STATE OF CALIFORNIA

# Budget Change Proposal - Cover Sheet

DF-46 (REV 02/20)

| Fiscal Year | Business Unit | Department | Priority No. |
|---|---|---|---|
| 2023-24 | 3940 | State Water Resources Control Board | |

| Budget Request Name | Program | Subprogram |
|---|---|---|
| 3940-080-BCP-2023-MR | 3570 – Water Rights | |

**Budget Request Description**

Implementation of the Sustainable Groundwater Management Act

**Budget Request Summary**

The State Water Resources Control Board requests $4.8 million General Fund in fiscal years 2023-24 and 2024-25 to support 19.0 new permanent positions and $500,000 in contracting capacity to continue implementation of the Sustainable Groundwater Management Act to protect groundwater users and uses where and while local efforts remain inadequate. This new workload reflects that, in March 2023, the Department of Water Resources found local governments' management efforts in six basins to be inadequate.

| Requires Legislation | Code Section(s) to be Added/Amended/Repealed |
|---|---|
| ☐ Yes ☒ No | |

| Does this BCP contain information technology (IT) components? ☐ Yes ☒ No<br>*If yes, departmental Chief Information Officer must sign.* | Department CIO | Date |
|---|---|---|

**For IT requests, specify the project number, the most recent project approval document (FSR, SPR, S1BA, S2AA, S3SD, S4PRA), and the approval date.**

**Project No.** **Project Approval Document:**

**Approval Date:**

**If proposal affects another department, does other department concur with proposal?** ☐ Yes ☐ No

*Attach comments of affected department, signed and dated by the department director or designee.*

| Prepared By | Date | Reviewed By | Date |
|---|---|---|---|
| Trina Nguyen | 5/12/2023 | Ryan Wilson | 5/12/2023 |
| **Department Director** | **Date** | **Agency Secretary** | **Date** |
| Eileen Sobeck | 5/12/2023 | Yana Garcia | 5/12/2023 |

**Department of Finance Use Only**

**Additional Review: ☐ Capital Outlay ☐ ITCU ☐ FSCU ☐ OSAE ☐ CALSTARS ☐ Dept. of Technology**

| PPBA | Date submitted to the Legislature |
|---|---|
| Krystal Acierto | 5/12/2023 |

## Analysis of Problem

### A. Budget Request Summary

The State Water Resources Control Board requests $4.8 million General Fund in fiscal years 2023-24 and 2024-25 to support 19.0 new permanent positions and $500,000 in contracting capacity to continue implementation of the Sustainable Groundwater Management Act (SGMA) to protect groundwater users and uses where and while local efforts remain inadequate. This new workload reflects that, in March 2023, the Department of Water Resources found local governments' management efforts in six basins to be inadequate.

### B. Background/History

Full implementation of SGMA is among the most important measures California can take to adapt to a changing climate and ensure long-term water resilience. Implementation will be complex and until SGMA is implemented fully, parties—California Native American Tribes, drinking water users, irrigators, infrastructure users, and beneficiaries of public trust resources—will experience irreversible or worsening impacts.

SGMA operates at the scale of groundwater basins. Different basins are in different stages of SGMA implementation and compliance. As described below, since the passage of SGMA, people formed new local governments, called groundwater sustainability agencies (GSAs), and developed groundwater sustainability plans (GSPs). These GSAs work to improve and implement their groundwater management plans. Groundwater sustainability agencies have taken a range of planning approaches. State oversight of GSA efforts and of groundwater conditions has been led by the Department of Water Resources (DWR), which, in 2020, began to assess if plans were complete and adequate. Some GSAs have adequate plans and are implementing SGMA effectively. Others have inadequate plans, including plans with goals that DWR determined undermine the statutory intent of SGMA. Inadequate plans would allow drinking water wells to go dry, would not protect drinking water quality, would not prevent land subsidence, would not prevent harm to surface water systems, or would allow further decline in groundwater levels.

Between 2014 and now, the State Water Board mainly had a secondary role in the State's implementation of SGMA. State Water Board staff provided technical assistance to interested parties; advised DWR on possible issues with plans (for example, issues related to drinking water, water quality, and interactions between surface water and groundwater); and developed the capacity to intervene in groundwater management, where and when authorized to do so. Now, following DWR's determinations of the inadequacy of plans in six large and complex basins (with around 29,000 groundwater wells and extensive groundwater use), the State Water Board has the authority to intervene in groundwater management in those basins.

No other State agency can ensure SGMA is fully implemented. Without the requested resources, the State Water Board will not be able to adequately fulfill its unique and critical roles in SGMA. The State Water Board prioritizes SGMA implementation and will explore nuanced, calibrated, and appropriate ways to promptly address the complex issues in each basin. The State Water Board intends for SGMA implementation to be as simple and straightforward for parties as possible. The State Water Board does not intend to be more involved in groundwater management than necessary or to be involved in groundwater management for longer than necessary.

***Importance of groundwater management.*** As SGMA states, "when properly managed, groundwater resources will help protect communities, farms, and the environment against prolonged dry periods and climate change, preserving water supplies for existing and potential beneficial use." Groundwater is the only water supply for approximately one-third of California residents. Many disadvantaged communities, municipal users, and agricultural users rely on groundwater for all their water supply and are highly vulnerable to declining groundwater levels and to contaminants, such as nitrates, which can make the water unsafe to consume. Groundwater also sustains many ecosystems. Prior to SGMA, there was no State groundwater management and no local management in most places.

