

**SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

214



**FROM:** County Counsel

**SUBMITTAL DATE:**  
May 31, 2011

**SUBJECT:** Waiver of Conflict of Interest

**RECOMMENDED MOTION:** That the Board of Supervisors consent to the waiver of conflict of interest and authorize County Counsel to sign the letter of consent of waiver for the law firm of Best Best & Krieger to represent the Western Riverside County Regional Conservation Authority (RCA) in the Lamb Canyon Conservation Easement real estate transaction.

**BACKGROUND:** Currently, the County retains the law firm of Best Best & Krieger (BBK) to represent the County's interest in a number of environmental transactions and California Environmental Quality Act litigation. BBK also desires to now represent RCA on the Lamb Canyon Conservation Easement real estate transaction. In this matter, BBK plans to represent RCA in preparing and drafting the conservation easement as well as reviewing any documentation relevant to the acceptance of the conservation easement by RCA.

Departmental Concurrence

**Pamela J. Walls, County Counsel**

<b>FINANCIAL DATA</b>	Current F.Y. Total Cost:	\$	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

<b>SOURCE OF FUNDS:</b>	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

**C.E.O. RECOMMENDATION:**

APPROVE

BY:   
Denise C. Harden

**County Executive Office Signature**

- Consent
- Policy
- Consent
- Policy

Dept Recomm.:  
Per Exec. Ofc.:

**Prev. Agn. Ref.:** | **District:** | **Agenda Number:**

**2.31**

BACKGROUND (continued):

The request for a conflict of interest waiver by the law firm of BBK is prompted by Rule 3-310 of the California Rules of Professional Conduct, which provides, in pertinent part:

“(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.”

County Counsel, the Economic Development Agency, Real Estate Division and Waste Management Department staff have reviewed the attached waiver of conflict of interest letter and do not believe a conflict of interest would arise in connection with the firm's representation of RCA or that the County's interests would be adversely affected by the firm's representation of RCA in this matter concurrently with representing and advising the County on CEQA issues and litigation.

Attachment:  
Conflict of Interest Waiver Request Letter

# BEST BEST & KRIEGER

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File No. 26493.00000

April 25, 2011

Pamela J. Walls  
County Counsel  
Office of County Counsel  
County of Riverside  
3960 Orange Street, Suite 500  
Riverside, CA 92501-3674

Re: Conflict of Interest Waiver – Lamb Canyon Conservation Easement with the  
Western Riverside County Regional Conservation Authority

Dear Pam:

The Western Riverside County Regional Conservation Authority (“RCA”) has asked Best Best & Krieger (“BBK”), as its general counsel, to draft a conservation easement and review other related documents. We understand that the Riverside County Waste Management Department (“Department”) plans to grant the conservation easement to RCA on property located at the Lamb Canyon Sanitary Landfill. As you know, we also have on occasion provided legal services to the County of Riverside (“County”). Since BBK has represented both RCA and the County, it is necessary that we obtain waiver letters regarding BBK’s involvement in this matter. The purpose of this letter is to formally review with you the nature of this waiver.

## RULES OF PROFESSIONAL CONDUCT

Rule 3-310 of the California Rules of Professional Conduct provides in pertinent part:

- (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

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- (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.

### **OUR REPRESENTATION**

In this matter, BBK plans to represent RCA in preparing and drafting the conservation easement and in reviewing other documentation related to the acceptance of the conservation easement. RCA will not represent the Department in this matter.

### **ADVERSE CONSEQUENCES**

We are obliged to inform you of any actual or reasonably foreseeable adverse effects of this representation. It is possible that:

- We may be tempted to favor the interests of one client over the other.
- Our exercise of independent judgment on behalf of the County may be impaired or clouded by our relationship with RCA and vice versa.
- We may not be able to present the appropriate position, claims or defenses for a client in order to avoid taking adverse positions to the other client.
- We may be restricted from forcefully advocating a client's position for fear of alienating the other client.
- Disputes may arise between both clients regarding tactics, objectives or resolution of this matter because of our joint representation of both clients.
- We may be forced to withdraw from representing either or both clients because of disputes or further conflicts of interest which could increase either or both clients' attorney's fees and costs.
- There may be an appearance of impropriety in our representation of both clients simultaneously.

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**YOUR CONSENT**

In order for us to continue our involvement in this matter, we ask you to sign this consent letter. It is understood that this consent will not waive any protection that you may have with regard to attorney-client communications with us in this matter. Those communications will remain confidential and will not be disclosed to any third party without your 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 or I need to have before such consent can be granted, please let me know immediately.

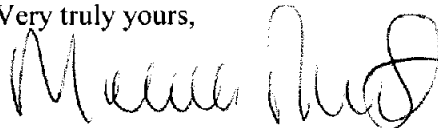
In the event that circumstances change or we become aware of new information that requires a new consent from the parties, you will be notified of that fact immediately, and continued representation will be subject to the informed written consent of involved parties.

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

Your 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.

Very truly yours,



Michelle Ouellette  
of BEST BEST & KRIEGER LLP

MO:whs

AGREED AND ACCEPTED:

COUNTY OF RIVERSIDE

By: \_\_\_\_\_  
Pamela J. Walls, County Counsel

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