Restroom access
- b) WiFi, display screen, and HDMI cable
- c) Keys or access code
- d) On-site orientation
- e) Non-toxic cleaning supplies to use for PROPERTY cleanup as specified herein
- f) Contact information of designated LIBRARY staff person related to use of PROPERTY.

4. **“AS-IS” CONDITION OF PREMISES**

USER acknowledges that it recognizes the uniqueness of PROPERTY, including the community rooms, and accepts them in their current and disclosed “AS IS, IN ITS CURRENT CONDITION, WITH ALL FAULTS” condition existing on the date of execution of this policy, subject to all applicable zoning, municipal county or state laws, ordinances and regulations affecting the use of the community rooms. USER acknowledges that it has satisfied itself, by its own independent investigation, that the PROPERTY is suitable for its intended use and neither SCPL nor its agents or representatives have made any representation or warranty as to the present or future suitability of the community rooms for the conduct of USER’s business.

5. **CANCELLATION POLICY**

USER agrees to provide notice of cancellation at least 24 hours before the reservation.

6. **INDEMNIFICATION/HOLD HARMLESS**

The USER shall indemnify, defend, and hold harmless the Santa Cruz Public Libraries, Library Joint Powers Authority, their respective officials, officers, employees, and volunteers (“SCPL Parties”), from and against any and all liability, loss, expense (including reasonable attorneys’ fees), or claims or demands for any injury, death or damage (“Claims”) resulting from the acts or omissions of the USER, its members, employees, agents, guests, invitees, or others acting on USER’s behalf, or are under the USER’s authority or control in any way related to the USER’s obligations under this policy. This indemnity obligation, however, does not apply to Claims proximately caused by the sole negligence of willful misconduct of the SCPL Parties.

7. **HAZARDOUS AND TOXIC MATERIALS**

USER shall comply, at its expense, with all federal, state, and local statutes or regulations concerning environmental conditions, emissions, pollutants, and controls. USER shall not cause, store, use, or permit any Hazardous Material, including without limitation asbestos or polychlorinated biphenyls, to be brought upon, kept or used in or about PROPERTY by USER, its agents, employees, contractors or invites.

As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California, or the United States Government.

8. **COMPLIANCE WITH GOVERNMENT REGULATIONS**

USER shall, at its sole cost and expense, comply with all of the requirements of all local, state, and federal authorities now in force, or which may hereafter be in force, pertaining to PROPERTY with regard to the use of PROPERTY. USER shall faithfully observe all local ordinances and state and federal statutes now in force or which may hereafter be in force.

9. **AMERICANS WITH DISABILITIES ACT**

USER acknowledges and expressly accepts full responsibility for compliance with the requirements of the Americans with Disabilities Act (ADA) and any other local, state, or federal law or regulation regarding the accessibility of the event by disabled individuals. USER agrees to release, indemnify, defend, and hold SCPL harmless for any claim, loss, expense, or liability arising from USER's failure to fully comply with all such laws or regulations.

10. **INSURANCE**

The USER agrees to maintain and carry at its own expense, the insurance listed below. All policies of insurance required for the use of the Property shall name the Santa Cruz Public Libraries, Library Joint Powers Authority, and its officials, officers, and employees and volunteers as additional insureds.

a) Insurance Requirements:

i. **Commercial General Liability (CGL) insurance:** **\$1,000,000** on an "occurrence" basis, including products-completed operations, personal & advertising injury. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

ii. **Additional Insured Status:** The Santa Cruz Public Libraries, Library Joint Powers Authority, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of the use of the Property, by or on behalf of the USER including materials, parts or equipment furnished in connection with such use.

iii. **Workers' Compensation:** as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. Workers' Compensation insurance must cover all of USER's employees on the Property. The Workers' Compensation policy and shall be endorsed with a waiver of subrogation in favor of SCPL for all use of the PROPERTY by USER and its employees.

iv. **Verification of Coverage:** USER shall furnish the SCPL with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this section. All

certificates and endorsements are to be received and approved by the SCPL before use of any PROPERTY. SCPL reserves the right to cancel the event for failure to provide complete, certified copies of all required insurance policies, including endorsements required by these specifications.

11. WARRANTY OF AUTHORITY

The undersigned warrants and represents that they are authorized to execute this Policy and that their signature serves to legally obligate their respective representatives, agents, successors and assigns to comply with the provisions of this Policy.

12. COMPLIANCE

The LIBRARY has the right to restrict the USER's access to PROPERTY if the USER fails to follow the obligations expressed in this policy.

USER acknowledges that USER has carefully read the Community Room Use Policies and fully understands its contents. USER is voluntarily signing these Policies and by doing so is accepting its terms as binding upon USER and the organization or group the USER is signing on behalf of. USER agrees that a scanned, electronic, or other copy of a party's signature shall be accepted and valid as an original.

USER's Signature

Date: _____

Print Name: _____

Title/Organization: _____

Applicant name: _____

Today's Date: ____/____/____

Santa Cruz Public Libraries
Community Room Use Application

1. APPLICANT INFORMATION

Applicant Name: _____

Applicant Library Card Number: _____

Applicant Phone Number: _____

Applicant Email: _____

Applicant Address: _____

2. MEETING ROOM RESERVATION

Branch Requested:

☐ Aptos ☐ Capitola ☐ Downtown ☐ Felton ☐ La Selva Beach ☐ Scotts Valley

Number of Attendees: _____

Date and Time Requested:

Date: ____/____/____ Start Time: _____ End Time: _____

Set up and clean up time must be completed within the reserved time period.

Is purpose of use a: ☐ One Time Event or ☐ Series

If a series, how many events are in the series? _____

If a series, is the series progressive (building off skills from previous events)?

☐ Yes ☐ No

If a series, list additional dates requested: _____

Will food and/or drink be served in the room? ☐ Yes ☐ No

Indicate if needed: ☐ Audio Equipment ☐ Video Equipment

Event Description or Intended Use:

Applicant name: _____

Today's Date: ____/____/____

3. SPECIAL REQUESTS OR CIRCUMSTANCES

Please check what the event will include, if applicable. If the event will include any of the following, the applicant must receive approval from the Library Director.

- ☐ The sale of items
- ☐ The use of candles
- ☐ The serving of alcoholic beverages
- ☐ Other (explain in the box below)

Explain the reason for the sale of items (including what will be sold, who/what is benefiting from the sale, and the price of items being sold), use of candles, serving of alcoholic beverages and/or other reason:

1. Applicant represents and affirms that the representations contained in the Community Room Use Application are complete, true, and correct.
2. Applicant hereby acknowledges that Applicant has read and understands the Community Room Use Policy and Code of Conduct related to the use of a Library facility and agrees to be bound by them, and any other special conditions required by the Library.
3. Applicant represents that the undersigned is authorized to sign this application; and if signed on behalf of an organization, the undersigned further represents that they are authorized to sign on the organization's behalf.
4. A scanned, electronic, or other copy of Applicant's signature shall be legally valid as an original.

Applicant's Signature

Date: ____/____/____

Print Name: _____

Title/Organization: _____

Applicant name: _____

Today's Date: ____/____/____

[For SCPL Use Only]

Reservation Approved: ☐ Yes ☐ No

Initials: _____

Date: ____/____/____

Director Approval of Special Requests:

Approval Date: ____/____/____

Sale of Items: ☐ Yes ☐ No ☐ N/A

Use of Candles: ☐ Yes ☐ No ☐ N/A

Serving Alcoholic Beverages: ☐ Yes ☐ No ☐ N/A

(Liquor license required to sell Alcoholic Beverages)

Other Reason Described Above: ☐ Yes ☐ No ☐ N/A

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 6.1

Title: Resolution on the Appointment of Private Well Owner
Representatives

Attachments:

1. MGA Board Resolution No. 23-01

Recommended Board Action: Approve Board Resolution No. 23-01Appointing Private Well Owner Director Kerr and Alternate Director Schultz to four-year terms effective January 1, 2024

At its June Board meeting, the Board initiated the procedures for the appointment of Private Well Owner representatives under section 2.2 of the First Amended Bylaws (Bylaws) and created a temporary Board committee tasked with following those procedures. At the September Board meeting, the Board accepted the recommendation of the temporary Board Committee and appointed Private Well Owner Director Kerr and Alternate Director Shultz to four-year terms effective January 1, 2024.

Section 2.25 of the Bylaws provides that the term of appointment shall be four years, and that the term effective date shall be determined by resolution of the Board.

Recommended Board Action:

1. By MOTION, approve Board Resolution No. 23-01 appointing Private Well Owner Director Kerr and Alternate Director Schultz to four-year terms effective January 1, 2024.

Submitted by:

Tim Carson

Program Director

Regional Water Management Foundation

On behalf of the MGA Executive Staff

Ron Duncan, General Manager, Soquel Creek Water District

Ralph Bracamonte, District Manager, Central Water District

Rosemary Menard, Water Director, City of Santa Cruz

Sierra Ryan, Water Resources Manager, County of Santa Cruz

RESOLUTION NO. 23-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY TO ESTABLISH THE TERMS OF THE PRIVATE WELL OWNER DIRECTORS AND ALTERNATE DIRECTOR

WHEREAS, The Santa Cruz Mid-County Groundwater Agency's ("MGA") Board of Directors includes three Directors and one Alternate Director who represent the interests of the private well owners in the Santa Cruz Mid-County Groundwater Basin; and

WHEREAS, Section 6.3 of the MGA's Joint Powers Agreement authorizes Member Agency Directors to appoint Private Well Owner (PWO) Directors, and the First Amended Bylaws (2021) set forth the procedures for nominating the PWO Directors and establishing their terms;

NOW, THEREFORE, the Santa Cruz Mid-County Groundwater Agency hereby resolves, consistent with Article 2 of the First Amended Bylaws, to establish the terms of the PWO Director and Alternate Director as follows:

Private Well Owner Directors and/or Alternate director	Appointment Date	Appointment Term	Term Effective Date
Jim Kerr, Director	9/21/2023	4 years	January 1, 2024
Robert Schultz, Alternate Director	9/21/2023	4 years	January 1, 2024

Passed and adopted at a meeting of the Santa Cruz Mid-County Groundwater Agency on December 14, 2023.

AYES:

NOES:

ABSENT:

ABSTAIN:

Signature: _____

Name: Jon Kennedy

Title: Board Chair

CERTIFICATON

I do hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the Santa Cruz Mid-County Groundwater Agency on December 14, 2023.

Signature: _____

Name: Mr. James Kerr

Title: Board Secretary

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 6.2

Title: Presentation and Acceptance of Annual Independent Audited Financial Report for Fiscal Year 2022-23

Attachments:

1. Santa Cruz Mid-County Groundwater Agency Annual Financial Report for the Year Ended June 30, 2023
2. Santa Cruz Mid-County Groundwater Agency Communication to Those in Governance, June 30, 2023

Recommended Board Action: Accept the audited Financial Report for the period ending June 30, 2023

Attached for the Board's review is the Agency's Annual Financial Report for fiscal year 2022/23, as well as the Communication to Those in Governance (Management Report) prepared by our audit firm Davis Farr, LLP. The financial report is prepared in accordance with Government Accounting Standards. The Agency received an unqualified opinion, meaning the financial statements present fairly, in all material respects, the financial position of the Santa Cruz Mid-County Groundwater Agency as of June 30, 2023, and the results of its operations and its cash flows are in conformity with generally accepted accounting principles.

Special thanks to Ryan Kinney, Soquel Creek Water District Supervising Accountant, for his help in preparing the Annual Financial Report.