***Without coordination, the State will get less long-term value from groundwater.*** Groundwater is a valuable, limited, and renewable resource; *whether SGMA is implemented effectively or not*, the long-term limit to groundwater use is the rate of recharge in a basin.[1] Recharge is the combination of rainfall, streamflow, and imported surface water that increases groundwater levels. For example, if long-term recharge in a basin is x feet per cultivated acre per year, long-term extraction above that level cannot be sustained. The basin can be brought into a condition in which long-term extraction matches long-term recharge through effective coordination (resulting in shallower water levels) or as a result of additional extraction becoming uneconomic after well yields fall or pumping costs increased (resulting in deeper water levels).

***Overview of the Sustainable Groundwater Management Act.*** The Legislature enacted SGMA in 2014 to address harms that groundwater overdraft causes. SGMA authorizes local governments to act. SGMA directs the State to assess the adequacy of those local government efforts. As SGMA states, "in those circumstances where a local groundwater management agency is not managing its groundwater sustainably, the State needs to protect the resource until it is determined that a local groundwater management agency can sustainably manage the groundwater basin or subbasin." (Basin and subbasin are used interchangeably.) As mentioned, the new local governments are GSAs. Under SGMA, the GSAs for the State's 94 high-priority and medium-priority basins have to develop, adopt, and implement GSPs and reach sustainable management, at the basin scale, within twenty years.

***GSA roles.*** Groundwater sustainability agencies may regulate individuals' groundwater use—including through the creation of extraction allocations and ways to account for extraction and recharge—and may collect fees, as needed, subject to limitations in law. Groundwater sustainability plans should explain in detail what combination of reductions in extraction ("demand management") and recharge GSAs plan to use, and what milestones GSAs plan to meet. Without detailed and feasible GSPs, GSAs will not be able to attain sustainability on schedule. Collectively, GSAs adopted forty-seven GSPs by January 31, 2020. Sixty-six additional GSPs were adopted by January 31, 2022, and an additional four more have been adopted since then.

***State assistance.*** The Department of Water Resources, the Department of Food and Agriculture, the Department of Conservation, and the State Water Board have provided resources and assistance to help groundwater extractors, GSAs, community groups, California Native American Tribes, and others who participate in or may be impacted by SGMA implementation.

***State oversight.*** The Department of Water Resources is required to assess each GSP within two years of its submittal. After its initial reviews, DWR will review annual reports and conduct five-year reviews. The Department of Water Resources classifies basins' GSPs as *approved*, *incomplete*, or *inadequate*. If a basin is inadequately covered by one or more GSAs or if DWR refers a basin covered by GSAs to the State Water Board for having GSPs that are inadequately coordinated, substantively deficient, inadequately implemented, or some combination of the three, State Water Board intervention authority under SGMA can be triggered for the basin. In State intervention, the State Water Board acts *temporarily* as an *additional* groundwater regulator. During State intervention, GSAs may and should continue in their planning and management efforts. The process of State intervention is detailed in SGMA. After State intervention ends, ongoing State oversight of basins will be provided by DWR.

***State intervention starts with relatively passive management: collection of data on parties' extraction and related fees.*** State intervention in groundwater management in a basin has two main phases. Entry into each phase for each basin requires a State Board hearing and substantial technical and administrative work, described in the justification section below. Where and when warranted, in the first phase of State intervention, "probation," the State Water Board will collect data on extraction and associated fees from extractors. Fees are discussed below. The data collected will be helpful for the GSAs as they address deficiencies in their GSPs; many GSAs have been relying on rough, generalized estimates of groundwater extraction rather than on information gathered directly from

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[1] In some cases, the underground flow of water between basins also matters.

extractors. More precise water budgets will help GSAs understand what actions they will need to take to achieve sustainability.

***If efforts in basins remain inadequate, State intervention may progress to active management: direct regulation of parties' extraction.*** For a basin with an inadequate GSP, if deficiencies are not cured within a year,[2] the State Water Board may develop an "interim plan" for the basin and hold a hearing to adopt the interim plan. An interim plan will reflect data collected when the basin was in the probation phase. Interim plan implementation will likely include monitoring groundwater conditions and limiting extraction as needed to correct overdraft in the basin. Because interim plans are meant to be temporary—until sufficient local management is in place—it would be impractical for the State Water Board to build recharge projects or other physical solutions. GSAs, in contrast, have much greater flexibility to meet SGMA objectives: they can limit extraction, import water, build recharge projects, or build consensus around various methods of water reallocation, including tradable groundwater allocations and in-lieu recharge.

***A range of tools in the State Water Board's toolbox.*** In parallel to putting a basin into probation or implementing an interim plan, the State Water Board can also work to address conflicts, build a common understanding, engage with affected parties, and gather information through investigations and other means.

**CURRENT SITUATION**

***Status.*** In January 2022, DWR issued determinations for the GSPs from critically over drafted basins. DWR found twelve of twenty basins to have *incomplete* GSPs. SGMA allows GSAs 180 days to address the deficiencies that DWR identifies. GSAs responded and DWR assessed those responses. In March 2023, DWR determined six basins have *inadequate* GSPs. This triggered State Water Board authority for those basins. There may be over 29,000 groundwater wells in these six basins, based on well completion reports in DWR databases. As of April 2023, State intervention has not yet begun: the State Water Board discussed SGMA at a recent Board Meeting but has not scheduled or held hearings to consider making any probationary determinations.

