

DELTA PROTECTION COMMISSION

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Contra Costa County Board of Supervisors

July 13, 2011

Sacramento County Board of Supervisors

John Laird, Secretary
 California Natural Resources Agency
 1416 Ninth Street, Suite 1311
 Sacramento, California 95814

San Joaquin County Board of Supervisors

Solano County Board of Supervisors

Dear Secretary Laird:

Yolo County Board of Supervisors

I am writing in response to the June 27, 2011 letter to you from Dr. David Sunding of the Brattle Group concerning his involvement as a subcontractor in the preparation of the first administrative draft of the Economic Sustainability Plan for the Sacramento-San Joaquin Delta. The letter contains numerous inaccuracies and misstatements, and misrepresents Dr. Sunding's role in the draft Economic Sustainability Plan. Moreover, the letter is a possible breach of Dr. Sunding's contractual obligations relating to professional standards of conduct, dispute resolution, and ownership of work product.

Cities of San Joaquin County

Cities of Contra Costa and Solano Counties

Cities of Sacramento and Yolo Counties

As you know, the Delta Reform Act (SBX 7-1) tasks the Delta Protection Commission (Commission) with the development of an Economic Sustainability Plan to provide a blueprint for a sustainable Delta economy. The Commission selected the University of the Pacific (UOP) as the primary consultant to prepare the Economic Sustainability Plan, and UOP chose the Brattle Group, with Dr. Sunding as project manager, as a subcontractor to undertake research necessary to describe current and projected future conditions in Delta agriculture. Under the terms of the subcontract, Dr. Sunding as project manager is fully responsible for all work performed under the agreement, which included performing all work in accordance with the terms of the primary contract between UOP and the Commission.

Central Delta Reclamation Districts

North Delta Reclamation Districts

South Delta Reclamation Districts

Business, Transportation and Housing

After conferring with Dr. Jeffrey Michael of UOP about the Brattle Group's and Dr. Sunding's subcontracting work and contractual responsibilities, it is clear that the actual work product submitted by the Brattle Group for inclusion in the first administrative draft of the Economic Sustainability Plan is directly at odds with the characterization in Dr. Sunding's June 27, 2011 letter to you.

Department of Food and Agriculture

Natural Resources Agency

State Lands Commission

On Monday, June 13, 2011, the Brattle Group submitted their draft chapter along with a page of key findings. Dr. Sunding is copied on the transmission and is fully responsible for the work product according to the terms of the subcontract. The following excerpt of bullet points is a direct quote from the Brattle Group's key findings:

- Our long-run land allocation forecast predicts a large increase in truck crops in the future, along with a smaller but significant increase in deciduous crops. Significant decreases in field and grain crops are forecasted. This indicates a movement towards higher-value crops over time, leading to a \$115 million increase in annual agriculture revenues.
- Forecasted increases in high-value truck crops are located mainly in the southern Delta, the region most vulnerable to substantial salinity increases in the event that isolated conveyance facilities are introduced.
- Assuming a doubling of salinity levels in the south Delta, we forecast a future loss of \$105 million in annual agricultural revenues, mainly due to decreased acreage of salinity-sensitive truck crops and vineyards.
- The agricultural impacts of most of the BDCP conservation measures are difficult to quantify due to the lack of precision in site specification. Conservation Measure 4, which entails significant tidal habitat restoration, is expected to create over \$85 million in losses from direct agricultural revenues per year, and has the largest agricultural impact of any of the assessed conservation measures.

In their June 13, 2011 summary, the Brattle Group presents their calculation of over \$85 million in agriculture losses from tidal habitat restoration as a minimum value. This directly contradicts Dr. Sunding's letter to you that such a statement is speculative.

Also in the June 13, 2011 summary, the Brattle Group emphasizes that a salinity increase of 100% will result in a \$105 million annual agriculture revenue loss. However, in response to a question posed by Dr. Michael about potential salinity changes as a result of various isolated conveyance scenarios under consideration in the draft BDCP, the Brattle Group prepared an updated table forecasting that a 200% increase would result in \$191 million in agriculture revenue losses. The Brattle Group also responded with a statement that the *"gut feeling is that with salinity increases being talked about on a scale that would make the south Delta similar to the west Delta, potential increases could be significantly larger than the 200% we currently forecast to."* As project manager for the Brattle Group, Dr. Sunding was copied in all of these communications. His reaction to the revised table showing a \$191 million loss from 200% salinity increases was an emphatic *"that should get people's attention."* That unsolicited statement directly contradicts the assertion in his letter to you that such forecasts are false. Dr. Sunding's letter is all the more astounding because it directly criticizes findings that he was personally responsible for overseeing and approved.

In his letter to you, Dr. Sunding refers to a stand-alone paper he provided to the Commission, but does not reference the date of the paper. Moreover, contrary to his letter, he never submitted the paper directly to the Commission. In fact, Dr. Sunding emailed this paper to the UOP lead investigators on the evening of Wednesday, June 22, 2011 six days after the first draft of the Economic Sustainability Plan was released, nine days after the Brattle Group submitted their chapter to include in the draft report, and the night before the Commission meeting at which Dr. Sunding was scheduled (and expected) to present the Brattle Group's contribution from the first draft to the Commission.

