



July 12, 2023

Via email

Dr. Theresa Maldonado
Vice President for Research and Innovation
UC Office of the President
1111 Franklin St
Oakland, CA 94607

**Re: Federal and state conflict of interest issues with UC Climate Action Initiative grant
*COEQWAL: Equitable stewardship of California’s water in a changing climate***

Dear Vice President Maldonado,

California Water Research has been an independent advocate for scientific integrity and use of the best available science in California water since 2010. Most recently, we helped get an investigation of whether the California Department of Water Resources was using best available science in adapting to drought.¹

This letter is with respect to the 2023 UC California Climate Action Initiative grant, *COEQWAL: Equitable stewardship of California’s water in a changing climate*, submitted to the *UC Climate Initiative* (\$8.2 million). As described below, there appear to be significant conflict of interest (“COI”) issues with the participation of Dr. Laurel Larsen, one of the Co-PIs on the grant, as well as issues with the creation of the community engagement structure for the grant.

Although California Water Research is a regular participant in Delta Science Program activities, we only learned about the details of the *COEQWAL* grant proposal last month. We have reached out to the Principal Investigator, Dr. Ted Grantham, about the COI issues. Dr. Grantham has indicated that if the grant was awarded, he would work to resolve these issues with the Delta Science Program and counsel at UC Berkeley.

We are sending this letter to confirm that UCOP and the relevant ethics and conflict of interest teams at UCOP and UC Berkeley are also in the loop, and to provide some background on the federal and state conflict of interest issues. We are also requesting that UCOP, UC Berkeley and the federal and state agencies who have staff as Co-PIs or Co-Is on the grant ensure that these

¹ Deirdre Des Jardins, 2022. [Legislature approves audit of water management by DWR and SWRCB during 2021](#), California Water Research blog.

issues are resolved in an open and transparent manner, consistent with all relevant ethical guidelines, laws, and regulations.

Background on Delta Lead Scientist and COI issues

Dr. Laurel Larsen is an Associate Professor with the Department of Geography and the Department of Civil and Environmental Engineering at UC Berkeley. Dr. Larsen is currently serving as Delta Lead Scientist, a major leadership position for the state and federally funded Delta Science Program. The Delta Lead Scientist position is funded by the US Geological Survey and housed within a California state agency, the Delta Stewardship Council.

Dr. Larsen is proposing to use the *COEQWAL* grant to create a long-term research center. The grant proposal states:²

The inclusion of the Delta Lead Scientist (Larsen) in the project team ensures that the team has direct access to state and federal agency secretaries, directors, and/or regional directors through regular coordination meetings and Larsen's membership on the Delta Plan Interagency Implementation Committee (DPIIC). We plan to prepare briefing papers documenting results and containing a proposed budget and plan for sustained operation of *COEQWAL*, which we will formally present to DPIIC and partners at the State Water Contractors and Public Water Agencies, with an ask for funding contributions.

Yet Dr. Larsen is only planning to continue as Delta Lead Scientist through June of 2024, halfway through the two-year term of the *COEQWAL* grant. The *COEQWAL* grant proposal also shows that Dr. Larsen's existing grants as a faculty member are ending in August of this year.

In 2022, Dr. Larsen was Principal Investigator on a Letter of Interest for the University of California Multicampus Research Center Initiative grant, *Just Transitions in Large Socioecological Systems: Drought, Sea-level Rise & Salinity in the Delta*. This created significant financial conflict of interest issues, which Dr. Larsen attempted to resolve by changing the PI to her colleague, Dr. Holly Doremus, and making herself a collaborator on the grant. However, the *COEQWAL* project makes Dr. Larsen a liaison to the 2023-2027 *Just Transitions* initiative, as well as a liaison to the Delta Science Program's efforts that focus on salinity management.

While Dr. Larsen's ambitious agenda would be commendable if she were just a UC faculty member, using her position as Delta Lead Scientist to advance her career creates thorny issues with federal and state conflict of interest laws, as detailed below. It is our understanding that, after further review, the U.S. Geological Survey has asked Dr. Larsen to withdraw her letter of commitment for the *COEQWAL* grant. This letter is to request confirmation that this information has been provided to UCOP, and to provide more background on the issues to UC and the federal and state agencies who have staff as Co-PIs or Co-Is on the grant.

² *COEQWAL* grant proposal project description, p. 15.

Federal and state COI and ethics issues

The Delta Lead Scientist is employed by the US Geological Survey but has an Intergovernmental Personnel Act (IPA) detail to the Delta Stewardship Council. The Delta Lead Scientist is subject to federal conflict of interest laws, including the basic criminal statute, 18 U.S.C. § 208 which prohibits a government employee from “participating personally and substantially in any particular matter that would have a direct and predictable effect on his own financial interests.”

In addition to federal issues, Dr. Larsen has also manifestly failed to follow ethical guidelines for the Delta Lead Scientist in determining the advisory structure for the collaborative grant. The 2019 recruitment flyer for the Delta Lead Scientist position stated that responsibilities included upholding “the highest possible standards of scientific integrity” and maintaining “an unbiased, independent, policy-neutral perspective that equally serves all Delta interests”:³

The Delta Lead Scientist is responsible for providing unbiased science expertise to the Council, the Delta Science Program, and the Delta science community, by upholding the highest possible standards of scientific integrity and credibility and for providing scientific leadership to achieve the vision of “One Delta, One Science” set forth in the Delta Science Plan. The Lead Scientist must at all times maintain an unbiased, independent, policy-neutral perspective that equally serves all Delta interests while impartially presenting the best available scientific information relating to relevant issues of concern.