***Groundwater conditions are generally as bad—or worse—as when SGMA was enacted.*** Groundwater elevations have generally continued to decline since SGMA was enacted. Over half the monitoring wells in DWR's groundwater levels database show a statistically significant downward trend over the past five years, and over twenty percent of the monitoring wells are currently experiencing the lowest groundwater levels ever measured at those wells. Groundwater sustainability plan Annual Report data indicate that groundwater elevations and storage have generally been declining since Annual Reports were first submitted in 2019. The DWR dry well reporting system indicates that more dry wells have been reported during the summer of 2022 than during any summer during the past drought, when SGMA was enacted. While SGMA allows for increased extractions during droughts if followed by restoration of groundwater levels in wetter years, it is clear groundwater levels are continuing to decline due to lack of management and that State intervention is needed.

***Severe deficiencies in plans imperil resources.*** It is important to understand the severity of the challenges that some GSAs face in quickly coming into compliance with SGMA. Correcting some these deficiencies may require the GSAs to reconsider some of the foundational assertions of their GSPs, such as how GSPs and data are coordinated, how beneficial users are considered, whether continued overdraft is appropriate, or from where water for recharge may be obtained and at what cost. Groundwater sustainability agencies in the basins referred to the State Water Board have revised their GSPs after getting feedback from DWR but have not fully addressed deficiencies. Examples of deficiencies DWR found in 2022:

1. GSAs set goals that undermine the statutory intent of SGMA.
2. GSAs failed to define goals clearly or adequately.

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[2] For basins not covered by a GSP at all, after 180 days, rather than a year.

3. GSAs did not plan to prevent groundwater from declining to levels that would harm or dewater drinking water wells.
4. GSAs did not plan to protect drinking water wells from groundwater quality issues caused by groundwater management.
5. GSAs did not plan to stop ground subsidence (sinking of the ground surface), even after full GSP implementation.
6. GSAs did not plan to stop groundwater level declines, even after full GSP implementation.
7. GSAs did not plan to prevent groundwater declines that would harm surface water systems.
8. GSAs' plans did not reflect consideration of all beneficial users or uses of groundwater.
9. In some basins with multiple GSPs, GSAs' efforts were so poorly coordinated that fundamental plan goals cannot even be assessed.

**SGMA FEES**

***State intervention would impose State fees on individual extractors.*** The State Water Board is required by law to recover its programmatic costs. Recoverable programmatic costs include, but are not limited to, costs incurred in connections with investigations, facilitation, monitoring, hearings, enforcement, and administration. To be able to recover its programmatic costs, the State Water Board adopted fees associated with extraction reporting required in areas found to be out of compliance with SGMA (Cal. Code Regs., tit. 23, § 1040 et seq.).[3] The State Water Board may adjust the fee schedule through an emergency rulemaking process. The fee schedule is shown below.

**Fee schedule**

| Fee Category | Fee Amount | Parties Fee Applies To |
|---|---|---|
| Base filing fee | $300 per well | All extractors required to report |
| Unmanaged area[a] rate if extraction is metered | $10 per acre-foot extracted | Extractors in unmanaged areas |
| Unmanaged area rate if extraction is unmetered | $25 per acre-foot extracted | Extractors in unmanaged areas |
| Rate for basins in probation | $40 per acre-foot extracted | Extractors in probationary basins |
| Rate for basins subject to an interim plan | $55 per acre-foot extracted | Extractors in probationary basins where the State Water Board determines an interim plan is required |
| De minimis fee | $100 per well | Parties that extract, for domestic purposes, two acre-feet or less per year from a probationary basin, if the State Water Board decides the extractions will likely be significant |
| Late fee | 25% of total fee amount per month late | Extractors that do not file annual extraction reports by the due date |

[a] Basins may have areas outside of the jurisdiction of any of the GSAs for the basin. Groundwater extractors in these "unmanaged areas" must report their extractions to the Board and pay associated

[3] In designating a basin probationary, the State Water Board will need to consider exempting certain classes of extractors from reporting their extractions.

fees (Wat. Code §10724, subd. (b).). Currently, the only unmanaged areas in the State are a small number of parcels in the Upper San Luis Rey subbasin in San Diego County.

***Future fee revenue expected...*** The timely formation of GSAs with jurisdictions that sufficiently cover basins meant the State Water Board has received only limited fee revenues to date (for example, $7,981 from water year 2019-20 for pumping in areas not covered by a GSA in the Borrego Springs Subbasin). Given the inadequacy of GSPs for basins noted above, fee revenues are now expected. The State Water Board anticipates that tens of thousands of groundwater pumpers may be required to report and that the first reports will be due as early as February 2025.

…***but fee revenues are hard to predict…*** Fee revenues will depend on many factors, including the number of basins subject to State intervention at any time, how long each basin is subject to State intervention, how many wells are used in the basins, how much water is extracted, if each basin is on probation or subject to an interim plan, and the subset of groundwater extractors from whom the State Water Board would require extraction reporting and fee payment.

***…and fee revenues will significantly lag work.*** As shown in the timeline below, the State Water Board may not receive SGMA fees for two years or more after the State intervention workload begins; the State Water Board would not be able to fund its program through a mix of General Fund and reporting fees until mid-2024 or 2025 at the soonest. General Fund support is therefore required now.