Recommended Board Action:

1. By MOTION, accept the audited Financial Report for the period ending June 30, 2023.

Submitted by: Leslie Strohm
Treasurer
Santa Cruz Mid-County Groundwater Agency



SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Annual Financial Report

For the Year Ended June 30, 2023



Board of Directors as of June 30, 2023

Name	Title	Member Agency	Current Term
Jon Kennedy	Chairman	Private Well Representative	01/23 – 01/26
David Baskin	Vice Chairman	City of Santa Cruz	01/23 – 01/24
Jim Kerr	Secretary	Private Well Representative	01/23 – 01/24
Curt Abramson	Director	Private Well Representative	01/23 – 01/26
Carla Christensen	Director	Soquel Creek Water District	01/23 – 01/24
Zack Friend	Director	County of Santa Cruz	01/23 – 01/24
Fred Keeley	Director	City of Santa Cruz	01/23 – 01/24
Manu Koenig	Director	County of Santa Cruz	01/23 – 01/24
Tom LaHue	Director	Soquel Creek Water District	01/23 – 01/24
Robert Marani	Director	Central Water District	03/20 - 03/24
Marco Romanini	Director	Central Water District	11/22 – 11/26

Santa Cruz Mid-County Groundwater Agency

Leslie Strohm, Treasurer

5180 Soquel Drive

Soquel, California 95073

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www.midcountygroundwater.org

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Annual Financial Report

For the Year Ended June 30, 2023

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Annual Financial Report

For the Fiscal Year Ended June 30, 2023

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Financial Section

Independent Auditor's Report

Governing Board
Santa Cruz Mid-County Groundwater Agency
Santa Cruz, California

Report on the Audit of the Financial Statements

Opinion

We have audited the financial statements of Santa Cruz Mid-County Groundwater Agency ("Agency"), as of and for the year June 30, 2023, and the related notes to the financial statements, which collectively comprise the Agency's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements present fairly, in all material respects, the respective financial position of Santa Cruz Mid-County Groundwater Agency, as of June 30, 2023, and the respective changes in financial position and cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS) and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of Santa Cruz Mid-County Groundwater Agency and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Santa Cruz Mid-County Groundwater Agency management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Agency's ability to continue as a going concern for one year after the date that the financial statements are issued.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of Santa Cruz Mid-County Groundwater Agency's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about Santa Cruz Mid-County Groundwater Agency's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the *Management's Discussion and Analysis* be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Report on Summarized Comparative Information

We have previously audited Santa Cruz Mid-County Groundwater Agency's 2022 financial statements, and we expressed an unmodified audit opinion on those audited financial statements in our report dated December 9, 2022. In our opinion, the summarized comparative information presented herein as of and for the year ended June 30, 2022, is consistent, in all material respects, with the audited financial statements from which it has been derived.

Other Reporting Required by Government Auditing Standards

In accordance with *Government Auditing Standards*, we have also issued our report dated December 8, 2023 on our consideration of the Agency's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is solely to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the effectiveness of internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Agency's internal control over financial reporting and compliance.

Davis Farr LLP

Irvine, California
December 8, 2023

Santa Cruz Mid-County Groundwater Agency
Management's Discussion and Analysis
For the Year Ended June 30, 2023

As management of the Santa Cruz Mid-County Groundwater Agency (Agency), we offer readers of the Agency's financial statements this narrative overview and analysis of the financial activities and performance of the Agency for the fiscal years ended June 30, 2023 and 2022. Please read it in conjunction with additional information that we have furnished in the accompanying basic financial statements, which follow this section.

Financial Highlights

- The Agency's net position increased 1.71% or \$32,731 to \$1,952,182. In fiscal year 2022, the Agency's net position increased 12.85% or \$218,501 to \$1,919,451.
- The Agency's operating revenues increased 4.00% or \$12,000 to \$312,000 due to higher member agency contributions. In fiscal year 2022, the Agency's total revenues increased 100.00% or \$300,000 to \$300,000 because no member contributions were charged in the prior year.
- The Agency's total expenses increased 124.58% or \$555,277 to \$1,000,991 due to increased groundwater monitoring costs and the recognition of pass-through grant expenses related to the Sustainable Groundwater Management grant. In fiscal year 2022, the Agency's total expenses increased 38.16% or \$123,101 to \$445,714.

Using This Financial Report

This annual report consists of a series of financial statements. The Statements of Net Position and the Statements of Activities provide information about the activities and performance of the Agency using accounting methods similar to those used by private sector companies. The Statements of Net Position includes all of the Agency's investments in resources (assets), deferred outflows of resources, obligations to creditors (liabilities), and deferred inflows of resources. It also provides the basis for computing a rate of return, evaluating the capital structure of the Agency and assessing the liquidity and financial flexibility of the Agency. All of the current year's revenue and expenses are accounted for in the Statements of Activities. These statements measure the success of the Agency's operations and can be used to determine the Agency's profitability and credit worthiness.

Financial Analysis of the Agency

Statement of Net Position and Statement of Activities

One of the most important questions asked about the Agency's finances is, "Is the Agency better off or worse off as a result of this year's activities?" A Statement of Net Position and a Statement of Activities report information about the Agency in a way that helps answer this question.

These statements include all assets and deferred outflows of resources, liabilities, and deferred inflows of resources, using the *accrual basis of accounting*, which is similar to the accounting used by most private sector companies. All of the current year's revenues and expenses are taken into account regardless of when the cash is received or paid.

These two statements report the Agency's *net position* and changes in them. One can think of the Agency's net position – the difference between assets and deferred outflows of resources less liabilities and deferred inflows of resources – as one way to measure the Agency's financial health, or *financial position*. Over time, *increases or decreases* in the Agency's net position are one indicator of whether its *financial health* is improving or deteriorating. However, one will need to consider other non-financial factors, such as changes in the organizational agreements to assess the *overall health* of the Agency in future periods.

Notes to the Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data

Santa Cruz Mid-County Groundwater Agency
Management's Discussion and Analysis
For the Year Ended June 30, 2023

provided in the government-wide and fund financial statements. The notes to the basic financial statements can be found on pages 10 through 12.

Statement of Net Position

Condensed Statement of Net Position

	2023	2022	Change
Assets:			
Current Assets	\$ 2,351,918	2,133,257	218,661
Total assets	<u>2,351,918</u>	<u>2,133,257</u>	<u>218,661</u>
Liabilities:			
Current liabilities	399,736	213,806	185,930
Total liabilities	<u>399,736</u>	<u>213,806</u>	<u>185,930</u>
Net position:			
Unrestricted	1,952,182	1,919,451	32,731
Total net position	<u>\$ 1,952,182</u>	<u>1,919,451</u>	<u>32,731</u>

As noted earlier, net position may serve over time as a useful indicator of a government's financial position. In the case of the Agency, assets exceeded liabilities by \$1,952,182 and \$1,919,451 as of June 30, 2023 and 2022, respectively.

Statement of Revenues, Expenses, and Changes in Net Position

Condensed Statement of Revenues, Expenses, and Changes in Net Position

	2023	2022	Change
Revenues:			
Operating revenues	\$ 312,000	300,000	12,000
Total operating revenues	<u>312,000</u>	<u>300,000</u>	<u>12,000</u>
Expenses:			
Operating expenses	1,000,991	445,714	555,277
Total operating expenses	<u>1,000,991</u>	<u>445,714</u>	<u>555,277</u>
Non-operating revenues:			
Grant revenue	721,722	228,232	493,490
Total non-operating revenues	<u>721,722</u>	<u>228,232</u>	<u>493,490</u>
Change in net position	<u>32,731</u>	<u>82,518</u>	<u>(49,787)</u>
Net position, beginning of period	1,919,451	1,700,950	218,501
Prior period adjustment	-	135,983	(135,983)
Net position, end of period	<u>\$ 1,952,182</u>	<u>1,919,451</u>	<u>32,731</u>

The statements of revenues, expenses, and changes in net position show how the government's net position changed during the fiscal years. In the case of the Agency, net position increased 1.71% or \$32,731 to \$1,952,182, as a result of ongoing operations. In fiscal year 2022, the Agency's net position increased 12.85% or \$218,501 to \$1,919,451, as a result of ongoing operations.

Total operating revenues increased 4.00% or \$12,000 to \$312,000, due to an increase in dues contributed by each member agencies. In fiscal year 2022, total operating revenues increased 100.00% or \$300,000 to \$300,000, because member agency contributions were not charged in the prior fiscal year.

**Santa Cruz Mid-County Groundwater Agency
Management's Discussion and Analysis
For the Year Ended June 30, 2023**

For the years ended June 30, 2023 and 2022, the operating revenues of \$312,000 and \$300,000, respectively, consist of the dues contributed by each member agency. Member agencies are invoiced a percentage of the projected budget for the fiscal year based on the following schedule:

Member Agency	2023	2022
Soquel Creek Water District	70 %	70 %
Central Water District	10	10
City of Santa Cruz	10	10
County of Santa Cruz	10	10
	<u>100 %</u>	<u>100 %</u>

Total expenses increased 124.58% or \$555,277 to \$1,000,991, due primarily to an increase of \$541,233 in groundwater management expenses. The increase in groundwater management expenses is predominately related to increased expenses for basin groundwater monitoring and data collection as well as the recognition of pass-through grant expenses. These pass-through expenses are for the sub-recipients of the Sustainable Groundwater Management Implementation (SGMI) grant the MGA was awarded by the Department of Water Resources (DWR). In fiscal year 2022, total expenses increased 38.16% or \$123,101 to \$445,714, due primarily to an increase of \$99,077 in groundwater management and a decrease of \$24,024 in general and administrative expense.

Conditions Affecting Current Financial Position

Management is unaware of any conditions which could have a significant impact on the Agency's current financial position, net position, or operating results in terms of past, present, and future.

Requests for Information

The Agency's basic financial statements are designed to present users with a general overview of the Agency's finances and to demonstrate the Agency's accountability. If you have any questions about the report or need additional information, please contact the Agency's Treasurer, Leslie Strohm at Santa Cruz Mid-County Groundwater Agency, 5180 Soquel Drive, Soquel CA 95073 or (831) 475-8500.

Basic Financial Statements

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY
Statement of Net Position
June 30, 2023
(with prior year data for informational purposes)

	<u>2023</u>	<u>2022</u>
Current assets:		
Cash and cash equivalent (Note 2)	\$ 1,821,027	\$ 1,814,953
Accounts receivable	528,997	316,231
Prepaid expenses	1,894	2,073
Total current assets	<u>2,351,918</u>	<u>2,133,257</u>
Current liabilities:		
Accounts payable	399,736	213,806
Total current liabilities	<u>399,736</u>	<u>213,806</u>
Net position:		
Unrestricted	1,952,182	1,919,451
Total net position	<u>\$ 1,952,182</u>	<u>\$ 1,919,451</u>

See accompanying notes to the basic financial statements

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY
Statement of Revenues, Expenses, and Changes in Net Position
June 30, 2023
(with prior year data for informational purposes)

	2023	2022
Operating revenues:		
Membership revenue	\$ 312,000	300,000
Total operating revenues	<u>312,000</u>	<u>300,000</u>
Operating expenses:		
Groundwater management	794,509	253,276
General and administrative	<u>206,482</u>	<u>192,438</u>
Total operating expenses	<u>1,000,991</u>	<u>445,714</u>
Total operating income (loss)	<u>(688,991)</u>	<u>(145,714)</u>
Non-operating revenues:		
Grant revenue	<u>721,722</u>	<u>228,232</u>
Total non-operating revenues	<u>721,722</u>	<u>228,232</u>
Change in net position	32,731	82,518
Net position, beginning of period	1,919,451	1,700,950
Prior period adjustment (Note 3)	<u>-</u>	<u>135,983</u>
Net position, end of period	<u><u>\$ 1,952,182</u></u>	<u><u>1,919,451</u></u>

See accompanying notes to the basic financial statements

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY
Statement of Cash Flows
June 30, 2023
(with prior year data for informational purposes)

	2023	2022
Cash flows from operating activities:		
Cash receipts from members	\$ 312,000	\$ 300,000
Payments to vendors for materials and services	<u>(814,882)</u>	<u>(337,998)</u>
Net cash provided by operating activities	<u>(502,882)</u>	<u>(37,998)</u>
Cash flows from financing activities:		
Grant revenue	<u>508,956</u>	<u>112,061</u>
Net cash provided by financing activities	<u>508,956</u>	<u>112,061</u>
Net increase in cash and cash equivalents	6,074	74,063
Cash and cash equivalents, beginning of year	<u>1,814,953</u>	<u>1,740,890</u>
Cash and cash equivalents, end of year	<u><u>\$ 1,821,027</u></u>	<u><u>\$ 1,814,953</u></u>
Reconciliation of operating income(loss) to net cash provided by(used) in operating activities:		
Operating income(loss)	<u>\$ (688,991)</u>	<u>\$ (145,714)</u>
Changes in assets and liabilities:		
(Increase) in assets:		
Prepaid expenses	179	(394)
Increase(decrease) in liabilities:		
Accounts payable	<u>185,930</u>	<u>108,110</u>
Net cash provided by operating activities	<u><u>\$ (502,882)</u></u>	<u><u>\$ (37,998)</u></u>
Noncash Investing, Capital and Financing Activities:		
There were no significant noncash investing, capital or financing activities during the years ended June 30, 2023 or 2022.		