In disregard of his professional and contractual responsibilities, Dr. Sunding did not show up for the Commission meeting on June 23, 2011 which would have been the perfect opportunity for him to present his updated findings and receive feedback from the Commission and interested members of the Delta community. Instead, Dr. Michael from UOP had to present the Brattle Group's work, including Dr. Sunding's paper sent the previous night, with virtually no preparation time. Working to resolve Dr. Sunding's concerns, Dr. Michael presented Dr. Sunding's revised estimates of salinity losses to the Commission on June 23, 2011 and to the Delta Stewardship Council on June 24, 2011 even though he had been unable to thoroughly review Dr. Sunding's last minute stand-alone paper sent the night before. Over the weekend of June 25-26, 2011 Dr. Michael read the paper and in good faith communicated with Dr. Sunding about how best to incorporate his new results and the feedback from the two public meetings into the second draft. Rather than work to resolve the issue constructively and in accordance with the terms of his contractual obligations, Dr. Sunding sent his letter to you on June 27, 2011 without informing the principal investigators at UOP or staff of the Commission.

Dr. Sunding's last minute, stand alone paper of June 22, 2011 does not follow the scope of work he created and approved, and which is incorporated as part of his contract. It contains three significant changes which minimize the quantitative estimates of salinity losses, and which delete the calculation of minimum losses from tidal habitat restoration. Dr. Sunding makes no attempt to explain or justify these eleventh-hour revisions, made after the first draft of the Economic Sustainability Plan was released to the public, and less than a day before the Commission's consideration of the first draft.

In addition to quantitative changes, Dr. Sunding's revised stand alone paper of June 22, 2011 also contains numerous changes to adjectives and descriptions of impacts. Below are two quotes regarding salinity impacts from the report the Brattle Group and Dr. Sunding submitted on June 13, 2011 for inclusion in the Economic Sustainability Plan.

“Overall, the changes brought on by increasing salinity would be expected to have a starkly negative effect on Delta agricultural revenues.”

“truck and vineyard crops are expected to decline significantly under increased salinity scenarios... This shift has significant revenue impacts on Delta agriculture... These losses would be further amplified by decreased downstream revenues generated by local canneries, wineries and other processing facilities.”

In the revised June 22, 2011 report, the language changes dramatically. All of the above statements are removed and replaced with new comments emphasizing uncertainty and small impacts.

“The results of Table 9 suggest that future changes in salinity have the potential to cause a loss in agricultural revenues in the south Delta... However, the revenue changes assuming a continuation of the current salinity standard are relatively modest,”

“Lost profits, which are the correct economic welfare measure to use for policy analysis, will be less than this amount as farmers will experience changes in operating costs...”

Dr. Sunding’s letter complains excessively about word choice inside an initial working draft of a report that will undergo several revisions. Any legitimate concerns he had were immediately addressed, and could have been easily handled in the normal revision process. He also complains about not receiving a full draft of the report to review before release, when he himself was changing key content the day before it was to be released. Dr. Sunding had ample opportunities to review full project progress reports, the full scope of work, participate in conference calls and meetings so that his claims of not knowing the overall methods and findings in the rest of the report are false.

As discussed above, the June 27, 2011 letter to you contains multiple inaccuracies. Most importantly, by sending his letter and the stand-alone paper directly to you without first conferring with UOP or Commission staff, Dr. Sunding completely ignored the Dispute Resolution and Ownership of Work Product terms of his contract obligations.

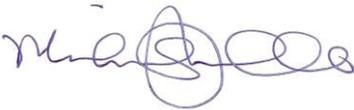
The Economic Sustainability Plan for the Delta is probably the only comprehensive integrated look at the Delta economy, the factors that make up the economy, and the impacts of what proposed actions in the Delta could have on the Delta economy. The challenge in meeting the co-

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equal goals of the Delta Reform Act is to achieve the objectives inherent in the co-equal goals for the management of the Delta which include...*protect and enhance the unique cultural, recreational and agricultural values of the California Delta as an evolving place.* Additionally, the Act states that it is the policy of the State of California to reduce reliance on the Delta in meeting California's future water needs. What is needed for sustaining the Delta may very well be in conflict with expansive export of water through the Delta and be in direct conflict with those with alternative perspectives.

It is the Commission's goal for the Economic Sustainability Plan to present an objective report that reflects an independent review supported by data bases commonly used in these types of studies as well as in field data gathering, focus groups and input from experts in the various fields. The first draft of the Economic Sustainability Plan was only the first step toward achieving this ultimate goal. Dr. Sunding's criticism of the first draft, which, ironically, relies on and includes his own research, is unprofessional, unfair, and unwarranted. The agriculture analysis for the Economic Sustainability Plan will continue to be revised and developed without any further contribution from Dr. Sunding.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael Machado", with a stylized flourish at the end.

Michael Machado
Executive Director

cc: Commissioners, Delta Protection Commission
Dr. Jeffrey Michael, Director, Business Forecasting Center, University of the Pacific
Dr. David Sunding, Principal, The Brattle Group
Michael L. Crow, Deputy Attorney General, Office of the Attorney General
Joe Grindstaff, Executive Officer, Delta Stewardship Council