**A *possible* timeline for initial fee revenues**

| Step | Possible timing | Time after prior step (months) | Total elapsed time (months) |
|---|---|---|---|
| DWR finds a groundwater sustainability plan inadequate | March 2023 | | |
| State Water Board holds probationary hearing | September 2023 | 6 | 6 |
| Next full water year begins | October 2023 | 1 | 7 |
| Extractors begin recording extractions[a] | December 2023 | 2 | 9 |
| Water year ends | September 2024 | 10 | 19 |
| Extractors report their water use for the 11 months ending the previous September | February 2025 | 4.5 | 23.5 |
| State Water Board issues invoices | February 2025 or later | 1 | 24.5 |
| Fees due | March 2025 or later | 1 | 25.5 |

[a] Extractors start recording extractions as soon as ninety days after the probationary hearing (Water Code, §5202, subd. (a).).

***The Water Rights Fund cannot be used for this work.*** The State Water Board's Water Rights Fund cannot, under current law, be used to fund the activities described here because the State Water Board's water right fee structure and regulatory regime only extend to surface water.

**IMPACTS OF STATE INTERVENTION**

SGMA empowered people, through GSAs, to protect water rights from infringement by long-term overdraft and to preserve water supplies for existing and potential beneficial use, largely by reducing

unsustainable overdraft. The Legislature was aware that, given patterns of groundwater use, transitions to groundwater sustainability would have significant and complex positive and negative impacts on many parties and in many parts of the State, immediately and in the long-term. Growers now are weighing how to augment water supplies, make their operations more water efficient, or shrink production to match supplies. Crop shifting and fallowing are inevitable. County tax rolls, land use, employment, and farm-dependent businesses will be affected.

Specific impacts attributable to State intervention include:

1. The requirements of SGMA will be met, and met sooner, in more parts of the State.
2. Parties that are overdrafting groundwater basins will be curtailed and parties facing costs associated with unsustainable groundwater management (such as drinking water users with shallow wells) will likely benefit.
3. Compliance may be less flexible and more costly because SGMA requires the State Water Board to implement short-term actions to bring the groundwater basin into sustainability, while a wide range of actions are practical for GSAs.

**STATE WATER BOARD SGMA PROGRAM**

The State Water Board is committed to the achievement of basin-wide sustainability through SGMA. The SGMA Program has expertise related to water law, water rights, facilitation, data collection, drinking water issues, water quality issues, environmental justice issues related to drinking water and water quality, and issues of interconnected surface water and groundwater. The State Water Board has 21.0 positions dedicated to SGMA. The State Water Board also receives $500,000 from the General Fund per year for contracts, which is dedicated to a five-year contract currently in development for technical hydrogeologic services and facilitation services ($350,000 per year from July 2022 through June 2027) and a contract for basic maintenance and minor improvements to the State Water Board's online platform for required extraction reporting ($150,000 per year). Resources will be redirected to State intervention to the maximum degree possible. This is discussed in the Justification section.

The State Water Board coordinates closely with DWR and other state agencies with interests in SGMA, including the Department of Fish and Wildlife, the Department of Food and Agriculture, and the Department of Conservation. SGMA Program staff present at public meetings and meet with GSAs representatives, non-governmental organizations and associations, California Native American tribes, and others about SGMA implementation and the State Water Board's role. At many of those events, State Water Board and DWR staff have jointly presented.

**Resource History**
(dollars in thousands)

| | PY - 5 | PY - 4 | PY - 3 | PY - 2 | PY - 1 | PY | CY |
|---|---|---|---|---|---|---|---|
| **Authorized Expenditures** | $1,851 | $4,101 | $2,601 | $2,601 | $2,601 | $3,255 | $4,127 |
| **Actual Expenditures**[a] | $1,851 | $1,851 | $1,851 | $1,851 | $1,851 | $2,503 | $4,127 |
| **Revenues** | $0 | $0 | $0 | $8 | $0 | $0 | $0 |
| **Authorized Positions** | 10 | 15 | 14 | 14 | 14 | 21 | 21 |
| **Filled Positions** | 10 | 10 | 10 | 10 | 10 | 13 | 18 |
| **Vacancies** | 0 | 5 | 4 | 4 | 4 | 8 | 3 |

[a] CY is an estimate.

***Workload history.*** The SGMA Program's work has focused on providing resources to GSAs and interested parties (for example, the SGMA Water Quality Visualization Tool), building capacity for State intervention (including the development of an extraction reporting system), using State Water Board-specific expertise to support DWR's review of GSPs (for example, analyzing the impact of GSP goals on drinking water well users), coordinating with other agencies and programs, and providing technical expertise in court cases when required to do so. The table below shows the review of the

thirty-five GSPs in sixteen basins and sixteen comment letters to DWR summarizing reviews of those GSPs (one additional letter is pending). These numbers do not include reviews of the revised versions of incomplete GSPs (see Current Situation above). As described below, the tasks that now fall to the State Water Board are more complex.

**Workload History**

| Workload Measure | PY - 4 | PY - 3 | PY - 2 | PY - 1 | PY | CY |
|---|---|---|---|---|---|---|
| Number of GSPs reviewed, in whole or in part (projected for CY; there were no GSPs adopted before 2020) | 0 | 0 | 4 | 18 | 10 | 3 |
| Number of comment letters summarizing reviews developed for DWR to rely on posted to DWR's SGMA website (projected for CY) | 0 | 0 | 0 | 5 | 8 | 3 |
| Number of referrals of required technical analysis to the Board by courts or the Board's Administrative Hearings Office being worked on | 1 | 0 | 0 | 0 | 1 | 1 |
| Number of basins with unmanaged areas | 0 | 0 | 1 | 1 | 0 | 1 |

### C. State Level Consideration

Sustainable groundwater management is critical for the goals of the Water Supply Strategy and the California Water Resilience Portfolio, for the success of the State Water Board's Safe and Affordable Funding for Equity and Resilience Drinking Water Program (Chapter 120, Statutes of 2019, Senate Bill 200), for the success of the human right to water law (Chapter 524, Statutes of 2012, Assembly Bill 685), and for the protection of certain endangered species. Staff and leadership of the State Water Board and DWR coordinate closely on SGMA. Staff are also coordinating with the Department of Fish and Wildlife, the Department of Food and Agriculture, counties, GSAs, and others.

