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January 7, 2025

VIA E-MAIL

Natalie E. Reed, Esq.
County Counsel
Office of the County Counsel
County of Siskiyou
P.O. Box 659
Yreka, CA 96067

Re: Advance Conflict Waiver re Representation of Other Clients in Water Law
Issues

Dear Ms. Reed:

Siskiyou County Flood Control & Water Conservation District (the “District”) requested that Best Best & Krieger (“BBK”) provide specialized legal advisement and consulting to the Siskiyou County Flood Control and Water Conservation District on matters as assigned by County Counsel (collectively, the “Siskiyou Matters”). BBK understands that the District is governed by the Siskiyou County Board of Supervisors. For conflict purposes, we are treating the District and the County of Siskiyou as the same entity. The District and Siskiyou County will be defined as “Siskiyou” throughout the remainder of this letter.

BBK also represents a broad range of clients involved in water law issues that may be adverse or potentially adverse to Siskiyou in the future. It is possible that BBK may represent additional clients within or surrounding Siskiyou on water issues in the future. BBK is not handling any matter adverse to Siskiyou at this time, but such conflicts may arise due to BBK representing other clients on groundwater matters related to the same water basin used by Siskiyou, or groundwater matters that may have an impact on the water basins used by Siskiyou.

This letter is to request an advance waiver from Siskiyou so that BBK may represent other clients in the future on water issues adverse or potentially adverse to Siskiyou while BBK concurrently represents Siskiyou on the Siskiyou Matters. If we are to represent other clients on water issues adverse to Siskiyou, we must still obtain the Siskiyou’s informed written consent to any potential or actual conflict of interest.

RULES OF PROFESSIONAL CONDUCT

Rule 1.7 of the California Rules of Professional Conduct provides:

- (a) A lawyer shall not, without informed written consent from each client and compliance with paragraph (d), represent a client if the representation is directly adverse to another client in the same or a separate matter.
- (b) A lawyer shall not, without informed written consent from each affected client and compliance with paragraph (d), represent a client if there is a significant risk the lawyer's representation of the client will be materially limited by the lawyer's responsibilities to or relationships with another client, a former client or a third person, or by the lawyer's own interests.
- . . .
- (d) Representation is permitted under this rule only if the lawyer complies with paragraphs (a), (b), . . . and:
 - (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
 - (2) the representation is not prohibited by law; and
 - (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal.

REPRESENTATION OF OTHER CLIENTS IN WATER LAW ISSUES – ADVANCE WAIVER OF CONFLICTS

BBK represents many types of clients in a variety of matters. For many years, water law has been a large part of BBK's practice. BBK advises many of its clients regarding water law issues, such as surface water, ground water, imported water, water transfers, water quality, water rights, and various Delta related matters. These other BBK clients are routinely involved in water law issues which could directly or indirectly affect water supplies, rights and policies of Siskiyou because our other clients may share the same water basins as Siskiyou or have an impact on the water basins used by Siskiyou.

As far as we know, BBK is not currently representing any other client, on water issues adverse to Siskiyou. If another current, or new BBK client has an interest in water issues affecting Siskiyou, then BBK might be asked to provide advice and representation on that matter. Such work might include representation concerning groundwater sustainability agencies, transactions, negotiations, representation on CEQA or NEPA issues, administrative hearings before the State Water Resources Control Board or other state or federal agencies, regulatory permitting, disputes, or litigation ("Future Water Matters"), any of which could be adverse to Siskiyou's interest in water issues.

If we are representing Siskiyou on the Siskiyou Matters or any other issues, and another client asks BBK to represent it against Siskiyou on Future Water Matters, then we would otherwise first need to obtain consent from Siskiyou to represent the other client. Because of our lengthy relationship with many of our water purveyor clients, and because such a large part of our practice involves clients with a variety of water issues, we cannot risk refusal of such consent. Therefore, we ask that Siskiyou sign this letter giving Siskiyou's advanced consent now to any future representation of other current or future BBK clients in Future Water Matters adverse to Siskiyou so that we do not need to ask Siskiyou for such consent in the future.

As part of this advance consent, BBK shall promptly inform Siskiyou in writing of any future representation of a client(s) against or adverse to Siskiyou to provide Siskiyou the opportunity to determine if it wishes to replace BBK in those circumstances. If Siskiyou decides to continue to use BBK as counsel, and BBK agrees to continue representing Siskiyou in those circumstances, then we will establish an ethical screen so that the lawyers representing Siskiyou do not share any confidential information of Siskiyou with other lawyers at BBK and vice versa. Regardless of the circumstances, BBK will not disclose any confidential information received from Siskiyou to any other client of BBK. Likewise, by signing this letter, Siskiyou agrees that it will not disclose any confidential Siskiyou information to BBK on any issues involving water rights, interests, policy or strategy concerning water issues.

POTENTIAL ADVERSE CONSEQUENCES

Because BBK is not currently representing a client adverse to Siskiyou regarding water issues, it is impossible to predict exactly the facts related to any such future conflict, but we do believe it is possible to describe the reasonably foreseeable potential adverse consequences that would arise, which include the following:

- We may be tempted to favor the interests of one client over the other.
- Our exercise of independent judgment to Siskiyou may be impaired or clouded by our relationship with other clients.
- There may be an appearance of impropriety in our representation of both clients simultaneously on unrelated matters.
- We may inadvertently disclose confidential information to a client that Siskiyou would not like revealed.
- We may be restricted from forcefully advocating Siskiyou's position for fear of alienating another client depending upon the circumstances.

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Page 4

SISKIYOU'S CONSENT

If Siskiyou agrees to the above, we need an authorized representative of Siskiyou to sign this consent letter. This consent will not waive any protection that Siskiyou may have with regard to attorney-client communications with us in Siskiyou's matters. Those communications will remain confidential and will not be disclosed to any third party without Siskiyou's consent.

Please consider this matter carefully, and do not hesitate to contact us if Siskiyou has any questions or concerns. Siskiyou may wish to confer with independent legal counsel regarding this disclosure and Siskiyou's consent, and Siskiyou should feel free to do so.

Siskiyou's execution of the informed consent form on the following page will constitute an acknowledgment of full disclosure in compliance with the requirements of Rule 1.7 of the California Rules of Professional Conduct previously quoted in this letter, and Siskiyou's consent to proceeding with our representation of Siskiyou.

Sincerely,



Elizabeth Wagner Hull
of BEST BEST & KRIEGER LLP

CONSENT

By this letter, Best Best & Krieger LLP has explained the existing and/or reasonably foreseeable potential risks and conflict(s) of interest in the above referenced matter, and has informed Siskiyou of the possible consequences of this representation and these conflicts. Siskiyou understands that it has the right to and has been encouraged to consult with independent counsel before signing this consent, and acknowledges that it has been given sufficient time to do so. Notwithstanding the foregoing, Siskiyou hereby consents and agrees to the above.

Siskiyou County Flood Control & Water Conservation District

By: _____

Dated: _____

cc: Joy Hall, Director of General Services
Siskiyou County Flood Control & Water Conservation District