Our review of the *COEQWAL* grant raises significant concerns that the proposal does *not* represent “an unbiased, independent, policy-neutral perspective that equally serves all Delta interests.” The proposal to use the grant to explore “relaxation of priority water rights allocations and/or D-1641 water quality standards” is of major concern to farmers in the primary Delta who have senior water rights and whose crops are affected by violations of salinity standards. The relaxation of the D-1641 water quality standards in droughts has also had catastrophic impacts on pelagic fish populations in the Delta.

The *COEQWAL* community engagement structure defines an end-user category of all “public water agencies, regional water districts, and senior water rights holders,” and then effectively appoints the Metropolitan Water District of Southern California as the “representative” for that category, stating,

... Given that the parties impacted by water allocations are multitudinous, it is infeasible for representation of our community partners to be comprehensive. Instead, we aim for representative and balanced participation of the three categories of community partners: representative meaning that all subcategories defined above are represented by at least one individual...

Not only does this engagement structure overtly favor one of the potential long-term funders of the *COEQWAL* project, it fails to consider the history of conflict over water resources in the

³ Delta Stewardship Council, 2019. [California Delta Science Program Seeks Lead Scientist](#).

Delta, or the different economic interests represented by Delta and South of Delta water users. Further, the community partners for the *COEQWAL* grant appear to have been selected without any public notice or outreach to the Delta water agency representatives and experts who participate regularly in Delta Science Program workshops.

The *COEQWAL* project also has “an advisory group of select community partners ... to provide feedback on overall project goals, approaches, and implementation strategies.” However, the outreach for the advisory group appears to have been contrary to the Delta Stewardship Council’s public participation guidelines, which state:⁴

Advisory Groups

Depending on the project, Council staff may convene advisory groups to assist and provide expertise in the development of projects. Members of these advisory groups typically possess relevant expertise and span the range of groups that or could be affected by the project. Interested members of the public are encouraged to be on the lookout for project advisory group calls for applications on the Council’s website, listserv, or social media in the future. The Council will also work with community-based organizations to identify potential members for these advisory groups.

Except for current Delta Science Program contractors,⁵ the *COEQWAL* advisory group and community partners appear to have been selected without public notice or outreach to Delta community-based groups, fishing, or recreational groups. Since contractors with the Delta Stewardship Council are designated employees for state conflict of interest regulations, this does raise issues with the California Code Regulations, Title 2, Section 18730. Section 9 of the regulations states:

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use the employee's official position to influence the making of any governmental decision which the employee knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of the official's immediate family...

There are also ongoing issues with advisory groups convened by the Delta Lead Scientist and federal and state transparency laws. To the extent the advisory group for the *COEQWAL* grant was created by the Delta Lead Scientist and involves other federal agencies that are co-Investigators on the grant, it is also potentially a violation of the Federal Advisory Committee Act (5 U.S.C. § 10.) Committees convened by Dr. Larsen under the authority of the Delta Stewardship Council or the Delta Plan Interagency Implementation Committee are also subject to the Bagley-Keene Open Meeting Act (Gov. Code §§ 11120-111321). We informed Dr. Larsen

⁴ Delta Stewardship Council, 2020. [Delta Stewardship Council Public Participation Plan](#).

⁵ Restore the Delta has a Delta Science Program contract from 1/93 to 11/93 for “EJ Expert recommendation development, Issue Paper drafting, and early implementation.” Delta Stewardship Council, [Status Report of Active Contract Agreements](#), April 27, 2023.

of these transparency requirements in July of 2022. Dr. Larsen has declined to even provide an official list of the advisory groups she is convening as Delta Lead Scientist.

We are therefore respectfully requesting that Dr. Grantham and the Delta Science Program ensure that Delta stakeholders who have been affected by the lack of transparency and inclusion in outreach about the proposed community engagement structure are given a chance to have input into any proposed resolution.

Thank you for your time and consideration of this letter and these difficult issues. We sincerely wish that they had been addressed more proactively.

Sincerely,



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cc:

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Dr. Laurel Larsen, Delta Lead Scientist and co-PI, *COEQWAL* grant
Dr. Eric Danner, Supervisory Research Ecologist, NOAA Fisheries, and co-PI, *COEQWAL* grant
Dr. James Gilbert, Project Scientist, NOAA Institute of Marine Sciences and co-PI, *COEQWAL* grant
Dr. Derya Summer, Modeling Division Manager, US Bureau of Reclamation and advisory group member, *COEQWAL* grant
Dr. Andrew Schwarz, Department of Water Resources, co-I, and advisory group member, *COEQWAL* grant
Matthew Holland, State Water Resources Control Board, co-I, and advisory group member, *COEQWAL* grant
Dr. Greg Gearhart, State Water Resources Control Board and co-I, *COEQWAL* grant
Dr. Holly Doremus, PI, *Just Transitions* grant
Dr. Jessica Rudnick, Social Science Extension Specialist, California Sea Grant and Co-PI, *Just Transitions* grant
Dr. Kathleen Erwin, Executive Director, Research Grants Program Office, UCOP
Alexander Bustamante, Senior Vice President and Chief Compliance and Audit Officer, UCOP
Conflict of Interest Team at UC Berkeley
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Delta Stewardship Council Deputy Executive Officer for Science, Henry Debey
Delta Stewardship Council Lead Counsel Jorge Aguilar
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