### D. Justification

In March 2023, DWR determined that protection of groundwater uses and users in six basins depends on State Water Board action. The State Water Board must now fulfill its primary, unique role in SGMA. Up until now, the State Water Board has focused on providing guidance to groundwater users, GSAs, and other interested parties, and on aiding DWR in its review of GSPs in critically over drafted basins. But the State Water Board's primary role in SGMA is to act as the backstop when extractors fail to collectively manage groundwater in their basins.

On a case-by-case basis, as appropriate for each basin, the State Water Board will now have to carry out many tasks marked by:

- **Urgency and risks of irreversible harms from insufficient management.** Certain undesirable results, such as subsidence, reductions in water tables that prevent a public water system from being able to meet the needs of a vulnerable community, or reductions in surface waters on which endangered fish species depend, may be hard or impossible to mitigate.
- **Technical complexity.** This includes the need for adaptive management, extensive uncertainty, decadal time horizons, and the extensive spatial heterogeneity of conditions and impacts of extractions, recharge, and groundwater management within basins and GSA jurisdictions. Staff must have mastery of the contents of GSPs, which are extensive and detailed, along with other materials.
- **Controversy.** Groundwater extraction and regulation affect many parties and a range of State interests, including the human right to water and public trust obligations.

- **Large numbers of diverse interested parties and interests.** Parties affected by SGMA implementation may include: groundwater extractors (including drinking water systems, irrigators, domestic well owners, commercial and industrial groundwater users, and some wildlife preserves); GSAs that failed to coordinate sufficiently to this point, cities and counties; parties in the economies in the affected basins, which are highly connected to irrigated agriculture; parties affected by groundwater management or mismanagement (including other GSAs, users of public trust resources, such as groundwater-dependent streams and ecosystems, parties affected by subsidence, and parties who could be affected by land use changes associated with SGMA, including land fallowing); and parties affected by GSAs' projects and management actions (including parties in places from which surface water that could be used for expanded recharge may come).
- **Opportunities for positive outcomes.** The State Water Board will dedicate significant resources to build a common understanding of SGMA goals and processes and to make SGMA-related decisions that consider the complexity of the state's geography and water management needs, as well as the many State and local programs and planning efforts that intersect with SGMA. To follow through on the State Water Board's commitment to using a racial equity lens in its decision-making, the State Water Board's engagement efforts and hearings will bring together parties that have not been heavily involved or actively included before.

Projections of the efforts SGMA implementation will require reflect analysis of the six specific basins that DWR referred to the State Water Board. The task list below is focused on the work that would begin now and covers assessment of potential probation and implementation of probation. Not listed are the possible enforcement of reporting requirements; the possible use of investigation orders; the possible development of full interim plans; and the possible implementation of interim plans. The State Water Board will adjust workloads and re-assess resource needs as work on basins moves between different situations (preparation for a probationary hearing, probation, preparation for an interim plan, and interim plan implementation), as workloads associated with adjudications reach the SGMA Program, and as DWR makes assessments of the adequacy of ongoing efforts in the basins. The State Water Board, for example, expects additional workload if DWR deems plans for other basins inadequate, possibly by May 2023. Note: both total resource needs and the proposed increases in resources are listed below because the State Water Board proposes to use a mix of redirected current resources and proposed resources for these tasks.

***Tasks.***

1. **Assess basins for possible probation and document plan deficiencies (additional 4.25 PY proposed to meet 7.25 PY total current need)**

   **(A) Consult with DWR on basin inadequacy.**

   **(B) Advise senior leadership regarding probation.** Given the scope of State intervention, extensive coordination and careful planning will be needed. This includes attorneys addressing legal issues that may be raised and advising leadership on investigations, hearings, and inspections needed.

   **(C) Upon request, consider if certain parties are "subject to a local plan or program that adequately manages groundwater."** Staff will assess well-justified requests for exemptions from reporting and fees from extractors or groups (such as municipal water systems or irrigation districts).

   **(D) Upon request, consider, in close coordination with DWR, if specific GSAs meet State Water Board determinations of compliance with sustainability goals**. Staff will assess well-justified requests for exemptions from reporting and fees from GSAs.

   **(E) Specify deficiencies.** The State Water Board must identify the specific deficiencies GSAs must resolve. The deficiencies documented by DWR will be used in State Water Board decision-making. To the degree practical, the consideration of probation and the State Board's specification of deficiencies should reflect plan

revisions and groundwater management program and project implementation steps GSAs may make or may have made since GSAs last submitted information to DWR.

(F) **Identify specific actions GSAs could take to remedy deficiencies.** The State Water Board must identify potential actions GSAs could take to address the identified deficiencies. This could involve synthesizing or adapting approaches that GSAs with approved GSPs took for a given issue.

