



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-8

September 29, 1992

To: Board of Directors (Executive Committee--Action)  
(Water Problems Committee--Information)  
(Legal and Claims Committee--Information)

From: General Manager and General Counsel

Subject: Funding for the State Water Resources Control Board's  
Bay/Delta Hearing and Related Proceedings

Report

Your Board has previously approved funding to the State Water Contractors (SWC) for legal services performed by the firm of Best, Best & Krieger (BB&K) in representing the SWC interests in Bay/Delta Hearing and related efforts. Additional authorization is now needed for fiscal year 1992-93.

In a funding arrangement approved by your Board at its meeting of June 12, 1990, payments to the two primary attorneys working on Bay/Delta issues on behalf of the SWC are shared by the SWC's Bay/Delta general fund and by Metropolitan and Kern County Water Agency (KCWA), the two largest contractors. Under this arrangement, Metropolitan pays 70 percent of BB&K's Bay/Delta-related fees and 30 percent are paid from the SWC's Bay/Delta general fund. Similarly, 70 percent of the Bay/Delta-related legal fees of the other primary attorney are paid by KCWA and 30 percent from the general fund. Metropolitan provides 25 percent of the funding for the SWC general fund. As a result, Metropolitan provides 77.5 percent of the total SWC funding for BB&K.

For 1992-93, it is anticipated that legal services will be required for several Bay/Delta-related activities. The State Water Resources Control Board (SWRCB) is expected to release for public review in October or November a draft of proposed interim actions to improve conditions for fisheries in the Delta, and to adopt an interim decision by the end of 1992. Legal services will be required in preparing and presenting comments on the draft interim actions. It is also likely that any decision made by the SWRCB will result in litigation.

Legal services are also expected for state and federal Endangered Species Act activities, including a final decision by the U.S. Fish and Wildlife Service on the proposed listing of Delta smelt and actions related to winter-run salmon and other fish that may be considered for listing. These actions may have significant impacts on the ability to export water from the Delta.

In addition, at its June 11, 1991 meeting, your Board authorized the General Counsel to intervene as a party in the Golden Gate Audubon Society et al. v. SWRCB action. The SWC also intervened and are being represented by BB&K. This action by a group of environmental organizations seeks to set aside the SWRCB's Bay/Delta Water Quality Control Plan (Plan). The Plan was adopted in May 1991 and, when implemented, would result in manageable changes to State Water Project operations. Activity on this action is expected to increase this year.

While it is difficult to accurately project the amount required for BB&K legal services, it is estimated that \$250,000 is needed for fiscal year 1992-93. This funding is within Metropolitan's 1992-93 Bay/Delta consultant budget. This action is exempt from the California Environmental Quality Act.

#### Board Committee Assignments

This letter was referred to:

The Executive Committee for action because of its authority to study, advise, and make recommendations with regard to policies and procedures to be considered by the Board under Administrative Code Section 2417(e);

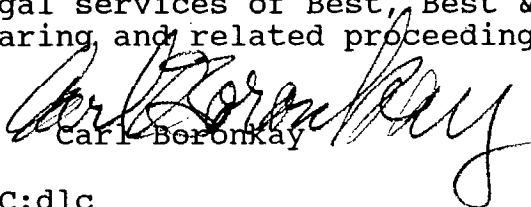
The Water Problems Committee for information because of its authority to study, advise, and make recommendations with regard to policies, sources, and means of importing water required by the District, pursuant to Administrative Code Section 2481(a); and

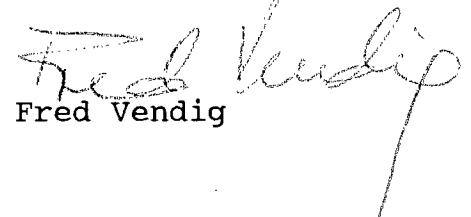
The Legal and Claims Committee for information because of its authority to study, advise, and make recommendations with regard to litigation and claims brought by or against The Metropolitan Water District of Southern California, pursuant to Administrative Code Section 2461(a).

#### Recommendation

##### EXECUTIVE COMMITTEE FOR ACTION

It is recommended that the Board approve a contribution of \$250,000 to the State Water Contractors for the legal services of Best, Best & Krieger in the SWRCB's Bay/Delta Hearing, and related proceedings.

  
Carl Boronkay

  
Fred Vendig