

March 13, 2016



Nathan Anderson, Planner
City of Elk Grove Planning Department
8401 Laguna Palms Way
Elk Grove, CA 95758

RE: Comments on the Proposed Adoption of a Mitigated Negative Declaration(MND) for the East Lawn Cemetery Expansion Project (EG-15-025)

Dear Mr. Anderson:

The Laguna Creek Watershed Council (LCWC) welcomes the opportunity to comment on the proposed Initial Study/Mitigated Declaration (IS/MND) for the East Lawn Cemetery (East Lawn) Expansion Project (Project) currently under consideration by the City of Elk Grove. This Project is occurring in an area of the Laguna Creek floodplain. As noted in the Laguna Creek Watershed Management Action Plan (2009), this area is of significant importance to the LCWC because of its outstanding open space and environmental resource values.

Our initial observation is that the scope of the Project – creation of 20,000 new burial plots in four phases over a 50 to 70 year period – is disproportionate to East Lawn’s reasonably foreseeable needs and, in light of the year to year variability of the sensitive environmental resources in the area, too broad a proposal for consideration in an IS/MND. The IS/MND reports that “the existing cemetery provides a venue for approximately four funerals each month” (page 2) and goes on to state... “the type of operations on the Project site would be similar to current operations, and East Lawn Inc. predicts a similar number of funerals per year as under current conditions” (page 7). Unless we are missing something, at this rate it would take 400 years to fill 20,000 new burial plots.

This begs the question – why is the Project being described this way and why would the City think it appropriate that such a proposal could be reviewed with any reasonable finality under CEQA. Clearly, the Project needs to be reconsidered. If East Lawn is interested in useful actions under CEQA, Section 404, or any other regulatory process, the Project description should be confined to Phase 1 only. This phase occupies the least sensitive portion of the Project area; it would have the fewest impacts to seasonal wetlands and other environmental resources; and it would increase the cemetery’s

capacity by 5,000 plots – enough to accommodate more than 20 years of burials even if burial rates increase five-fold over the current rate.

Accordingly, we request that the City consider the following points in its consideration of the IS/MND:

- It is completely inappropriate to prepare an initial study/mitigated negative declaration on a proposed action occurring over a 70-year time frame on a landscape that will undoubtedly be subject to substantial changes in environmental character during this period. The assessment of the current condition of this landscape is clearly outdated. The USACE wetland delineation expired in December 2012. Species surveys scheduled for 2012 have not occurred. These problems need to be rectified before any action is taken on the IS/MND. In any event, no delineation or assessment performed under current conditions should be considered adequate to make any determination as to project impacts likely to occur more than a decade in the future.
- The project being considered in the IS/MND should be confined to Phase 1 only. This phase encompasses 5.4 acres and 5,000 new burial plots – enough to meet East Lawn’s reasonably foreseeable needs even if current burial rates dramatically increase in the future. This area appears to contain the fewest sensitive environmental resources, although this should be confirmed with an updated wetland delineation and species surveys conducted prior to any action on the IS/MND.
- If the Project is confined to Phase 1, and the updated wetland delineation and species assessment confirm the relative absence of sensitive resources on the 5.4 acre Phase 1 site, the mitigation measures called for in the IS/MND appear reasonable. These measures permit off-site mitigation for unavoidable impacts to seasonal wetlands and Swainson’s hawk foraging habitat. However, LCWC would welcome an opportunity to work with the City and East Lawn to develop onsite mitigation for these impacts. There appear to be significant opportunities for habitat preservation on the balance of the Cemetery’s property along Laguna Creek which would eliminate the requirement for East Lawn to make payments to offsite mitigation banks.
- If the Project is not confined to Phase 1, the updated wetland delineation and species assessment should be expanded to the rest of the Project area prior to any action on the IS/MND. The conditions of Project approval should make it clear that new burial plots are not to be established outside of the Phase 1 area until Phase 1 of the Project is substantially completed. If this

occurs sometime after the five-year life of the wetland delineation, a new delineation and species assessment will be required and the expansion will be considered to be outside the scope of the IS/MND and thus subject to renewed CEQA review.

- The Initial Study relies on Wet Season Surveys that were conducted in 2005-2006 and 2006-2007, greater than 10 years ago. The surveys are stale. The Initial Study fails to fully characterize the current/recent environmental setting at the time of project application and draws the conclusion that the project would have no significant effect on the environment.

The Laguna Creek Watershed Council (LCWC) opposes the adoption of the Mitigated Negative Declaration for the East Lawn Cemetery Expansion (EG-15-025) and proffers a “Fair Argument” in accordance with the California Environmental Quality Act Guidelines §15064.

This Fair Argument is based on substantial evidence in light of the whole record before the agency that the project may have a significant effect on the environment. In this case the evidence was not included in the MND.

The issues at hand that would preclude the adoption of the Proposed MND and require an EIR are:

- The Verified Wetland Delineation from the US Army Corps of Engineers expired in December 2012. In other words they no longer have permission to disturb Wetlands. The USACE letter is in Appendix B of the Initial Study dated December 11, 2007 and valid for 5 years.
- The agency is requiring surveys in the Biological Resources Mitigation when those surveys should have been conducted prior to, and included in the Initial Study. The Initial Study fails to fully characterize the environmental setting and draws the conclusion that the project would have no significant effect on the environment. The Proposed MND defers mitigation until after the conduct of the surveys post-approval.
- The Initial Study relies on Wet Season Surveys that were conducted in 2005-2006 and 2006-2007, greater than 10 years ago. The surveys are stale. The Initial Study fails to fully characterize the current/recent environmental

setting at the time of project application and draws the conclusion that the project would have no significant effect on the environment.

While LCWC believes it is inappropriate for East Lawn to seek regulatory approval for an expansion plan that is clearly beyond their reasonably foreseeable need for additional cemetery burial plots, we would welcome the opportunity to work with them in developing a long term resource management plan for their property that could make their use of portions of the property outside the Phase 1 area more predictable.

Very truly yours,

James W. Reede, Jr., Ed. D.
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