2. **Prepare for probationary hearings (additional 4.25 PY proposed to meet 7.25 PY total current need)**

   (A) **Notice the hearing.** Interested parties and all known groundwater extractors will need to be notified of the probationary hearing. This will be a very labor-intensive effort that will include acquiring and analyzing extraction data from GSAs and other associated local agencies and mailing notices to potentially tens of thousands of people.

   (B) **Develop and maintain a public web page for each basin.** Web postings will include all final documents relevant to the probationary hearing for each basin, as well as links to relevant information, and information on how to provide public comment.

   (C) **Solicit and analyze public comments.** There may be extensive public comments that the State Water Board should consider. Staff will have to organize, categorize, and consider comments.

   (D) **Hold the hearing at which Board Members consider probation.**

   (E) **Consider extraction reporting.** In designating a basin probationary, the State Water Board will need to consider exempting certain classes of extractors from reporting their extractions, whether de minimis users should have to report, whether additional information should be collected, whether groundwater meters or certain methods should be required to report extractions, and if the default reporting schedule should be changed. Staff proposals for Board Member consideration will require analyses of how water use and socioeconomic vulnerability vary across a basin.

3. **Administer extraction reporting program (additional 7.25 PY proposed to meet 12.25 PY total current need).**

   Staff will notice extraction reporting and fees and respond to extractor questions. After a basin is designated probationary, potentially tens of thousands of groundwater extractors with different levels of familiarity with SGMA and different levels of technical skill must begin measuring and reporting their extractions, filing annual extraction reports using the State Water Board's groundwater extraction and reporting system, and paying associated fees. Many people will not be able to report unless they get technical support from the State Water Board by phone or email. If the extractors do not get prompt support, it will take more time and resources for the State Water Board to collect information and reporting fees.

   Workload associated with assisting people and ensuring compliance may be substantial, based on the State Water Board's experience with water rights reporting and with the Russian River informational orders in the 2014-2017 drought.

4. **Assess GSP updates, assess petitions to exit probationary status, and refine management approaches (no additional positions proposed at this time; 3.0 PY will be dedicated to this)**

   The State Water Board must assess whether GSP updates adequately resolve deficiencies and whether GPS are being adequately implemented. The State Water Board will also have to track trends in groundwater levels and compare them to milestones in GSPs. This analysis will be time-consuming because these milestones are sometimes poorly defined. Staff will also develop possible approaches for groundwater management.

5. **Other tasks (additional 3.25 PY proposed to meet 10.25 PY total current need)**

   (A) **Engage with interested parties to meet SGMA goals and resolve conflicts using strategies to advance equity and trust building, provide information.** Given the complexities of various perspectives and needs, strategies for conflict resolution and trust building will be required. For probationary hearings to be successful, significant levels of engagement will be required before they are held or in parallel. Staff will need to engage with smaller groups of beneficial users that were not always adequately consulted in the submitted GSPs, including impacted groups, communities, and California Native American tribes. There will also be a need to develop public education approaches to help interested parties understand State intervention and why it may be important for them to engage. Engagement will include general communications (e.g., postcards, emails, phone calls) covering how people can get involved in the process, focused meetings centered on GSP deficiencies, and broad, in-person or online stakeholder meetings. This will include translation and interpretation where appropriate. Staff will also develop public-facing education materials, including web content, guides, fact sheets, and other materials. Manage public meeting logistics, including coordinating venues and audio-visual services. Staff will present on details of SGMA at workshops, GSA meetings, and other public venues. Staff will respond to general questions from stakeholders.

   (B) **Provide general SGMA implementation assistance.** Staff will develop tools to estimate the impacts of GSPs, including the benefits of management actions on beneficial users and uses. Examples of existing tools include partnerships with DWR to develop the Dry Domestic Well Susceptibility Tool[4] and the SGMA Water Quality Visualization Tool.[5] Staff will maintain a SGMA basin status web map and other critical online map applications. Additionally, staff will develop and lead pilot projects to support SGMA implementation, such as those to evaluate groundwater recharge sites and develop water use evaluation methods, such as OpenET, and other satellite-based remote sensing tools.

   (C) **Manage contracts.** SGMA Program staff oversee the program's technical hydrogeologic services and facilitation contractors. The State Water Board needs to be able to offer facilitation services as part of efforts led by the State Water Board that may focus on several aspects of water management (such as conflict resolution, coordination, governance, or technical aspects). Engineering service providers will provide technical assistance to the SGMA Program and may install monitoring wells or sample and assess groundwater quality. Staff tasks include reviewing and approving work scopes, reviewing deliverables for completeness, reviewing monthly invoices, and ensuring work meets program needs.

   (D) **Media.** Staff will inform and educate the public about the State's objectives and activities as the State Water Board assumes its primary role under SGMA. Staff will deploy strategic communications planning, effective media management, and constant media monitoring and analysis to promote State objectives, address misinformation, and advise about public relations implications of potential actions. SGMA will draw significant media interest and require the expertise of a full-time information manager. The State Water Board has already fielded media inquiries and identified misinformation about the State Water Board's preliminary actions.

   (E) **Maintain online system for groundwater extraction reporting.** Staff will maintain and enhance the online platform that all groundwater extractors subject to the State Water Board's SGMA reporting requirements must use. This includes working to

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[4] https://storymaps.arcgis.com/stories/f2b252d15a0d4e49887ba94ac17cc4bb.

[5] https://www.waterboards.ca.gov/water_issues/programs/sgma/water-quality-visualization-tool.html.

ensure that the online system continually meets statutory requirements and program needs.