See accompanying notes to the basic financial statements

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Notes to the Basic Financial Statements

For the Year Ended June 30, 2023

(1) Summary of Significant Accounting Policies

A. Organization and Operations of the Reporting Entity

On March 17, 2016, the Central Water District, the City of Santa Cruz, the County of Santa Cruz, and the Soquel Creek Water District (Members) entered into a joint powers agreement creating the Santa Cruz Mid-County Groundwater Agency (Agency). Each Member is a local agency, as defined by the Sustainable Groundwater Management Act of 2014 (SGMA), duly organized and existing under and by virtue of the laws of the State of California, and each Member can exercise powers related to groundwater management. The purpose of the agreement is to create a groundwater sustainability agency by June 30, 2017 to manage groundwater basins designated by the California Department of Water Resources as medium and high priority basins. The Agency is a basin consolidation of all or parts of four existing groundwater basins: Soquel Valley, West Santa Cruz Terrace, Santa Cruz Purisima Formation, and Pajaro Valley Groundwater Basins.

Under the Joint Exercise of Powers Act of 2000 (Act), including the Marks-Roos Local Bond Pooling Act of 1985 (Government Code sections 6584, et seq.), the Agency is authorized to issue bonds, and under certain circumstances, to purchase bonds issued by, or to make loans to, the Members for financing public capital improvements, working capital, liability and other insurance needs or projects whenever doing so results in significant public benefits, as determined by the Members. The Act further authorizes and empowers joint powers authorities to sell bonds that are issued or purchased to public or private purchasers at public or negotiated sales.

SGMA requires the adoption of a groundwater sustainability plan (GSP) by January 31, 2020, for all medium and high priority basins identified as being subject to critical conditions of overdraft. The Members will develop the GSP and manage the Basin pursuant to SGMA.

The term of the agreement shall remain in effect until terminated by unanimous written consent of all Members, except during the outstanding term of any Agency indebtedness. Upon termination of the agreement, the assets shall be distributed in proportion to the contributions of each Member agency.

B. Basis of Accounting and Measurement Focus

The Agency is accounted for as an enterprise fund in accordance with generally accepted accounting principles (GAAP) as applied to governmental units. Enterprise funds are used to account for operations that are financed and operated in a manner similar to a private business enterprise, where the expenses, of providing goods and services to the general public are recovered through user charges, or where the governing body has decided that periodic determination of revenue earned, expenses incurred, and net income is appropriate for capital maintenance, public policy, management control, or other purposes. Because the Agency is accounted for as an enterprise fund, the Agency uses the economic resources measurement focus and the accrual basis of accounting for financial statement reporting purposes. Revenues are recognized in the accounting period in which they are earned, and expenses are recognized in the period incurred, regardless of when the related cash flows take place. With the measurement focus, all assets and liabilities associated with the operation of these funds are included in the Statement of Net Position.

C. Financial Reporting

The Agency's basic financial statements have been prepared in conformity with accounting principles generally accepted in the United States of America (GAAP). The Governmental Accounting Standards Board (GASB) is the accepted standard-setting body for establishing governmental accounting and financial reporting principles.

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Notes to the Basic Financial Statements (Continued)

For the Year Ended June 30, 2023

(1) Summary of Significant Accounting Policies (Continued)

D. Assets, Liabilities, and Net Position

1. Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported changes in the Agency's net position during the reporting period. Actual results could differ from those estimates.

2. Cash and Cash Equivalents

Substantially, all of the Agency's cash is held in a financial institution bank account. The Agency considers all highly liquid investments with a maturity of three months or less to be cash equivalents.

3. Revenue Recognition

Membership dues are recognized as revenue at the time each member agency is invoiced or when a resolution is approved by the Board during the year.

4. Net Position/Fund Balances

The financial statements utilize a net position presentation. Net position categories are follows:

- **Net investment in capital assets** – consists of capital assets, net of accumulated depreciation and reduced by any outstanding debt against the acquisition, construction or improvement of those assets.
- **Restricted net position** – consists of constraints placed on net position use through external constraints imposed by creditors, grantors, contributors, or laws or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.
- **Unrestricted net position** – consists of the net position balance that does not meet the definition of *restricted* or *net investment in capital assets* components of net position.

5. Comparative Data

Selected information regarding the prior year has been included in the accompanying financial statements. This information has been included for comparison purposes only and does not represent a complete presentation in accordance with generally accepted accounting principles. Accordingly, such information should be read in conjunction with the government's prior year financial statements, from which this selected financial data was derived.

(2) Cash and Cash Equivalents

Cash and cash equivalents as of June 30, 2023 is classified in the accompanying financial statements as follows:

Cash and cash equivalents	\$	1,821,027
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Cash and cash equivalents as of June 30, 2023 consists of the following:

Deposits with financial institutions	\$	1,821,027
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SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

Notes to the Basic Financial Statements (Continued)

For the Year Ended June 30, 2023

(2) Cash and Cash Equivalents (Continued)

Custodial Credit Risk

Custodial credit risk for *deposits* is the risk that, in the event of the failure of a depository financial institution, a government will not be able to recover its deposits or will not be able to recover collateral securities that are in the possession of an outside party.

The California Government Code and the Agency's investment policy do not contain legal or policy requirements that would limit the exposure to custodial credit risk for deposits, other than the following provision for deposits: The California Government Code requires that a financial institution secure deposits made by state or local governmental units by pledging securities in an undivided collateral pool held by a depository regulated under state law (unless so waived by the governmental unit). The market value of the pledged securities in the collateral pool must equal at least 110% of the total amount deposited by public agencies. As of June 30, 2023, bank balances are federally insured up to \$250,000. The remaining balance is collateralized in accordance with the Code; however, the collateralized securities are not held in the Agency's name.

(3) Contingencies

Litigation

In the ordinary course of operations, the Agency is subject to claims and litigation from outside parties. After consultation with legal counsel, the Agency believes the ultimate outcome of such matters, if any, will not materially affect its financial condition.

Report on Internal Controls and Compliance

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards

Governing Board
Santa Cruz Mid-County Groundwater Agency
Santa Cruz, California

We have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the Santa Cruz Mid-County Groundwater Agency (Agency) as of and for the year ended June 30, 2023, and the related notes to the financial statements, which collectively comprises the Agency's basic financial statements, and have issued our report thereon dated December 8, 2023.

Report on Internal Control Over Financial Reporting

In planning and performing our audits of the financial statements, we considered the Agency's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies. Given these limitations, during our audit we did not identify any deficiencies in internal control that we consider to be material weaknesses. However, material weaknesses may exist that have not been identified.

Report on Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Agency's financial statements are free from material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing opinion on compliance with those provisions was not an objective of our

audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of this Report

The purpose of this report is solely to describe the scope of our testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the entity's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the entity's internal control and compliance. Accordingly, this communication is not suitable for any other purpose.

Davis Farr LLP

Irvine, California
December 8, 2023



REQUIRED AUDIT COMMUNICATIONS

Governing Board
Santa Cruz Mid-County Groundwater Agency
Santa Cruz, California

We have audited the financial statements of the Santa Cruz Mid-County Groundwater Agency (the "Agency") as of and for the year ended June 30, 2023 and have issued our report thereon dated December 8, 2023. Professional standards require that we advise you of the following matters relating to our audit.

Our Responsibility in Relation to the Financial Statement Audit

As communicated in our engagement letter dated October 3, 2023, our responsibility, as described by professional standards, is to form and express an opinion about whether the financial statements that have been prepared by management with your oversight are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America. Our audit of the financial statements does not relieve you or management of its respective responsibilities.

Our responsibility, as prescribed by professional standards, is to plan and perform our audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement. An audit of financial statements includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control over financial reporting. Accordingly, as part of our audit, we considered the internal control of the Agency solely for the purpose of determining our audit procedures and not to provide any assurance concerning such internal control.

We are also responsible for communicating significant matters related to the audit that are, in our professional judgment, relevant to your responsibilities in overseeing the financial reporting process. However, we are not required to design procedures for the purpose of identifying other matters to communicate to you.

Planned Scope and Timing of the Audit

We conducted our audit consistent with the planned scope and timing we previously communicated to you.

Compliance with All Ethics Requirements Regarding Independence

The engagement team, others in our firm, as appropriate, and our firm have complied with all relevant ethical requirements regarding independence under the American Institute of Certified Public Accountants ("AICPA") independence standards, contained in the Code of Professional Conduct.

We identified self-review threats to independence as a result of non-attest services provided. Those non-attest services included the preparation of the financial statements.

To mitigate the risk, management has compared the draft financial statements and footnotes to the underlying accounting records to verify accuracy.

Significant Risks Identified

We have identified the following significant risks:

- GASB 96: Subscription-Based IT Arrangements: We reviewed transactions entered into by the Agency to determine if the new accounting standard was applicable.

Qualitative Aspects of the Entity's Significant Accounting Practices

Significant Accounting Policies

Management has the responsibility to select and use appropriate accounting policies. A summary of the significant accounting policies adopted by the Agency is included in Note 1 to the financial statements. There has been no initial selection of accounting policies and no changes in significant accounting policies or their application during 2022. No matters have come to our attention that would require us, under professional standards, to inform you about (1) the methods used to account for significant unusual transactions and (2) the effect of significant accounting policies in controversial or emerging areas for which there is a lack of authoritative guidance or consensus.

Significant Accounting Estimates

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's current judgments. Those judgments are normally based on knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ markedly from management's current judgments.

The most sensitive accounting estimates affecting the financial statements are management's estimate of which revenues are to be accrued at year end.

We evaluated the key factors and assumptions used to develop the estimates in determining that it is reasonable in relation to the financial statements taken as a whole.

Financial Statement Disclosures

Certain financial statement disclosures involve significant judgment and are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the Agency's financial statements relate to commitments and contingencies as communicated within the footnotes.

Significant Difficulties Encountered during the Audit

We encountered no difficulties in dealing with management relating to the performance of the audit.

Uncorrected and Corrected Misstatements

For purposes of this communication, professional standards also require us to accumulate all known and likely misstatements identified during the audit, other than those that we believe are trivial, and communicate them to the appropriate level of management. Further, professional standards require us to also communicate the effect of uncorrected misstatements related to prior periods on the relevant classes of transactions, account balances or disclosures, and the financial statements as a whole and each applicable opinion unit. Uncorrected misstatements or matters underlying those uncorrected misstatements could potentially cause future-period financial statements to be materially misstated, even though the uncorrected misstatements are immaterial to the financial statements currently under audit. There were no uncorrected misstatements as a result of our audit procedures.

In addition, professional standards require us to communicate to you all material, corrected misstatements that were brought to the attention of management as a result of our audit procedures. There were no material misstatements as a result of our audit procedures.

Disagreements with Management

For purposes of this letter, professional standards define a disagreement with management as a matter, whether or not resolved to our satisfaction, concerning a financial accounting, reporting, or auditing matter, which could be significant to the Agency's financial statements or the auditor's report. No such disagreements arose during the course of the audit.

Representations Requested from Management

We have requested certain written representations from management, which are included in the management representation letter dated December 8, 2023.

Management's Consultations with Other Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters. Management informed us that, and to our knowledge, there were no consultations with other accountants regarding auditing and accounting matters.

Other Significant Matters, Findings or Issues

In the normal course of our professional association with the Agency, we generally discuss a variety of matters, including the application of accounting principles and auditing standards, significant events or transactions that occurred during the year, operating conditions affecting the entity, and operating plans and strategies that may affect the risks of material misstatement. None of the matters discussed resulted in a condition to our retention as the Agency's auditors.

This report is intended solely for the information and use of the Governing Board, and management of the Agency, and is not intended to be and should not be used by anyone other than these specified parties.

