



DELTA STEWARDSHIP COUNCIL
A California State Agency

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SACRAMENTO, CALIFORNIA 95814
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(916) 445-5511

August 10, 2012

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Executive Officer
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Nelson E. Bahler
Executive Vice President
The Grupe Company
3255 West March Lane, 4th Floor
Stockton, CA 95219

Dear Mr. Bahler:

Chairman Isenberg has asked me to respond to your August 3, 2012 letter about the status of The Grupe Company developments in Stockton as covered actions under the Delta Plan. In response to your inquiry, we would welcome the opportunity to meet with you and City of Stockton staff at your earliest convenience to discuss this matter.

The process for certifying a covered action's consistency with the Delta Plan is prescribed in the Delta Reform Act, including Water Code Section 85057.5 and 85225.

A key feature of the Act's consistency certification process is that the determination of whether a proposed project is a covered action (which necessitates the filing of a certification of consistency) is made by the state or local agency that approves, funds, or carries out the project, rather than the Delta Stewardship Council. The Council's role, as provided in Water Code Section 85225.5, is to assist state and local agencies in preparing a certification through early consultation on a proposed covered action.

With these provisions in mind, a meeting with you and Stockton staff would be a welcome opportunity to discuss whether your company's developments are covered actions whose consistency with the Delta Plan is something the City of Stockton would need to certify once the Delta Plan is adopted and its regulatory provisions become effective (anticipated in early 2013). In the meantime, we would suggest that you take a look at the statutory exemptions to the definition of a covered action contained in Water Code Section 85057.5 (b). Depending on the nature and timing of CEQA compliance and permit approvals, one or more of these exemptions may be relevant to your project. Water Code Section 85057.5(c), which prevents the abrogation of vested rights, may also be applicable to certain projects. We could also discuss how the draft Delta Plan's provisions regarding administrative exemptions to the covered action process could apply to The Grupe Company developments in Stockton if the Delta Plan is approved as drafted.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

– CA Water Code §85054

Nelson E. Bahler
Executive Vice President
The Grupe Company
August 10, 2012
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We look forward to meeting with you and the City of Stockton staff. Council staff will contact you to schedule a meeting in Stockton within the next week. If you have any questions or need additional information prior to our meeting, please contact me at (916) 445-0258 or cindy.messer@deltacouncil.ca.gov.

Sincerely,



Cindy Messer
Acting Deputy Director, Delta Plan

cc: Senator Fran Pavley, Chair, Senate Natural Resources & Water Committee (SNR& WC)
Senator Doug La Malfa, Vice Chair, SNR& WC
Senator Anthony Cannella, SNR&WC
Senator Noreen Evans, SNR& WC
Senator Jean Fuller, SNR&WC
Senator Christine Kehoe, SNR&WC
Senator Alex Padilla, SNR&WC
Senator Joe Simitian, SNR&WC
Senator Lois Wolk, SNR&WC
The Honorable Joan Buchanan, Member of the Assembly
The Honorable Bill Berryhill, Member of the Assembly
The Honorable Cathleen Galgiani, Member of the Assembly
Dennis O'Connor, Consultant, Senate Natural Resources & Water Committee
Barry Brokaw and Donne Brownsey, Sacramento Advocates, Inc.
Ann Johnson, Mayor of Stockton
Mike Locke, Acting Director Deputy City Manager, Community Development Department,
City of Stockton
Wendy Saunders, Director, Economic Development Department, City of Stockton
Phil Isenberg, Chair, DSC
DSC Council Members
P. Joseph Grindstaff, Executive Director, DSC
Dan Ray, Chief Deputy Executive Officer, DSC