**(F) Ensure State Water Board's actions meet the intent and requirements of SGMA.** Expected legal work related to probationary status determinations. The development and adoption of interim plans would involve helping to organize and assemble the record for the decision, preparing and reviewing documents, providing legal analysis, and staffing hearings. In addition, since probationary status impacts individuals and businesses in addition to GSAs, there is a high likelihood of litigation. Counsel will be called upon to prepare referrals to the Office of the Attorney General, consult on legal strategy and facts, draft legal memos, help prepare the litigation record, and review briefs and other filings. In addition, legal assistance may be required in litigation where the State Water Board is not a party, including adjudications or other water right litigation where a court is statutorily entitled to reference any or all issues to the State Water Board for an investigation and to report upon the law and facts. This work could potentially be conducted by the SGMA Program's legal staff or by the State Water Board's Office of Administrative Hearings, with assistance from SGMA Program legal staff.

**(G) Provide technical assistance when required by courts handling water right adjudications or similar efforts initiated by GSAs or groundwater extractors subject to SGMA.** State law provides a mechanism for courts to refer water right questions to the State Water Board for determinations. This required assistance could be a significant workload, given broad interest in adjudications as judicial proceedings that can provide GSAs and other parties certainty regarding the scope and priority of water rights in basins. Recently, for example, the State Water Board had to dedicate 1,438 hours of staff time to apply expertise in hydrology and California water rights law, to support a court reference regarding *Salinas Valley Water Coalition v. Monterey County Water Resources Agency, et al*.

***Tasks require 19.0 additional positions.*** The State Water Board should have the resources to act deliberately and with an appropriate sense of urgency. The State Water Board requests permanent positions and General Fund resources for two fiscal years. See the summary below. This summary presents the total need and subtracts current positions, all of which may be redirected as needed to the tasks above.

**Summary**

| Task | Total positions needed for tasks above for six basins |
|---|---|
| Assess basins for possible probation and document plan deficiencies | 7.25 PY |
| Prepare for probationary hearings | 7.25 PY |
| Administer extraction reporting program | 12.25 PY |
| Assess GSP updates, assess petitions to exit probationary status, and refine management approaches | 3.0 PY |
| Other tasks | 10.25 PY |
| Less existing positions to be (re)directed to the above tasks | (21.0 PY) |
| **Total positions requested** | **19.0 PY** |

***Contracting.*** The State Water Board requests $500,000 from the General Fund in fiscal years 2023-24 and 2024-25 to expand capacity for contracting. Services to be contracted for will include technical hydrogeological services, maintenance and minor improvements to the State Water Board's online platform for required extraction reporting, and facilitation and conflict resolution services.

***Adverse impacts if proposal not approved.*** If this proposal is not approved, the fundamental structure of SGMA would be in jeopardy. The State Water Board has a role in SGMA that no other party can play. Without funding for State intervention as a credible backstop, the incentives SGMA can provide for effective, sustainable management by local governments would be much weaker. Without groundwater sustainability through SGMA, State costs, such as for infrastructure and for emergency drinking water, would be higher. Finally, other State Water Board programs from which resources might be redirected would be less effective.

## E. Outcomes and Accountability

This request will help end unsustainable groundwater use in the major groundwater basins in California and will make drinking water supplies reliant on groundwater more resilient to drought. This request will contribute to GSAs, groundwater extractors, and other interested parties working to address deficiencies in GSPs and to the management of groundwater levels, groundwater storage capacity, seawater intrusion, groundwater quality, land subsidence, and groundwater that is interconnected with surface water. The public will be able to track progress and participate in SGMA implementation.

## F. Analysis of All Feasible Alternatives

**Alternative 1:** Approve $4.796 million General Fund for fiscal years 2023-24 and 2024-25 to support 19.0 new positions and provide additional contracting capacity.

> **Pros:** Allows the State Water Board to act promptly on basins with deficiencies to reduce the harms of unsustainable groundwater management, such as dewatered domestic wells used by disadvantaged communities and damaged infrastructure.
>
> **Cons:** Requires resources from the General Fund.

**Alternative 2:** Approve the proposal but shift more of the requested resources into fiscal year 2024-25.

> **Pros:** Requires less resources from the General Fund in the budget year.
>
> **Cons:** Slows SGMA implementation.

**Alternative 3:** Deny the request. This would require the State Water Board to redirect resources to implement SGMA.

> **Pros:** Requires no resources from the General Fund.
>
> **Cons:** Threatens the fundamental structure of SGMA and therefore of groundwater sustainability. Delays State intervention. Weakens the incentives SGMA provides for effective, sustainable management by local governments. Allows harms of unsustainable groundwater management (which the State may have to pay for in other ways), such as dewatered domestic wells in disadvantaged communities and damaged infrastructure, to continue. Harms beneficiaries of other State Water Board programs from which resources would be redirected.

## G. Implementation Plan

Project plans are in progress. Implementation will begin upon budget approval. Staffing will be completed within months of budget approval. Additional office space is not needed.

## H. Supplemental Information

There is basic information in the frequently asked questions file "Groundwater, the Sustainable Groundwater Management Act, and State Intervention," online at https://www.waterboards.ca.gov/water_issues/programs/sgma/docs/groundwater-sgma-state-intervention-faqs.pdf. For additional information, see the fact sheet, "Probationary Designation and

Groundwater Regulation by the State Water Board," online at https://www.waterboards.ca.gov/water_issues/programs/gmp/docs/sgma/sgma_probation.pdf.