Davis Farr LLP

Irvine, California
December 8, 2023

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 6.3

Title: Ratify Selection of Legal Counsel on Sustainable Groundwater Management Act Implementation Actions and Approve Fiscal Year 2023-24 Budget for Legal Services

Attachments:

1. Statement of Qualifications Best Best & Krieger, LLP
2. Conflict Waiver Letter for Soquel Creek Water District
3. Conflict Waiver Letter for City of Santa Cruz

Recommended Board Action(s):

1. Ratify the selection of Best Best & Krieger, LLP to provide legal services support on SGMA matters, and,
2. Approve an increase of \$30,000 to the Fiscal Year 2023-24 Budget for Legal Services; and,
3. Authorize the Board Chair to execute the related conflict waiver letters between the MGA and Soquel Creek Water District and the City of Santa Cruz

Background

The County of Santa Cruz serves as general legal counsel to the Santa Cruz Mid-County Groundwater Agency (MGA). As previously discussed with the Board, when the need for legal counsel with expertise on the Sustainable Groundwater Management Act (SGMA) (e.g., authorities) arose, the MGA would seek outside legal services.

On October 5, 2023, the MGA released a Request for Qualifications (RFQ) for Sustainable Groundwater Management Act (SGMA) legal support services to eight firms known to have experience with supporting Groundwater Sustainability Agencies in complying with SGMA. The RFQ was also posted on the MGA website (<https://www.midcountygroundwater.org/news/mga-seeks-legal-support-services>). MGA received four responses to the RFQ.

The Board approved budget for the current Fiscal Year (FY) 2023-24 includes \$20,000 for legal services. That amount is anticipated to be sufficient for general legal services but is not enough for the anticipated expense for outside legal counsel to provide the needed support on SGMA-specific issues. Increasing the amount for the Legal Services budget category requires Board approval.

Discussion

A committee of MGA Member Agency staff and representatives consisting of Ron Duncan (Soquel Creek Water District), Sierra Ryan (County of Santa Cruz), Tony Condotti (legal counsel representing the City of Santa Cruz) and Rob Swartz (Regional Water Management Foundation) completed an evaluation of the statements of qualification (SOQ) from the four firms that responded. Following review of the SOQs, the committee identified three firms as being most responsive to our request: Atkinson, Andelson, Loya, Ruud & Romo (AALRR); Best, Best & Krieger (BBK); and Downey Brand. The three firms were interviewed by the committee on November 16, 2023. Based on the combined evaluation of the submitted SOQ and interview performance, the committee unanimously identified BBK as the top ranked firm.

BBK also provides legal support to Soquel Creek Water District and the City of Santa Cruz on non-SGMA matters. A conflict waiver letter to address the issue would be executed prior to completing a professional services agreement with BBK. County counsel was consulted regarding BBK's legal support for two of the Member Agencies and determined the conflict waiver is adequate given the unlikely potential for a conflict. If a conflict of interest were to arise, as noted in the waiver, there is the possibility for unexpected and higher costs associated with retaining alternate counsel.

The Member Agency Executive Staff unanimously accepted the committee recommendation to select BBK. Per the MGA Policy, Executive Staff are authorized to approve procurements up to \$50,000. While the projected FY 2023/24 services are projected to be less than \$30,000, it is recommended the Board ratify the Executive Staff's approval of the committee's recommendation to proceed with BBK.

Fiscal Impact

The expense of legal support from BBK in FY 2023/24 is not anticipated to exceed \$30,000. It is proposed to increase the previously approved Legal Services budget from \$20,000 to \$50,000. This \$30,000 increase is not anticipated to increase the projected actual Total Operating Expenses in FY 2023/24 as the current projections indicate that expenses in other Budget Categories will be less than budgeted. While not anticipated to be necessary, the approved FY 2023/24 also includes a Contingency of \$108,106.

Recommended Board Actions:

1. By MOTION, ratify the selection of Best Best & Krieger, LLP to provide legal services support on SGMA matters, and,

2. By MOTION, approve an increase of \$30,000 to the Fiscal Year 2023-24 Budget for Legal Services; and,
3. By MOTION, authorize the Board Chair to execute the related conflict waiver letters between the MGA and Soquel Creek Water District and the City of Santa Cruz

Submitted by:

Tim Carson

Program Director

Regional Water Management Foundation

On behalf of the MGA Executive Staff

Ron Duncan, General Manager, Soquel Creek Water District

Ralph Bracamonte, District Manager, Central Water District

Rosemary Menard, Water Director, City of Santa Cruz

Sierra Ryan, Water Resources Manager, County of Santa Cruz



Proposal to Provide

Legal Support Services

Sustainable Groundwater

Management Act

Groundwater Sustainability Plan

Implementation

Presented to:

Santa Cruz Mid-County

Groundwater Agency

October 25, 2023

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COVER LETTER

October 25, 2023

DELIVERY VIA EMAIL

Rob Swartz
Santa Cruz Mid-County Groundwater Agency
c/o Soquel Creek Water District
5180 Soquel Drive
Soquel, CA 95073
admin@midcountygroundwater.org

Re: Request for Statement of Qualifications to Provide Legal Support Services, Sustainable Groundwater Management Act and Groundwater Sustainability Plan Implementation

Dear Mr. Swartz,

On behalf of Best Best & Krieger LLP (BBK), I am pleased to submit this statement of qualifications to the Santa Cruz Mid-County Groundwater Agency (MGA or Agency) to provide on-call legal advice and support services as the Agency develops a metering program and a long-term funding mechanism through fees in support of MGA's Groundwater Sustainability Plan (GSP) and in compliance with the state's Sustainable Groundwater Management Act (SGMA). We are confident that our proposed team will effectively and efficiently meet and even exceed the Agency's legal needs, and we are prepared to provide our services to the Agency immediately.

SGMA, enacted in 2014, requires local agencies to form groundwater sustainability agencies and develop plans that will ensure long-term sustainability of their groundwater basins. We realize that this is an immensely demanding task. Given the complexities of groundwater management and the challenges agencies face in implementing their GSPs, competent legal counsel in specific areas such as establishing metering programs as well as taxes, fee and assessment issues is imperative. BBK is more than able to fill this position for the Agency.

The MGA plays an important role in the future of groundwater sustainability for the Santa Cruz Mid-County Groundwater Basin and surrounding communities. As a premier California public agency law firm with a focus on water law, BBK has an in-depth understanding of the issues the Agency will encounter in regard to complying with SGMA. We currently represent more than a dozen groundwater sustainability agencies (GSA) across California, either as counsel to a joint powers agency GSA, or as counsel to one or more of the members of a GSA formed by memorandum of agreement (MOA). In addition, we also represent over 30 joint powers authorities working on regional water, wastewater and other resource issues. We are familiar with the issues confronting the Agency because of our experience working with public entities in Santa Cruz county, including MGA Joint Powers Authority (JPA) members City of Santa Cruz and Soquel Creek Water District.

We have a great concern for the future of California's communities and are invested in helping public agencies manage groundwater supplies. We are dedicated to providing the best legal counsel possible. BBK achieves excellency by emphasizing training and resources, innovative research, mentoring, internal

collaboration to strengthen our work product and outside relationship building to stay connected with the current problems on a local level. This sets BBK apart from its competitors.

BBK has the following exception to the Standard Agreement for Professional Services that has been included as Exhibit A to the RFQ:

- **Defense and Indemnification.** To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably approved by MGA), indemnify and hold MGA, its officials, officers, employees, agents, and volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage, or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any **alleged negligent** acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants, or agents in connection with the **negligent** performance of the Services, including without limitation the payment of all consequential damages, expert witness fees, attorneys' fees, and other related costs and expenses. Consultant's obligations to indemnify, defend, hold MGA harmless shall not apply where Claims were caused by the sole negligence or willful misconduct of MGA. Notwithstanding the foregoing, to the extent the Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by MGA, its officials, officers, employees, agents, or volunteers.

I will be a contact during the RFQ selection process. My full contact information follows:

Steve M. Anderson, Partner
Best Best & Krieger LLP
3390 University Avenue, 5th Floor
Riverside, CA 92501
Direct: (951) 686-1450
Fax: (951) 686-3083
Email: steve.anderson@bbklaw.com

Thank you for considering our proposal. The proposed BBK legal team is committed, available and has the resources to perform all services described in the RFQ. We would be pleased to serve the Agency, and we look forward to meeting with MGA representatives to further discuss our qualifications.

Sincerely,



Steve Anderson
of BEST BEST & KRIEGER LLP

I. QUALIFICATIONS OF FIRM

A. Description of Firm

Clients trust the legal professionals of Best Best & Krieger LLP (BBK) not only for our comprehensive legal knowledge and industry understanding, but for our commitment to providing excellent counsel and building relationships based on integrity. More than 130 years after the founding of our Firm, we value our clients' continued trust, which has allowed BBK to increase our range of legal services offered and expand our platform to over 250 attorneys and 12 offices nationwide.

Our full-service capabilities and interconnected network of practices allow us to assist our public agency, business and private clients with their complex, multi-disciplinary issues. BBK's experienced attorneys and legal staff share their knowledge and resources to help clients navigate the ever-changing legal complexities and regulatory challenges. With proactive and strategic counsel and representation, we enable clients to focus on their agencies while we help them plan for the future.

BBK is dedicated to creating a supportive, empowering workplace that allows our people to achieve their potential and deliver exceptional results for our clients and the communities we serve. We create opportunities for attorneys and professional staff of all backgrounds, and value diversity and teamwork. Our passion to make a positive and tangible difference in the communities in which we work and live is underscored by our ongoing support of a range of civic, cultural, charitable, educational and professional organizations.

BBK is a nationally recognized leader in water and water quality law. We are a uniquely qualified law firm with extensive experience in all aspects of water and related environmental issues, including regulatory, enforcement, and litigation matters. We help our municipal and special district clients meet the requirements for operating water supply, stormwater and wastewater systems, including compliance with rules under the Clean Water Act (CWA) and its National Pollutant Discharge Elimination System (NPDES), the federal and state Safe Drinking Water Acts, and state water and water quality laws and regulations.

We have more than 20 attorneys who specialize in water quality, water rights, and water supply planning and management. Also, the firm's managing partner and most senior partner co-authored *California Water* and *California Water II*. These publications are widely regarded as the leading authority on California water law and policy. Our attorneys provide legal counsel to clients pumping groundwater in dozens of groundwater basins around the state. We serve as legal counsel to groundwater sustainability agencies (GSAs), retail and wholesale water suppliers, watermasters in adjudicated basins, and other public entities that manage groundwater. Furthermore, we helped establish numerous GSAs, assisted in the preparation and review of groundwater sustainability plans, as well as in the negotiation of coordination agreements in basins with multiple GSAs in more than 25 groundwater basins around California. We also continue to work with our GSA clients faced with implementing their GSPs, as well as several clients in critically-overdrafted basins whose GSAs did not pass muster with the Department of Water Resources (DWR).

B. Key Personnel

The proposed attorney team is comprised of one lead attorney, one attorney to serve as assistant to the lead and one attorney who specializes in taxes, fees and assessments. BBK is prepared to commit its most qualified team of attorneys to assist MGA.

BBK proposes Steve Anderson to serve MGA as lead attorney, and Miles B.H. Krieger to assist Steve. Steve will serve as the primary contact with the Agency and supervise all legal services provided by BBK. Assisting Steve and Miles will be Lutfi Kharuf, whose practice specializes in taxes, fees and assessments, including the imposition of fees under Water Code, sections 10730 and 10730.2.

A brief biography of each attorney is provided below; full key personnel resumes are included in *Appendix A*.

Partner **Steve Anderson** works on water rights, groundwater, wetlands, in-lieu fee programs, endangered species, environmental mitigation, conservation easements and other natural resource law matters. As a partner at BBK, Steve is a member of the firm's Environmental Law & Natural Resources, Special Districts and Municipal Law Practice Groups.

Steve is regularly involved in water issues faced by public agencies and private clients across California, including water rights disputes, groundwater, recycled water, water diversions and reporting, drought impacts on water supply, implementation of SGMA, water bonds (Proposition 1), water supply assessments, wastewater and integrated water planning. Steve routinely drafts water rights opinions and contracts involving water supplies.

Steve's representative matters include:

- Serves as general or special counsel to seven GSAs or public agency members of multi-party MOA GSAs.
- Serves as general counsel to the first GSA in the State of California (Borrego Water District) to negotiate a stipulated judgment to adjudicate water rights after the passage of SGMA and to submit that judgment as an alternative to a GSP.
- Serves as legal counsel to two different watermasters established by adjudication judgments (one groundwater, one stream adjudication).
- Represents public water agencies producing groundwater from adjudicated and non-adjudicated basins across California.

