

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

April 30, 1993

*To:* Board of Directors (Land Committee--Action)  
 (Legal and Claims Committee--Action)

*From:* General Counsel

*Subject:* Authority for General Counsel To Give Informed Consent To Retain Best, Best & Krieger To Provide Legal Representation in the Condemnation Case, Metropolitan Water District v. Francis Domenigoni, et al., Riverside County Superior Court Case No. 229049

Report

At its July, 1992 meeting, the Board of Directors authorized the General Counsel to contract with four separate law firms to assist in the litigation necessary to acquire property for the Domenigoni Valley Reservoir Project. One of these four firms is the Riverside firm of Best, Best & Krieger, which was retained under a contract dated July 31, 1992.

The firm has been requested to provide representation on the above-entitled case because of its expertise in eminent domain and water law. However, the firm also represents one of the defendants, County of Riverside, on other unrelated matters. The Rules of Professional Conduct require that the firm obtain the written consent of both Metropolitan and the County before undertaking the representation. The firm's letter explaining the situation and seeking consent for the representation is attached.

The matters on which the firm represents the County are not related to the acquisition of property in the Domenigoni Valley. The interests of the County in the property which is the subject of the above action are based on land conservation contracts and utility easements. These interests are unlikely to be considered compensable in the eminent domain action. Furthermore, the unrelated matters in which the firm represents the County should present no problem of creating a conflict.

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The expertise of the firm in water law, as well as its prominence in the Riverside legal community, will be of great benefit to Metropolitan on this multi-million dollar case, which involves claims for loss of water rights. None of the other firms retained by Metropolitan can offer the same level of expertise on these issues. Therefore, it is recommended that the firm be retained to handle this particular case.

#### Board Committee Assignments

This letter is referred for action to:

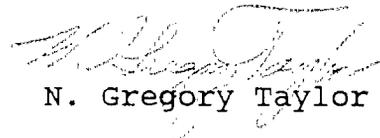
The Land Committee because of its authority to study, advise and make recommendations with regard to the conduct of condemnation proceedings under Administrative Code section 2451(g).

The Legal and Claims Committee because of its authority to study, advise and make recommendations with regard to the selection of special counsel under Administrative Code section 2461(f).

#### Recommendation

#### **LAND COMMITTEE AND LEGAL AND CLAIMS COMMITTEE FOR ACTION.**

It is recommended that the Board of Directors authorize the General Counsel to give informed consent to retain the law firm of Best, Best & Krieger to represent Metropolitan in the condemnation case Metropolitan Water District v. Francis Domenigoni, et al., Riverside County Superior Court Case No. 229049.



N. Gregory Taylor

# BEST, BEST & KRIEGER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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April 22, 1993

Mr. Joseph Vanderhorst  
Deputy General Counsel  
The Metropolitan Water District  
of California  
350 S. Grand Avenue  
Los Angeles, CA 90071

Re: Metropolitan Water District v. Domenigoni (Case No.  
229049, Riverside County Superior Court)

Dear Mr. Vanderhorst:

You have asked my firm to represent the District in the above matter. Because our firm represents a large number of diverse clients, occasionally we have to inform certain clients about our representation of other clients, discuss with them the potential impact of our representation, and obtain their informed written consent. The California Rules of Professional Conduct, in pertinent part, provide:

(B) A member [of the Bar] shall not accept or continue representation of a client without providing written disclosure to the client where:

(1) The member has a legal, business, financial, professional, or personal relationship with a party or witness in the same matter;  
OR

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- (2) The member knows or reasonably should know that:
    - (a) the member previously had a legal, business, financial, professional, or personal relationship with a party or witness in the same matter; and
    - (b) the previous relationship would substantially affect the member's representation; or
  - (3) The member has or had a legal, business, financial, professional, or personal relationship with another person or entity the member knows or reasonably should know would be affected substantially by resolution of the matter; or
  - (4) The member has or had a legal, business, financial, or professional interest in the subject matter of the representation.
- (C) A member [of the Bar] shall not, without the informed written consent of each client:
- (1) Accept representation of more than one client in a matter in which the interests of the clients potentially conflict; or
  - (2) Accept or continue representation of more than one client in a matter in which the interests of the clients actually conflict; or
  - (3) Represent a client in a matter and at the same time in a separate matter accept as a client a person or entity whose interest in the first matter is adverse to the client in the first matter.
- (D) A member who represents two or more clients shall not enter into an aggregate settlement of the claims of or against the clients without the informed written consent of each client.
- (E) A member shall not, without the informed written consent of the client or former client, accept employment adverse to the client or former client where, by reason of the representation of the client or former client, the member has obtained confidential information material to the employment.

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Because of my firm's representation of the County of Riverside, a defendant in the above captioned matter, it is necessary to receive the District's informed consent to my firm's representation in this matter. For that reason, we need to describe the nature of the matter that you have asked us to handle. This matter is an eminent domain lawsuit for the District to acquire property owned by Francis Domenigoni and Jean Domenigoni. The County of Riverside has certain easements and other interests in the subject property more specifically described in the complaint already filed by the District.

My firm currently represents the District in various matters, including other eminent domain proceedings for the Eastside Reservoir Project, and proceedings relating to Bay Delta and State Water Project issues.

You should also know that my firm currently represents the County of Riverside in San Bernardino Valley Audubon Society v. City of Moreno Valley (Riverside County Superior Court). This lawsuit challenges certain regulations and measures regarding the Stephens' Kangaroo Rat (an endangered species). The County is a member of this agency and the County has been involved as a defendant in this litigation. As previously disclosed to the District, my firm is and has been general counsel to the Riverside County Conservation Habitat Agency (which, as previously disclosed, has also been involved in endangered species matters involving the District). (As also was previously disclosed, my firm represented Leonard Searle regarding the lawsuit filed by Mission Viejo Company against the Searles and the District for the District's acquisition of the Searle Ranch in Domenigoni Valley. That lawsuit has been resolved.)

If you wish my firm to represent you in this matter, we need the District to sign this consent letter. It is understood that this consent will not waive any protection that the District may have with regard to attorney/client communications with my firm. Those communications will remain confidential and will not be disclosed to any third party without the District's consent.

I believe that you are familiar with the factual background in this matter, and I have given you a sufficiently-detailed description for obtaining informed written consent. However, if you believe that there is any other information that you need to have before such consent can be granted, or that there is information I need to have before consent can be obtained from all the involved parties, please let me know immediately.

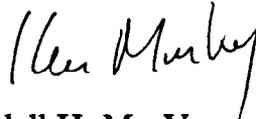
I should emphasize that you are entitled to and should consider obtaining an independent legal opinion regarding the advisability of signing this consent form.

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Execution of this consent form will constitute an acknowledgment of full disclosure in compliance with the requirements of Section 3-310 of the California Rules of Professional Conduct previously quoted in this letter. A copy of this letter is enclosed for your files.

If you have any questions, please do not hesitate to call.

Sincerely yours,



Kendall H. MacVey  
of Best, Best & Krieger

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**AGREED AND ACCEPTED:**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Enclosure