## I. Recommendation

***Approve Alternative 1.***

# BCP Fiscal Detail Sheet

BCP Title: Implementation of the Sustainable Groundwater Management Act

BR Name: 3940-080-BCP-2023-MR

Budget Request Summary

| Personal Services | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| Positions - Permanent | 0.0 | 19.0 | 19.0 | 19.0 | 19.0 | 19.0 |
| **Total Positions** | **0.0** | **19.0** | **19.0** | **19.0** | **19.0** | **19.0** |
| Salaries and Wages Earnings - Permanent | 0 | 2,133 | 2,133 | 0 | 0 | 0 |
| **Total Salaries and Wages** | **$0** | **$2,133** | **$2,133** | **$0** | **$0** | **$0** |
| Total Staff Benefits | 0 | 1,028 | 1,028 | 0 | 0 | 0 |
| **Total Personal Services** | **$0** | **$3,161** | **$3,161** | **$0** | **$0** | **$0** |

## Personal Services

## Operating Expenses and Equipment

| Operating Expenses and Equipment | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| 5301 - General Expense | 0 | 29 | 29 | 0 | 0 | 0 |
| 5302 - Printing | 0 | 63 | 63 | 0 | 0 | 0 |
| 5304 - Communications | 0 | 158 | 158 | 0 | 0 | 0 |
| 5306 - Postage | 0 | 32 | 32 | 0 | 0 | 0 |
| 5320 - Travel: In-State | 0 | 284 | 284 | 0 | 0 | 0 |
| 5322 - Training | 0 | 253 | 253 | 0 | 0 | 0 |
| 5324 - Facilities Operation | 0 | 316 | 316 | 0 | 0 | 0 |
| 5340 - Consulting and Professional Services - External | 0 | 500 | 500 | 0 | 0 | 0 |
| **Total Operating Expenses and Equipment** | **$0** | **$1,635** | **$1,635** | **$0** | **$0** | **$0** |

## Total Budget Request

| Total Budget Request | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| **Total Budget Request** | **$0** | **$4,796** | **$4,796** | **$0** | **$0** | **$0** |

# Fund Summary

## Fund Source

| Fund Source | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| State Operations - 0001 - General Fund | 0 | 4,796 | 4,796 | 0 | 0 | 0 |
| **Total State Operations Expenditures** | **$0** | **$4,796** | **$4,796** | **$0** | **$0** | **$0** |
| **Total All Funds** | **$0** | **$4,796** | **$4,796** | **$0** | **$0** | **$0** |

# Program Summary

## Program Funding

| Program Funding | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| 3570 - Water Rights | 0 | 4,796 | 4,796 | 0 | 0 | 0 |
| **Total All Programs** | **$0** | **$4,796** | **$4,796** | **$0** | **$0** | **$0** |

# Personal Services Details

## Positions

| Positions | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| 0762 - Environmental Scientist | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 3751 - Sr Engring Geologist | 0.0 | 3.0 | 3.0 | 3.0 | 3.0 | 3.0 |
| 3756 - Engring Geologist | 0.0 | 7.0 | 7.0 | 7.0 | 7.0 | 7.0 |
| 3844 - Sr Cntrl Engr | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 3846 - Cntrl Engr | 0.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| 4800 - Staff Svcs Mgr I | 0.0 | 2.0 | 2.0 | 2.0 | 2.0 | 2.0 |
| 5393 - Assoc Govtl Program Analyst | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 5749 - Prin Dep Legislative Counsel I | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| 7500 - C.E.A. | 0.0 | 1.0 | 1.0 | 1.0 | 1.0 | 1.0 |
| **Total Positions** | **0.0** | **19.0** | **19.0** | **19.0** | **19.0** | **19.0** |

| Salaries and Wages | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| 0762 - Environmental Scientist | 0 | 72 | 72 | 0 | 0 | 0 |
| 3751 - Sr Engring Geologist | 0 | 418 | 418 | 0 | 0 | 0 |
| 3756 - Engring Geologist | 0 | 708 | 708 | 0 | 0 | 0 |
| 3844 - Sr Cntrl Engr | 0 | 139 | 139 | 0 | 0 | 0 |
| 3846 - Cntrl Engr | 0 | 208 | 208 | 0 | 0 | 0 |
| 4800 - Staff Svcs Mgr I | 0 | 177 | 177 | 0 | 0 | 0 |
| 5393 - Assoc Govtl Program Analyst | 0 | 75 | 75 | 0 | 0 | 0 |
| 5749 - Prin Dep Legislative Counsel I | 0 | 163 | 163 | 0 | 0 | 0 |
| 7500 - C.E.A. | 0 | 173 | 173 | 0 | 0 | 0 |
| **Total Salaries and Wages** | **$0** | **$2,133** | **$2,133** | **$0** | **$0** | **$0** |

## Salaries and Wages

## Staff Benefits

| Staff Benefits | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| 5150350 - Health Insurance | 0 | 524 | 524 | 0 | 0 | 0 |

| Staff Benefits | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| 5150600 - Retirement - General | 0 | 504 | 504 | 0 | 0 | 0 |
| **Total Staff Benefits** | **$0** | **$1,028** | **$1,028** | **$0** | **$0** | **$0** |

## Total Personal Services

| Total Personal Services | FY22-23 Current Year | FY23-24 Budget Year | FY24-25 BY+1 | FY25-26 BY+2 | FY26-27 BY+3 | FY27-28 BY+4 |
|---|---|---|---|---|---|---|
| **Total Personal Services** | **$0** | **$3,161** | **$3,161** | **$0** | **$0** | **$0** |