Miles Krieger is an associate in the firm's Environmental & Natural Resources practice group with a focus on state and federal litigation involving water issues in California, Arizona, and Nevada. Miles works primarily with public agencies, watermasters, and private water suppliers. Miles currently works on several SGMA cases in Central and Southern California involving issues ranging from GSA formation to the adequacy of individual and coordinated GSPs; multiple matters related to long-term water supply contracts for State Water Project water; water quality control plan amendments in the Bay-Delta; and several ongoing tribal matters involving groundwater and federally reserved water rights.

Miles also works on various regulatory matters affecting water rights in California. Miles regularly advises on surface water rights applications, permitting, reporting practices, and measurement and monitoring

requirements. Miles also counsels on the exercise and protection of groundwater rights under California law.

Lutfi Kharuf is a partner in the Special Districts and Public Finance practice groups of BBK. Lutfi works with public agencies on compliance with constitutional and statutory limitations on imposing fees, charges and taxes, including Proposition 218 and Proposition 26. In this capacity, Lutfi assists public agencies with adopting new and increased fees, charges, assessments and taxes, as well as forming community facilities districts and assessment districts. Lutfi is currently assisting five GSAs with the establishment of SGMA fees.

II. UNDERSTANDING OF SGMA CHALLENGES

A. Significant Challenges for GSAs Considering Metering and Fee Programs

Many GSPs include as a project and management action or as a regulatory compliance measure to be implemented post GSP approval the establishment of well metering programs pursuant to their authority under Water Code, section 10725.8. Metering can provide more accurate information about groundwater pumping volumes than can be achieved through water use estimates or other methods. Information collected through metering can also fill monitoring and other data gaps essential for preparing annual reports and five-year GSP updates, and timely achieving sustainability. However, some GSAs have found it difficult, administratively, legally and politically, to actually implement meter installation and reading programs. For example, accessing meters on private wells usually involves obtaining landowner permission or, in a worst case scenario, seeking court authorization.

In our experience, GSAs (and watermasters) that have or are planning to move forward with metering programs can achieve best results through significant communication and public relations efforts with their landowners to try to achieve buy-in before the GSA adopts ordinances or rules and regulations regarding metering. Issues that frequently need to be addressed include:

- (1) notwithstanding SGMA's direction that landowners must pay for meter installation, can the GSA pay for, or help pay for, meters and installation;
- (2) will the GSA provide options for different types of meters, such as those equipped with telemetry allowing the meter to be read from a distance, if the landowner so prefers;
- (3) will the GSA designate that only certain types or brands of meters will be acceptable (see 23 CCR section 1042);
- (4) will the GSA establish a timeframe for meter installation (e.g., within 12 months);
- (5) will the GSA allow self-reporting of pumping volumes and, if so, will the GSA have the right to annually validate meter reads on site;
- (6) who will verify that the meter is installed correctly (e.g., in close proximity to the well) [we have seen manufacturer installation and certified verification be deemed acceptable];
- (7) how will the meters be calibrated when they are first installed, and how frequently thereafter, and at who's expense;
- (8) if the landowner agrees to allow GSA access to private property, will a right of entry agreement (with or without insurance and indemnification) be required, will the landowner have the right to designate which GSA employee or contractor is allowed to read the meter, will that person be escorted to the meter by the landowner; and
- (9) what non-monetary assistance will the GSA provide to those with meters after installation (e.g., help fixing a broken meter, testing, etc.).

B. Significant Challenges for GSAs using Enforcement Powers under SGMA

There can be challenges in using SGMA's enforcement powers, particularly insofar as those powers have not been heavily implemented or litigated to date.

On the legal side, will the GSA adopt an ordinance to implement and enforce the metering program? Will the ordinance target only specific well owners or all non de minimis well owners? Will there be an exemption process? What if a landowner is willing to provide electrical records and other information in lieu of a meter? Will the GSA rely primarily upon monetary or other penalties to achieve compliance [we note that some GSAs have induced compliance through suggesting that invoiced SGMA fee amounts will be more fair and accurate for those with meters than for those whose water production is estimated]. Will the ordinance include an appeals process to the GSA Executive Director and then to the GSA Board (see Water Code, section 10732(a)(2))? Will the ordinance provide for the GSA to enforce non-compliance through court action, per Water Code, section 10732(b)? How will the GSA fund any such litigation?

These are challenges that BBK is familiar with and ready to help MGA navigate.

III. EXPERIENCE WITH SIMILAR SERVICES

A. Experience with Supporting Clients in Developing GSPs that were submitted to DWR

BBK attorneys heavily participated in the negotiations that culminated in the suite of bills that ultimately constituted SGMA. As a result, we are intimately familiar with the law and the regulations, best management practice documents and other guidance provided by the Department of Water Resources (DWR) and the State Water Resources Control Board (State Board), and closely track regulatory developments and activities by DWR and the State Board as an ongoing matter. We have assisted in the entire SGMA process to date, from the formation of GSAs to the approval of GSPs and, more recently, their implementation. Indeed, we assisted in the negotiation, preparation and drafting of more than a dozen GSPs and alternatives. We are involved with the implementation of SGMA in more than a dozen groundwater basins across the state.

We have also assisted GSAs with development of documentation supporting basin boundary adjustments, preparation of “bridge documents” and submission of alternative plans, stakeholder engagement planning, retention of hydrogeological and other consultants and related activities. Due to our presence in Sacramento and longstanding work in the water field, we have also developed strong relationships with DWR and State Board staff charged with overseeing implementation of SGMA. Indeed, we interact with leaders and administrators in these agencies on a monthly or more frequent basis regarding GSP approvals and implementation.

The following is a list of some of the basins in which BBK currently serves as legal counsel for agencies acting as groundwater sustainability agencies:

- Bear Valley Groundwater Basin, Big Bear, General Counsel to the Bear Valley JPA, GSA for the entire basin
- Upper Santa Ana Valley, Riverside Arlington Basin, Riverside, General Counsel to Western Municipal Water District, GSA for the non-adjudicated portions of the basin
- Indio Subbasin, Coachella Valley, General Counsel to Desert Water Agency and Coachella Valley Water District, GSAs in separate portions of the basin
- Mission Creek Subbasin, Coachella Valley, General Counsel to Desert Water Agency and Coachella Valley Water District, GSAs in separate portions of the basin
- Elsinore Subbasin, General Counsel to Elsinore Valley Municipal Water District, GSA for the entire basin
- San Geronio Pass Subbasin, General Counsel to San Geronio Pass Water Agency, member of the multi-party GSA established for the basin
- Upper San Luis Rey Valley Subbasin, General Counsel to the Upper San Luis Rey Groundwater Management Authority, a joint powers agency GSA
- Sacramento Valley, Solano Groundwater Basin, General Counsel to Dixon Resource Conservation District, a member of the Solano Subbasin GSA JPA
- San Joaquin Valley Basin, Kern County Subbasin, Special Counsel to County of Kern, member of the Kern Groundwater Authority GSA
- Special counsel to Delano-Earlimart Groundwater Sustainability Agency, Tule Subbasin
- Paso Robles Subbasin, City Attorney to City of Paso Robles, which formed the Paso Robles City GSA
- Eastern San Joaquin Subbasin, City Attorney to City of Escalon, a member of the South San Joaquin

GSA

- Colusa and West Butte Subbasins of the Sacramento Valley Groundwater Basin, City Attorney to the City of Williams, a member of the Colusa Groundwater Authority, a JPA formed to serve as the GSA over portions of these two subbasins
- Yolo Subbasin, City Attorneys for Cities of Davis, Winters and Woodland, all members of the Yolo Subbasin Groundwater Authority, which serves as the GSA for the subbasin
- Modesto Subbasin, Special Counsel for County of Tuolumne, which formed the Tuolumne GSA
- Delta-Mendota Subbasin, City Attorney for City of Gustine, which formed the GSA over its portion of the subbasin
- Upper Ventura River Basin, Special Counsel for Upper Ventura River Groundwater Agency, which became the GSA over the basin
- Santa Ynez River Water Conservation District, Improvement District No. 1, one of four public agency members of the SYR Eastern Management Area GSA formed by MOA

In addition, we also represent individual GSA participants and/or public agency pumpers in a number of other groundwater basins, including:

- Ventura River Valley, Upper Ventura River Basin
- Santa Clara River Valley, Oxnard
- Santa Clara River Valley, Santa Paula
- Santa Maria Groundwater Basin
- Salinas Valley, Paso Robles Area
- Upper Santa Ana Valley Subbasin, Temescal
- Bedford-Coldwater Subbasin
- Sacramento Valley, North American Subbasin
- Warren Valley Basin, Yucca Valley
- Borrego Water District, Borrego Springs Subbasin

B. Experience Advising Clients on Metering or Fee Programs

With one of California's most extensive public agency practices, offices throughout the state, and decades of experience addressing the full range of fees, tax and assessment matters, BBK attorneys advise cities and special districts on revenue matters associated with the adoption, levy and defense of taxes, assessments, fees and charges.

We help our agency clients protect, preserve and enhance their limited public resources and revenues while making sure they meet state and federal statutory requirements. Additionally, we assist clients with:

- Reviewing utility rate and fee studies and assessment engineering reports
- Preparing notices of public hearings for the adoption of fees, charges, and assessments
- Complying with public hearing and protest procedures that must be followed to consider and adopt rates and charges
- Forming assessment districts
- Establishing new taxes, assessments, fees, and charges and increasing and extending existing ones, including SGMA fees under Water Code, sections 10730 and 10730.2

- Assuring compliance with the California Constitution and state laws governing the imposition of taxes, assessments, fees and charges
- Financing major public infrastructure and public services
- Litigating disputes regarding applicable rules, taxes, fees and charges

C. Experience with Advising Clients on Employing Enforcement Powers for Non-Compliance on Metering or Fee Programs

As a full-service law firm with a focus on the representation of public entities, we are experienced in addressing all of our clients' needs. Several of our GSA clients are currently in the midst of establishing metering programs. We have advised some of those clients on the enforcement powers available under SGMA, as well as other sources of authority. We also assisted Borrego Water District in establishing and implementing its metering program. That program was originally described as a project and management action in the final draft GSP, but it has been implemented as part of the stipulated adjudication of the Borrego Springs Subbasin. In addition to SGMA remedies, that program includes monetary penalties and court enforcement mechanisms.

D. List of Relevant Projects

Antelope Valley Adjudication

BBK represents the County of Los Angeles as special water counsel in the largest and among the most complex groundwater adjudications in California history. The comprehensive adjudication action involves more than 70,000 parcels spread across hundreds of square miles. The county and the federal government, primarily representing the interests of Edwards Air Force Base, served as the lead agencies in the action.

In 2015, after more than 15 years of litigation, the county and BBK attorneys were successful in negotiating a settlement in the form of a stipulated judgment and physical solution with more than 2,000 parties, including about 100 significant pumpers. The level of coordination needed to litigate and ultimately resolve the case was virtually unprecedented.

The physical resolution is based upon creative solutions to ensure the ongoing health of the basin through complex groundwater management, monitoring, and modeling regimes as well as water marketing. The judgment establishes firm groundwater allocation, groundwater storage and imported water return flow rights to benefit the county, helping to ensure its ability to serve water customers for decades to come.

The significant "lessons learned" from this work that can and will be brought to bear in all our water work going forward include the following:

- Gathering and relying upon the best available science, including groundwater modeling, is critical
- There is no "one size fits all" for physical solutions or other management plans needed to protect groundwater sustainability in the future; each situation is unique
- Supplemental water may not always be sufficient to correct overdraft conditions
- Settlement may expend more resources than litigation but may also lead to more beneficial outcomes that better ensure all pumpers move forward together

- Consistent coordination between client management and attorneys is critical to ensure interim and long-term goals are well developed and strategies are created to reach client goals in the most efficient manner possible

Cucamonga Valley Water District

BBK represents the Cucamonga Valley Water District on a variety of surface and groundwater right matters. For example, we advise the district concerning its adjudicated groundwater rights under the Chino Basin Judgment. Our counsel includes an ongoing multi-year negotiation among all parties regarding water rights and related interests as well as presentation and litigation of those issues before the trial court pursuant to its continuing jurisdiction over the Chino Basin Judgment. We also represent the district regarding its adjudicated groundwater rights in the Cucamonga Basin. Finally, BBK provides counsel to the district with respect to SGMA, conjunctive use programs and agreements, water right permitting issues and various water supply planning matters (UWMP and Water Supply Assessment).

