



MWD

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-10

September 23, 1993

To: Board of Directors (Land Committee--Information)
(Legal and Claims Committee--Action)
(Organization and Personnel Committee--
Action)

From: General Counsel

Subject: Amend Contract With Katherine Stone, Esq. to Represent
Metropolitan in Eminent Domain Proceedings

Report

At its meeting of June 14, 1993, the Land Committee of your Board held a hearing on the Resolution of Necessity to acquire property for the Domenigoni Reservoir Project (Metropolitan Parcel Nos. 144-1-89, -335, and -677). The property owner, Paul Garrett, appeared with counsel at the Committee hearing to object to the Resolution on the ground that Metropolitan had not properly complied with the California Environmental Quality Act (CEQA). Before the Resolution was presented to the Board at the July meeting, Mr. Garrett filed an action in the Riverside Superior Court challenging the alleged failure to comply with CEQA. (Paul Garrett v. Metropolitan Water District, Riverside County Superior Court Case No. 237057).

The General Counsel retained Katherine Stone to represent Metropolitan in the action pursuant to Administrative Code section 6431. She filed a demurrer challenging Garrett's petition as being filed after the statute of limitations had run. On August 31, 1993, the Riverside court ruled in favor of Metropolitan and a judgment dismissing the action will be filed.

The Resolution of Necessity authorizing the General Counsel to file eminent domain actions to acquire the property was presented to your Board and adopted at the meeting on September 21, 1993. At the request of the property owner, the Resolution was amended to include an additional adjacent parcel (144-1-645) which is also necessary for the Domenigoni Reservoir Project. There are a total of 577 acres which are now included within the Resolution. The appraised value of this property is \$9,350,000. The eminent domain action to acquire this property has been filed.

It is recommended that Ms. Stone's contract be amended to allow her to represent Metropolitan in the eminent domain proceeding. Ms. Stone is a very experienced attorney specializing in real property and CEQA litigation. Although she is a sole practitioner, she works with the Ventura law firm Myers, Widders & Gibson, who provide additional support as needed. Ms. Stone has become thoroughly familiar with the project and the subject property as a result of her representation of Metropolitan in the CEQA action. Retaining Ms. Stone rather than one of the panel of firms handling the Domenigoni Reservoir eminent domain litigation will avoid the cost of familiarizing another attorney with this property. Furthermore, the size and complexity of the case justify the use of an attorney with her experience and quality. Based on the experience with other cases in the Domenigoni Reservoir Project, the contract with Ms. Stone should be for \$150,000 to cover all services through trial. The current contract with Ms. Stone provides for payment to her at the rate of \$210 per hour. It is recommended that the General Counsel be authorized to enter a contract with Katherine Stone not to exceed \$150,000 to represent Metropolitan in the eminent domain proceedings.

The retention of Ms. Stone advances the philosophy behind Metropolitan's Business Outreach Program to utilize highly competent women and minority-owned business enterprises in its service needs.

The proposed action is exempt from the provisions of the California Environmental Quality Act.

Board Committee Assignment

This letter is referred for information to the Land Committee because of its authority to study, advise and make recommendations with regard to the conduct of condemnation and other proceedings relating to the purchase and sale of land under Administrative Code section 2451(g);

This letter is referred for action to:

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

The Organization and Personnel Committee because of its authority to study, advise, and make recommendations with regard to the terms and conditions of employment of special counsel under Administrative Code section 2471(g).

Recommendation

LEGAL AND CLAIMS AND ORGANIZATION AND PERSONNEL COMMITTEES FOR ACTION.

It is recommended that the Board of Directors authorize the General Counsel to enter a contract in the amount of \$150,000 for the services of Katherine Stone to represent Metropolitan in the eminent domain action filed to acquire Parcels 89, 335, 645 and 677 for the Domenigoni Reservoir Project.



N. Gregory Taylor