San Geronio Pass Water Agency

BBK represents the San Geronio Pass Water Agency as general counsel on numerous important water rights issues. Among other matters, BBK worked with the agency to facilitate several multi-agency and stakeholder processes to form groundwater sustainability agencies and comply with SGMA in the San Geronio Pass, San Timoteo, and Yucaipa subbasins. The Pass Agency is the administrator of the San Geronio and Verbenia GSAs and the lead entity in administering the GSP. BBK also represents the agency in discussions with the Beaumont Basin Watermaster to secure a groundwater storage agreement in the basin and advises the agency in its role as the wholesaler of imported State Water Project (SWP) supplies for the San Geronio Pass Water Agency region.

Western Riverside County Regional Wastewater Authority

BBK is assisting Western Riverside County Regional Wastewater Authority (WRCRWA) in obtaining authorization to change its point of discharge from the Santa Ana River, so that it can utilize the water as recycled water for its member agencies. This project involves obtaining discharge approvals in a fully appropriated stream system with a complex groundwater setting. Work has included negotiations with downstream water rights holders, state and federal wildlife agencies and the State Water Resources Control Board. We have also defended WRCRWA in enforcement actions brought due to failure to meet discharge limitations imposed on its recycled water.

IV. CLIENT REFERENCES

Please do not hesitate to contact any of the following references for a more in-depth discussion of our ability to provide on-call legal advice and support services to the MGA.

BBK References
Amy Reeh, Executive Director Upper San Luis Rey Groundwater Management Authority P.O. Box 921 Pauma Valley, CA 92062 Phone: (760) 742-3704 Email: amy@yuimamwd.com
Geoff Poole, General Manager Borrego Water District 806 Palm Canyon Drive Borrego Springs, CA 92004 Phone: (760) 525-3918 Email: geoff@borregowd.org
Eric R. Quinley, General Manager Delano-Earlimart Irrigation District Groundwater Sustainability Agency 14181 Avenue 24 Delano, CA 93215-9528 Phone: (661) 725-2526 Email: equinley@deid.org

V. STANDARD RATE SHEET**A. Standard Rates for FY2024**

Personnel	Hourly Rate
Partner	\$360 per hour
Of Counsel	\$340 per hour
Associate	\$295 per hour
Paralegal, Analyst, Law Clerk	\$190 per hour

We strive to offer low, competitive rates for our public agency clients. Because of this, we request a nominal increase to our rates in the form of an annual cost of living adjustment (COLA) which follows the Consumer Price Index provided by the U.S. Department of Labor for the local area. We estimate these increases to be between 3% to 5% each year.

VI. POTENTIAL CONFLICTS OF INTEREST

Below is a list of current clients (and JPA signatories) that may directly or indirectly affect the performance of work or create the appearance of a conflict of interest with the anticipated assignment with MGA:

- City of Santa Cruz (current client)
- Soquel Creek Water District (current client)

Both of these entities will require waivers from the MGA before BBK can commence the anticipated assignment.

Besides the two JPA signatories listed above, BBK does not have any other relationships with other JPA signatories, Basin small water systems or other private well owners that would present a conflict or potential conflict of interest.

APPENDIX A

RESUMES



PARTNER

Steve M. Anderson

📍 Riverside, CA 📞 (951) 826-8279 ✉️ steve.anderson@bbklaw.com



Steve Anderson works on water rights, groundwater, wetlands, in-lieu fee program, endangered species, environmental mitigation, conservation easements and other natural resource law matters. As a partner at Best Best & Krieger LLP, Steve is a member of the firm's Environmental Law & Natural Resources, Special Districts and Municipal Law practice groups.

Water Law

Steve is regularly involved in water issues faced by public agencies and private clients across California, including water rights disputes, groundwater, recycled water, water diversions and reporting, drought impacts on water supply, implementation of the Sustainable Groundwater Management Act, water bonds (Proposition 1), water supply assessments, wastewater and integrated water planning. Steve routinely drafts water rights opinions and contracts involving water supplies.

General Counsel Practice

Steve serves as general counsel to water districts, court-appointed watermasters, resource conservation districts and other special districts. In this capacity, Steve works on Brown Act, conflict of interest, contracting, grant funding, employment, transactional and other public agency governance issues, in addition to natural resource law matters.

CWA, ESA and More

Steve also assists public and private entities with Section 404 wetlands permitting, in-lieu fee programs, mitigation banking and other federal Clean Water Act issues. He helps clients in complying with Section 7 consultation requirements, habitat conservation planning and conservation banking issues under the federal Endangered Species Act. Steve routinely interacts with the U. S. Fish and Wildlife Service, the Army Corps of Engineers, the California Department of Fish and Wildlife, the Regional Water Quality Control Boards and other state and federal regulatory agencies on permitting for infrastructure development and other public and private projects.

Steve represents public and private clients in administrative proceedings and civil litigation in state and federal courts involving the Delta, the Colorado River, State Water Resources Control Board orders, the ESA, the CWA, the California Endangered Species Act, the Porter-Cologne Water Quality Control Act and other laws.



CORE PRACTICES

- Endangered Species
- Environmental Law & Natural Resources
- Environmental Litigation
- Special Districts
- Water
- Business
- Municipal Law

EDUCATION & ADMISSIONS

Education

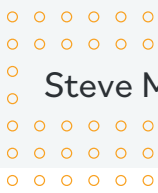
UC College of the Law, San Francisco (formerly Hastings), J.D.

University of California, San Diego, B.A.

Bar Admissions

California

District of Columbia



Steve regularly makes presentations on water, endangered species, CWA, mitigation and land conservation issues at local, regional and statewide conferences. Steve has taught courses on the ESA and habitat conservation planning at the University of California, Riverside. He also frequently drafts articles on the ESA and California water law issues for state and national publications.

Before joining BBK, Steve served as a judicial law clerk to the Chief Justice of the Nevada Supreme Court.

Steve also serves as a volunteer attorney and board member of the Inland Empire Latino Lawyers Association legal aid project, a nonprofit that provides free legal services to the under-served.

Sample Recent Matters

- Assisted public agencies in forming GSAs under SGMA in more than eight groundwater basins.
- Represented public water agency in dispute over local surface water supplies; litigation settled on favorable terms.
- Secured approval for the first Army Corps/EPA in-lieu fee program approved in the Los Angeles District under the 2008 CWA Mitigation Rule.
- Represented coalition of water agencies in endangered fish species litigation related to Delta water supplies.
- Assisted resource conservation districts and nonprofit land trust to place into conservation thousands of acres of protected riparian habitat and uplands.
- Helped vineyard owner in dispute with uphill neighbor over groundwater pumping.
- Prepared water rights opinion in support of multi-million dollar real estate transaction.

Accolades

- The Best Lawyers in America®, Water Law, 2019–2024
- Wiley W. Manuel Pro Bono Service Award
- IELLA Legal Aid Clinic Volunteer Attorney of the Year, 2001

Professional & Community Involvement

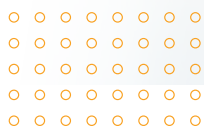
- Inland Empire Latino Lawyers Association legal aid project, Boards of Directors



ASSOCIATE

Miles B.H. Krieger

📍 Riverside, CA 📞 (951) 826-8215 ✉️ miles.krieger@bbklaw.com



Miles B. H. Krieger is an associate in Best Best & Krieger LLP's Environmental Law & Natural Resources practice group.

Miles' practice focuses on state and federal environmental litigation and regulatory issues, with an emphasis on California water rights matters. Miles represents both public and private sector clients. His litigation experience includes:

- Water rights disputes, including tribal water rights
- Sustainable Groundwater Management Act
- Solid Waste Management Act
- Inverse condemnation
- Taxation issues involving tribal lands

Miles also has experience providing public and private clients with strategic legal and regulatory advice related to:

- California water law, including petitions to regional water quality control boards
- Water rights and allocation transfer agreements
- SB 88 water rights measuring and monitoring requirements
- Comprehensive Environmental Response, Compensation, and Liability Act
- Williamson Act
- Water pipeline feasibility studies
- Clean Water Act

In addition to litigation and regulatory work, Miles has served as a guest lecturer at California State University, San Marcos on the Public Trust Doctrine and California water law.

Miles earned his law degree from the University of Arizona, where he was a member of the *Arizona Law Review*. During law school, Miles interned with the Arizona Attorney General's Office Natural Resources Division, where he participated extensively in the Gila River navigability adjudication. In addition, Miles was selected to be a Sol Resnick Water Fellow to work with Professor Robert Glennon in exploring water law and regulation issues nationwide.

Miles also worked on environmental-related economic development projects for the Pascua Yaqui Tribe as a research assistant for Professor James Hopkins.

In addition to a law degree, Miles earned a master's degree in business

CORE PRACTICES

Environmental Law & Natural Resources

Environmental Litigation

Water

Municipal Law

Special Districts

Native American Law

EDUCATION & ADMISSIONS

Education

University of Arizona, James E. Rogers College of Law, J.D.

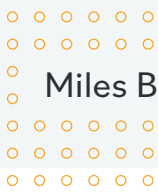
University of Arizona, Eller College of Management, MBA

Wesleyan University, B.A., philosophy, literature and history, with departmental honors

Bar Admissions

Arizona

California



administration from Eller College of Management at the University of Arizona.

Miles received a bachelor's degree from Wesleyan University, earning departmental honors in the College of Letters — an interdisciplinary program in philosophy, literature and history. Before attending law school, Miles taught English in Prague. In his free time, Miles enjoys tennis, golf and fly-fishing. Miles is admitted to the U.S. Ninth Circuit Court of Appeals and the U.S. District Court for the Central District of California.

Thought Leadership

Publications

- “Ninth Circuit Requires Evidence of No Injury, Recognizes Forfeiture of Pre-1919 Arizona Water Rights,” *BBKnowledge*, June 21, 2017

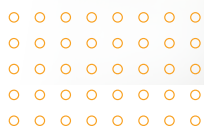
Presentations

- “*Arizona v. Navajo Nation*: Tribal Water Rights at the U.S. Supreme Court,” Argent Communications Group Annual California Water Law & Policy Conference, June 8, 2023
- “The Nature of Ownership of Native American Land and How Eminent Domain Procedures Are Different,” Continuing Legal Education International’s Annual Southern California Eminent Domain Conference, Mar. 3, 2022
- “Current Issues with the Clean Water Act,” HalfMoon Education California Water Laws and Regulation Seminar, Mar. 25, 2020

PARTNER

Lutfi Kharuf

📍 San Diego, CA 📞 (619) 525-1302 ✉️ lutfi.kharuf@bbklaw.com



Lutfi Kharuf is a partner in the Special Districts and Public Finance practice groups of Best Best & Krieger LLP. Lutfi works with public agencies on compliance with constitutional and statutory limitations on imposing fees, charges and taxes, including Proposition 218 and Proposition 26. In this capacity, Lutfi assists public agencies with adopting new and increased fees, charges, assessments and taxes, as well as forming community facilities districts and assessment districts. Lutfi is based in BB&K's San Diego office and serves as chair of the firm's Recruiting Committee.

Prior to joining BB&K, Lutfi worked as bond, disclosure and issuer's counsel to cities, special districts and other public agencies in California. Lutfi has experience advising clients on complex tax, securities and constitutional issues arising out of public finance transactions. Lutfi previously worked in the corporate and finance group of an international law firm in Frankfurt, Germany.

While earning his law degree from the University of Southern California Gould School of Law, Lutfi was a member of the Hale Moot Court Honors Program. After completing law school, Lutfi received his master's of law degree in finance from the Institute for Law and Finance in Frankfurt, Germany.

Lutfi formerly served on the Leadership Council of the GO Campaign, an organization dedicated to empowering local heroes to improve the lives of children across the globe. Lutfi is currently a board member of the San Diego County Bar Foundation, the charitable arm of the San Diego County Bar Association, and also sits on the Legal Affairs Committee of the Association of California Water Agencies. Lutfi is a mud run enthusiast and enjoys the sounds of live music during a night out at the Hollywood Bowl.

Accolades

- Annual Hot List, *Lawyers of Color*, 2023
- 40 Next Top Business Leaders Under 40, *San Diego Business Journal*, 2021
- *San Diego Super Lawyers Rising Stars*, Public Finance, 2021-2022
- 40 Under 40, *SD Metro Magazine*, 2020
- Top 40 Under 40, *San Diego Daily Transcript*, 2019

Professional & Community Involvement

- League of California Cities, City Attorney's Department, Municipal Finance Committee

CORE PRACTICES

Fees, Taxes & Assessments
Public Finance
Special Districts

EDUCATION & ADMISSIONS

Education

Goethe-Universitat Frankfurt am Main, Institute for Law and Finance LL.M, finance

University of Southern California Gould School of Law, J.D.

University of Southern California, B.A., international relations, with a minor in law and public policy, *magna cum laude*

Bar Admissions

California



- Association of California Water Agencies Legal Affairs Committee
- San Diego County Bar Foundation Board of Directors
- GO Campaign, Leadership Council, Vice Chair, 2016-2017



Steve M. Anderson
Partner
(951) 826-8279
steve.anderson@bbklaw.com

December 1, 2023

MAIL

Santa Cruz Mid-County Groundwater Agency
Executive Committee
c/o Rob Swartz
5180 Soquel Drive
Soquel, California 95073

Re: Conflict Waiver Letter (Soquel Creek Water District)

Dear Executive Committee and Mr. Swartz:

You have asked Best Best & Krieger, LLP (“Firm”) to represent Santa Cruz Mid-County Groundwater Agency (“the Agency”) regarding metering, fee and related Sustainable Groundwater Management Act issues. This firm currently represents Soquel Creek Water District (“SqCWD”), a member of the Agency’s joint powers agency, on various matters. The California Rules of Professional Conduct prohibit us from representing two current clients with adverse interests, even if they are adverse in separate unrelated matters, without your informed written consent. Therefore, we write to advise you of the conflict(s) of interest that potentially exists as a result of your request, the potential impact of our representation of SqCWD, and to obtain your informed written consent to proceed.

RULES OF PROFESSIONAL CONDUCT

Rule 1.7 of the California Rules of Professional Conduct provides in pertinent part:

- (a) A lawyer shall not, without informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.
- (b) A lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer’s representation of the client will be materially limited by the lawyer’s responsibilities to or relationships with another client, a former client or a third person, or by the lawyer’s own interests.
- . . .
- (d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), . . . and:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law; and
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

SCOPE OF REPRESENTATION & DISCLOSURES

Our representation of SqCWD in various matters is not prohibited, but requires your consent. We do not believe our representation of SqCWD will impair our competency, diligence or loyalty to the Agency nor will it otherwise materially limit our representation of the Agency or impair our independent professional judgment in any way. For example, we do not believe we will be tempted to favor the interests of one client over the other, nor do we think the relationship will create any appearance of impropriety. However, these are all things you should consider before entering into this attorney-client relationship. We will also preclude any BBK attorneys working on SqCWD matters from working on Agency matters.

In the event that circumstances change or we become aware of new information that requires client consent or new notice, each client will be notified of that fact immediately, and continued representation will be subject to that notice and the informed written consent of each client will be obtained as necessary. Should an actual conflict of interest develop in the future or if the relationship should materially limit our representation of either client, we may be required to terminate our representation, which could impact your attorney's fees and costs should you need to hire new counsel at that time.

YOUR CONSENT

If you wish us to represent the Agency in this matter, we need you to sign this consent letter. This consent will not waive any protection that you may have with regard to attorney-client communications with us in your matter. Those communications will remain confidential and will not be disclosed to any third party without your consent.

Please consider this matter carefully, and do not hesitate to contact us if you have any questions or concerns. You may wish to confer with independent legal counsel regarding this disclosure and your consent, and you should feel free to do so.

Your execution of this consent form will constitute an acknowledgment of full disclosure in compliance with the requirements of Rule 1.7 of the California Rules of Professional Conduct previously quoted in this letter, and your consent to proceeding with our representation of the Agency.

December 1, 2023

Page 3

A copy of this letter is enclosed for your files. If you have any questions, please do not hesitate to call.

Sincerely,



Steve M. Anderson
of BEST BEST & KRIEGER LLP

SMA:smb

CONSENT

By this letter, Best Best & Krieger LLP has explained the existing and/or reasonably foreseeable potential risks and conflict(s) of interest in the above referenced matter, and has informed me of the possible consequences of this representation and these conflicts. I understand that I have the right to and have been encouraged to consult with independent counsel before signing this consent, and I acknowledge that I have been given sufficient time to do so. Notwithstanding the foregoing, I hereby consent and agree to be represented by Best Best & Krieger LLP.

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

By: _____

Dated: _____



Steve M. Anderson
Partner
(951) 826-8279
steve.anderson@bbklaw.com

December 1, 2023

MAIL

Santa Cruz Mid-County Groundwater Agency
Executive Committee
c/o Rob Swartz
5180 Soquel Drive
Soquel, California 95073

Re: Conflict Waiver Letter (City of Santa Cruz)

Dear Executive Committee and Mr. Swartz:

You have asked Best Best & Krieger, LLP (“Firm”) to represent Santa Cruz Mid-County Groundwater Agency (“the Agency”) regarding metering, rate and related Sustainable Groundwater Management Act issues. This firm currently represents the City of Santa Cruz (“the City”), a member of the Agency’s joint powers agency, on various matters. The California Rules of Professional Conduct prohibit us from representing two current clients with adverse interests, even if they are adverse in separate unrelated matters, without your informed written consent. Therefore, we write to advise you of the conflict(s) of interest that potentially exists as a result of your request, the potential impact of our representation of the City, and to obtain your informed written consent to proceed.

RULES OF PROFESSIONAL CONDUCT

Rule 1.7 of the California Rules of Professional Conduct provides in pertinent part:

- (a) A lawyer shall not, without informed written consent* from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.
- (b) A lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer’s representation of the client will be materially limited by the lawyer’s responsibilities to or relationships with another client, a former client or a third person, or by the lawyer’s own interests.
- ...
- (d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), ... and:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- (2) the representation is not prohibited by law; and
- (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

SCOPE OF REPRESENTATION & DISCLOSURES

Our representation of the City in various matters is not prohibited, but requires your consent. We do not believe our representation of the City will impair our competency, diligence or loyalty to the Agency nor will it otherwise materially limit our representation of the Agency or impair our independent professional judgment in any way. For example, we do not believe we will be tempted to favor the interests of one client over the other, nor do we think the relationship will create any appearance of impropriety. However, these are all things you should consider before entering into this attorney-client relationship. We will also preclude any BBK attorneys working on City matters from working on Agency matters.

In the event that circumstances change or we become aware of new information that requires client consent or new notice, each client will be notified of that fact immediately, and continued representation will be subject to that notice and the informed written consent of each client will be obtained as necessary. Should an actual conflict of interest develop in the future or if the relationship should materially limit our representation of either client, we may be required to terminate our representation, which could impact your attorney's fees and costs should you need to hire new counsel at that time.

YOUR CONSENT

If you wish us to represent the Agency in this matter, we need you to sign this consent letter. This consent will not waive any protection that you may have with regard to attorney-client communications with us in your matter. Those communications will remain confidential and will not be disclosed to any third party without your consent.

Please consider this matter carefully, and do not hesitate to contact us if you have any questions or concerns. You may wish to confer with independent legal counsel regarding this disclosure and your consent, and you should feel free to do so.

Your execution of this consent form will constitute an acknowledgment of full disclosure in compliance with the requirements of Rule 1.7 of the California Rules of Professional Conduct previously quoted in this letter, and your consent to proceeding with our representation of the Agency.

December 1, 2023

Page 3

A copy of this letter is enclosed for your files. If you have any questions, please do not hesitate to call.

Sincerely,



Steve M. Anderson
of BEST BEST & KRIEGER LLP

SMA:smb

CONSENT

By this letter, Best Best & Krieger LLP has explained the existing and/or reasonably foreseeable potential risks and conflict(s) of interest in the above referenced matter, and has informed me of the possible consequences of this representation and these conflicts. I understand that I have the right to and have been encouraged to consult with independent counsel before signing this consent, and I acknowledge that I have been given sufficient time to do so. Notwithstanding the foregoing, I hereby consent and agree to be represented by Best Best & Krieger LLP.

SANTA CRUZ MID-COUNTY GROUNDWATER AGENCY

By: _____

Dated: _____

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 6.4

Title: Receive Information and Provide Direction on the Periodic (5-Year)
Evaluation of the Groundwater Sustainability Plan

Attachments:

1. None

Recommended Board Action: Receive Information and Provide Direction

Background

The Sustainable Groundwater Management Act requires Periodic Evaluation that is due at least every five years after submittal of a Groundwater Sustainability Plan (GSP or Plan). The Periodic Evaluation is intended to be a thorough assessment of how a GSP is performing and whether modifications are needed.

In June 2023, the MGA Board approved a contract amendment with Montgomery & Associates (M&A) to conduct a Periodic Evaluation of the Santa Cruz Mid-County Groundwater Basin GSP. Work on the Periodic Evaluation by M&A commenced in July 2023.

In October 2023, the Department of Water Resources (DWR) released additional guidance on GSP annual reports, periodic evaluations, and plan amendments. The DWR guidance document is available on the MGA website (<https://www.midcountygroundwater.org/news/new-dwr-guidance-gsp-annual-reports-evaluations-and-amendments>).

Discussion

M&A has made good progress with the Periodic Evaluation. Georgina King of M&A will provide: an overview of the recent DWR guidance; progress on the current Periodic Evaluation; an update on the evaluation of elevated chloride concentrations in groundwater in the Seascape area; and an update on the Periodic Evaluation Schedule.

Recommended Board Action:

1. Receive Information and Provide Direction.

Submitted by:

Rob Swartz

Senior Planner

Regional Water Management Foundation

On behalf of the MGA Executive Staff

Ron Duncan, General Manager, Soquel Creek Water District

Ralph Bracamonte, District Manager, Central Water District

Rosemary Menard, Water Director, City of Santa Cruz

Sierra Ryan, Water Resources Manager, County of Santa Cruz

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 6.5

Title: Receive Information and Provide Direction on Well Metering Program
for Non de minimis Users

Attachments: None

Recommended Board Action: Receive information and provide direction on well metering program development.

Background

The Groundwater Sustainability Plan (GSP) calls for a groundwater extraction metering program for non de minimis users, defined as those expected to extract more than 5 acre-feet per year, or more than 2 acre-feet per year from wells located in priority areas. Per the GSP, how the metering is to be deployed and monitored is to be defined through the development of a Metering Program.

The Metering Program is expected to consist of four components: 1) a Metering Plan; 2) a Metering Policy; 3) a Meter Installation Project; and 4) ongoing reporting by the applicable non de minimis groundwater users. The first Metering Program component, the Metering Plan, was received by the MGA Board on December 15, 2022, with the Board providing direction to staff to begin development of a Metering Policy to provide a framework for program implementation.

Staff provided an overview to the Board on September 21, 2023 of the proposed Metering Program components and a roadmap for completing meter installations on priority non de minimis wells by September 30, 2024, which would allow for starting extraction data collection by non de minimis users at the beginning of the next Water Year beginning October 1, 2024. As a next step in Metering Program development, staff proposed to bring a Well Registration Policy to the Board for consideration at its December 14, 2023 meeting.

Discussion

Based on discussion with the Board on September 21, Executive Staff directed staff to procure legal counsel with Sustainable Groundwater Management Act (SGMA) experience to advise MGA on SGMA authorities before further developing the

Metering Program. Staff deferred the development of a Well Registration Policy until legal counsel is under contract. Staff will provide an update on information of potential relevance to the Metering Program and is requesting direction from the Board.

Recommended Board Action:

1. Receive updated information from staff and provide direction on well metering program development

Submitted by:

Rob Swartz

Senior Planner

Regional Water Management Foundation

On behalf of the MGA Executive Staff

Ron Duncan, General Manager, Soquel Creek Water District

Ralph Bracamonte, District Manager, Central Water District

Rosemary Menard, Water Director, City of Santa Cruz

Sierra Ryan, Water Resources Manager, County of Santa Cruz

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 7.1

Title: Treasurer's Report

Attachments:

1. Treasurer's Report for the Period Ending November 30, 2023

Attached is the Treasurer's Report for September through November 2023. These reports contain three sections:

- Statement of Changes in Revenues, Expenses and Net Position
 - This interim financial statement provides information on the revenue that has been invoiced to the member agencies and the expenses that have been recorded as of the period ending date.
- Statement of Net Position
 - This interim financial statement details the cash balance at Wells Fargo Bank, the membership revenue still owed through accounts receivable, if any, prepaid expenses such as insurance, and the resulting net income as reported on the Statement of Changes in Revenues, Expenses and Net Position.
- Warrants
 - The list of warrants reflects all payments made by the MGA, either by check or electronic means, for the period covered by the Treasurer's Report.

The Treasurer's Report will be provided at each board meeting according to statutory requirement and to promote transparency of the agency's financial transactions.

Recommended Board Action:

1. Informational, no action necessary.

Submitted by: Leslie Strohm
Treasurer
Santa Cruz Mid-County Groundwater Agency

Treasurer's Report

Santa Cruz Mid-County Groundwater Agency
For the period ended November 30, 2023



Prepared by

Leslie Strohm, Treasurer

Prepared on

December 6, 2023

Statement of Revenues, Expenses and Changes in Net Position

September - November, 2023

	Total
INCOME	
Total Income	
GROSS PROFIT	0.00
EXPENSES	
5100 Groundwater Management Services	50,270.55
5110 Grndwtr Mgmt - Groundwater Monitoring	4,546.00
5300 Administrative Personnel Services	23,835.85
5315 Office Services	144.00
5340 Computer Services	954.96
5345 Professional Organizations	1,613.07
5355 Insurance	1,125.00
5410 Outreach Supplies	150.00
5415 Outreach Services	5,122.37
5510 GSP Consulting Services	10,938.00
5520 Legal Services	2,193.75
Total Expenses	100,893.55
NET OPERATING INCOME	-100,893.55
NET INCOME	\$ -100,893.55

Statement of Net Position

As of November 30, 2023

	Total
ASSETS	
Current Assets	
Bank Accounts	
1100 Wells Fargo Business Checking	1,999,575.15
Total Bank Accounts	1,999,575.15
Other Current Assets	
1400 Prepaid Expenses	281.25
Total Other Current Assets	281.25
Total Current Assets	1,999,856.40
TOTAL ASSETS	\$1,999,856.40
LIABILITIES AND EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2100 Accounts Payable	65,649.26
Total Accounts Payable	65,649.26
Total Current Liabilities	65,649.26
Total Liabilities	65,649.26
Equity	
3100 Retained Earnings	1,952,182.19
Net Income	-17,975.05
Total Equity	1,934,207.14
TOTAL LIABILITIES AND EQUITY	\$1,999,856.40

Warrants

September - November, 2023

Date	Transaction Type	Num	Name	Memo/Description	Clr	Amount
Bill Payment (Check)						
11/28/2023	Bill Payment (Check)	10347	County of Santa Cruz Health Services Agency	Voided		0.00
						0.00
11/28/2023	Bill Payment (Check)	10348	Errol L Montgomery & Associates Inc	Monitoring network; GSP Annual Report; Groundwater Modeling update		-17,880.00
						-17,880.00
11/28/2023	Bill Payment (Check)	10349	Regional Water Management Foundation	Grant administration		-12,914.26
						-12,914.26
11/28/2023	Bill Payment (Check)	10350	Soquel Creek Water District (2)	Mailchimp, Quickbooks, Zoom, Domain Renewal, and Water Harvest Festival		-567.96
						-567.96
10/24/2023	Bill Payment (Check)	10343	ACWA/JPIA	Member# S073		-1,125.00
						-1,125.00

Date	Transaction Type	Num	Name	Memo/Description	Clr	Amount
10/24/2023	Bill Payment (Check)	10344	City of Santa Cruz Water Dept	SGMI grant disbursement		-33,363.50
						-33,363.50
10/24/2023	Bill Payment (Check)	10345	Errol L Montgomery & Associates Inc	Annual Report, SGMA support, GSP 5-yr evaluation		-11,646.00
						-11,646.00
10/24/2023	Bill Payment (Check)	10346	Soquel Creek Water District (2)	Mailchimp, Quickbooks, Web Hosting, SGMI grant disbursement	R	-119,686.25
						-119,686.25
09/25/2023	Bill Payment (Check)	10340	County of Santa Cruz Health Services Agency	Agency Administration, Outreach, Data Coordination (Kisters), Groundwater monitoring improvements	R	-69,281.28
						-69,281.28
09/25/2023	Bill Payment (Check)	10341	Soquel Creek Water District (2)	Sponsor Water Harvest Festival	R	-1,000.00
						-1,000.00

Date	Transaction Type	Num Name	Memo/Description	Clr	Amount
09/25/2023	Bill Payment (Check)	10342 Trout Unlimited Inc	Stream monitoring	R	-2,707.91
					-2,707.91
09/08/2023	Bill Payment (Check)	10336 ACWA/JPIA	Cyberliability Insurance	R	-100.00
					-100.00
09/08/2023	Bill Payment (Check)	10337 City of Santa Cruz Water Dept	SGMI grant disbursement	R	-19,108.50
					-19,108.50
09/08/2023	Bill Payment (Check)	10338 Errol L Montgomery & Associates Inc	GSP Annual report, GSP 5-year evaluation	R	-5,080.00
					-5,080.00
09/08/2023	Bill Payment (Check)	10339 Soquel Creek Water District (2)	Mailchimp, Quickbooks, SGMI grant disbursement	R	-76,948.25
					-76,836.75
					-111.50
Expense					
10/05/2023	Expense	US003Wtzb7	GSuite subscription	R	-72.00

Date	Transaction Type	Num	Name	Memo/Description	Clr	Amount
						72.00
09/05/2023	Expense	US003Wcdqp	Google - Online Payments	G Suite Subscription	R	-72.00
				Google Payment - G Suit		72.00

December 14, 2023

MEMO TO THE MGA BOARD OF DIRECTORS

Subject: Agenda Item 7.3

Title: Annual Status Report on Board FPPC Compliance (Required by First Amended Bylaws Section 10.2)

	Form 700 Annual Filing	AB 1234 Ethics Training	
	2022	Current	Due
Board Members			
Curt Abramson	Filed	2/23/2023	2/23/2025
David Baskin	Filed	8/12/2022	8/12/2024
Carla Christensen	Filed	2/7/2023	2/7/2025
Fred Keeley	Filed	11/23/2023	11/23/2025
Zach Friend	Filed	2/1/2023	2/1/2025
Jon Kennedy	Filed	2/7/2023	2/7/2025
Jim Kerr	Filed	2/7/2023	2/7/2025
Manu Koenig	Filed	2/8/2023	2/8/2025
Tom LaHue	Filed	2/7/2023	2/7/2025
Robert Marani	Filed	7/7/2022	7/7/2024
Marco Romanini	Filed	2/7/2023	2/7/2025
Alternates			
Francis Whitney	Filed	11/2/2023	11/2/2025
Rachel Lather	Filed	10/27/2022	10/27/2024
Doug Engfer	Filed	4/11/2022	4/11/2024
Robert Schultz	Filed	2/7/2023	2/7/2025
Allyson Violante	Filed	7/20/2023	7/20/2025

Submitted by:

Tim Carson
Program Director
Regional Water Management Foundation



Tim Carson <admin@midcountygroundwater.org>

Fw: Wondering About Results of Santa Cruz MidCounty Groundwater Basin AEM Survey

Becky Steinbruner <ki6tkb@yahoo.com>

Sat, Nov 4, 2023 at 4:30 PM

To: MidCounty Groundwater Agency Board <comment@midcountygroundwater.org>

Cc: Sierra Ryan <sryan@midcountygroundwater.org>, Becky Steinbruner <ki6tkb@yahoo.com>

Dear MidCounty Groundwater Agency Board,
Please include the 2022 State-funded AEM results below as an agenda item on your December 14 meeting agenda with a discussion about how the result compares with the 2017 AEM study by Ramboll.

Thank you.
Sincerely,
Becky Steinbruner

----- Forwarded Message -----

From: Dlubac, Katherine@DWR <katherine.dlubac@water.ca.gov>

To: Becky Steinbruner <ki6tkb@yahoo.com>; Peisch, Amanda@DWR <Amanda.Peisch@water.ca.gov>

Sent: Monday, October 23, 2023 at 11:17:15 AM PDT

Subject: RE: Wondering About Results of Santa Cruz MidCounty Groundwater Basin AEM Survey

Hi Becky,

The publication of the final [Data Report](#), [AEM Data](#), and [Supporting Data](#) completes the Statewide AEM Survey data and report package for this Survey Area.

The 2017 AEM data were not collected by DWR and DWR has not conducted an analysis comparing the datasets. DWR does not plan to provide a presentation to the Survey Area GSAs to discuss the 2022 AEM data.

I recommend you reach out to your [local GSA](#) if you have area-specific questions.

Thank you,

Katherine



Katherine Dlubac, PhD, PG

Senior Engineering Geologist

Project Manager, Statewide AEM Surveys

Sustainable Groundwater Management Office

California Department of Water Resources

715 P Street, 8th Floor
Sacramento, California 95814

From: Becky Steinbruner <ki6tkb@yahoo.com>
Sent: Saturday, October 21, 2023 3:43 PM
To: Peisch, Amanda@DWR <Amanda.Peisch@water.ca.gov>
Cc: Dlubac, Katherine@DWR <Katherine.Dlubac@water.ca.gov>
Subject: Re: Wondering About Results of Santa Cruz MidCounty Groundwater Basin AEM Survey

You don't often get email from ki6tkb@yahoo.com. [Learn why this is important](#)

Dear Ms. Peisch and Ms. Dlubac,

I was able to review the information, updated on October 20, 2023:

https://data.cnra.ca.gov/dataset/aem/resource/eb132264-c259-49be-bfd4-aec0da253c49?inner_span=True

Is this the final version of the AEM Analysis? I found the information on pages 34-38 of the report of great interest.

How do the resistivity data of this 2022 analysis compare with the 2017 data for the MidCounty Basin?

<https://www.midcountygroundwater.org/sites/default/files/uploads/SkyTEM-Report-03152018.pdf>

Will there will be a presentation in the near future to discuss the information?

Thank you very much for your help.

Sincerely,

Becky Steinbruner

On Wednesday, October 11, 2023 at 09:29:21 AM PDT, Peisch, Amanda@DWR <amanda.peisch@water.ca.gov> wrote:

Becky,

Good morning. All statewide data that the Department has collected is posted online and is located on the [California Natural Resources Agency Open Data Portal](#). The AEM data is located at the following link: [DWR Airborne Electromagnetic \(AEM\) Surveys Data - Datasets - California Natural Resources Agency Open Data](#). Survey Area 8 is the location of the Santa Cruz Mid-County information.

The provisional data is available on this webpage, so the data reports are not available at this time and are still under development. Katherine may have a tentative date when that is available. Therefore, this information may be incomplete and are subject to revision until they have been thoroughly reviewed and received final approval. Provisional data and reports may be inaccurate and subsequent review may result in revisions to the data and reports. Data users are cautioned to consider carefully the provisional nature of the information before using it for decisions that concern personal or public safety or the conduct of business that involves substantial monetary or operational consequences.

Regards,

Amanda Peisch-Derby

From: Becky Steinbruner <ki6tkb@yahoo.com>

Sent: Tuesday, October 10, 2023 5:55 PM

To: Katherine Diubac <katherine.diubac@water.ca.gov>; Peisch, Amanda@DWR <Amanda.Peisch@water.ca.gov>

Cc: Becky Steinbruner <ki6tkb@yahoo.com>

Subject: Re: Wondering About Results of Santa Cruz MidCounty Groundwater Basin AEM Survey

Dear Ms. Diubac and Ms. Peisch-Derby,

Can you please provide information regarding the State's AEM survey in Santa Cruz County last November?

Thank you very much,

Becky Steinbruner

On Monday, September 18, 2023 at 10:12:57 PM PDT, Becky Steinbruner <ki6tkb@yahoo.com> wrote:

Dear Ms. Diubac,

Last November, the AEM survey funded by the Dept. of Water Resources was conducted in areas of the Santa Cruz MidCounty Groundwater Basin.

Do you have any information about the data results of that survey?

Thank you for your help.

Sincerely,

Becky Steinbruner