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## Central Valley Regional Water Quality Control Board

19 August 2016

Alan Foster  
East Lawn, Inc.  
4300 Folsom Blvd.  
Sacramento, CA 95819

### **CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; EAST LAWN, INC., EAST LAWN ELK GROVE MEMORIAL PARK EXPANSION PROJECT (WDID NO.5B34CR0073), SACRAMENTO COUNTY**

This Order responds to the 15 June 2016 application submitted by East Lawn, Inc. (Applicant) for the Water Quality Certification of a cemetery expansion project permanently impacting 0.4 acres of waters of the United States.

This Order serves as certification of the United States Army Corps of Engineers' Nationwide Permit 39 (SPK-2004-00629 under Section 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act.

#### **WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and Section 3867 of the California Code of Regulations (CCR).
2. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR Section 3855(b) of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial certification action shall be conditioned upon total payment of the full fee required Section 3833 of the California Code of Regulations.

4. This Certification is no longer valid if the project (as described) is modified, or coverage under Section 404 of the Clean Water Act has expired.
5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Water Board shall be signed by a person described below or by a duly authorized representative of that person.
  - a. For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if *authority* to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. For a partnership or sole proprietorship: by a general partner or the proprietor.
  - c. For a municipality, State, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition No. 5 shall make the following certification, whether written or implied:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### TECHNICAL CERTIFICATION CONDITIONS:

In addition to the above standard conditions, the Applicant shall satisfy the following:

1. The Applicant shall notify the Central Valley Regional Water Quality Control Board (Central Valley Water Board) in writing at least **seven (7) days** in advance of the start of any work within waters of the United States. The notification shall include the name of the project and the WDID number, and shall be sent to the Central Valley Water Board Contact indicated in this Certification.
2. Except for activities permitted by the United States Army Corps of Engineers under Section 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The Applicant shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors)

performing work on the proposed Project shall be adequately informed and trained regarding the conditions of this Certification.

4. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Applicant must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
5. The Applicant shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence. The Plan must also address the potential of responding to a spill or prevention of spills occurring within the Project site.
6. Raw cement, concrete (or washing), asphalt, drilling fluids, lubricants, paints, coating material, oil, petroleum products, or any other substances which could be hazardous to fish and wildlife resulting from or disturbed by project-related activities, shall be prevented from contaminating the soil and/or entering waters of the United States.
7. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances to surface water and/or soil is prohibited. In the event of a prohibited discharge, the Applicant shall notify the Central Valley Water Board Contact within 24-hours of the discharge.
8. An effective combination of erosion and sediment control Best Management Practices (BMPs) shall be implemented and adequately working during all phases of construction.
9. All areas disturbed by Project activities shall be protected from washout or erosion.
10. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
11. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the Project.
12. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the receiving water. The

Applicant shall notify the Central Valley Water Board as soon as practicable of any spill of petroleum products or other organic or earthen materials with written follow up within 5 days.

13. The Conditions in this water quality certification are based on the information contained in the Applicant's application and in the attached "Project Information Sheet." If the Project, as described in the application and the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
14. The Applicant shall implement each of the mitigation measures specified in the approved Mitigated Negative Declaration for the Project, as they pertain to biology, hydrology and water quality impacts as required by Section 21081.6 of the Public Resource Code and Section 15097 of the California Code of Regulations.
15. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under the applicable state or federal law. For the purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with water quality standards and other pertinent requirements incorporated into this certification.
  - a) If the Applicant or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Order, or falsifies any information provided in the monitoring reports, the Applicant is subject to civil monetary liabilities, for each day of violation, or criminal liability.
  - b) In response to a suspected violation of any condition of this certification, Central Valley Water Board may require the holder of any federal permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports (Water Code, Section 1051, 13165, 13267 and 13383). In response to any violation of the conditions of this certification, the Central Valley Water Board may add to or modify the conditions of this certification as appropriate to ensure compliance.
  - c) The Applicant shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the Project premises for inspection, including taking photographs and securing copies of Project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the Project.
16. Prior to commencing construction, the Applicant shall provide evidence of all off-site compensatory mitigation to the Central Valley Water Board. Evidence of on-site compensatory mitigation shall be provided with a Notice of Completion. At a minimum,

compensatory mitigation must achieve a ratio of 1:1 for permanent impacts. Evidence of mitigation includes, but is not limited to, the purchase of 0.17 acres of marsh creation credits and 0.23 acres of seasonal wetland creation credits from a United States Army Corps of Engineers approved mitigation bank or purchase 0.40 floodplain mosaic credits from a United States Army Corps of Engineers mitigation bank as required by the United States Army Corps of Engineer.

Compensatory mitigation must comply with the effective policy at the time of Certification, which ensures no overall net loss of wetlands for impacts to waters of the state.

Evidence of compliance with compensatory mitigation requirements includes providing a letter from the approved compensatory mitigation bank. The letter must: (a) be on the compensatory mitigation bank's letterhead; (b) be signed by an authorized representative of the compensatory mitigation bank; (c) indicate the United States Army Corps of Engineers' SPK number; (d) describe the Project name and location; and (e) detail the type of compensatory mitigation credits purchased for the Project's impacts.

17. Staff of the Central Valley Water Board has prepared total maximum daily load (TMDL) allocations that, once approved, would limit methylmercury in storm water discharges to the Sacramento-San Joaquin Delta. The Central Valley Water Board has scheduled these proposed allocations to be considered for adoption. When the Central Valley Water Board adopts the TMDL and once approved by the Environmental Protection Agency, the discharge of methylmercury may be limited from the proposed project. The purpose of this condition is to provide notice to the Applicant that methylmercury discharge limitations and monitoring requirements may apply to this project in the future and also to provide notice of the Central Valley Water Board's TMDL process and that elements of the planned construction may be subject to a TMDL allocation.

#### **NOTIFICATIONS AND REPORTS:**

18. The Applicant shall notify the Central Valley Water Board within 7 days of the project completion.
19. The Applicant shall provide the Central Valley Water Board Contact indicated in this Certification a Notice of Completion (NOC) no later than 30 days after the Project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project description in the Certification and in any amendments approved. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation

20. The Applicant shall submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to: [centralvalleysacramento@waterboards.ca.gov](mailto:centralvalleysacramento@waterboards.ca.gov). In the subject line of the email, include the Central Valley Water Board Contact, Project name, and WDID number as shown in the subject line above. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

#### **STORM WATER QUALITY CONDITIONS:**

The Applicant shall also satisfy the following additional storm water quality conditions:

1. The Applicant shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, as amended, for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.
2. During the construction phase, the Applicant must employ strategies to minimize erosion and the introduction of pollutants into storm water runoff. These strategies must include the following:
  - a) the Storm Water Pollution Prevention Plan (SWPPP) must be prepared during the project planning and design phases and before construction;
  - b) an effective combination of erosion and sediment control Best Management Practices (BMPs) must be implemented and adequately working prior to the rainy season and during all phases of construction.
3. The Applicant must minimize the short and long-term impacts on receiving water quality from the Project by implementing the following post-construction storm water management practices:
  - a) minimize the amount of impervious surface;
  - b) reduce peak runoff flows;
  - c) provide treatment BMPs to reduce pollutants in runoff;
  - d) ensure existing waters of the state (e.g., wetlands, vernal pools, or creeks) are not used as pollutant source controls and/or treatment controls;
  - e) preserve and, where possible, create or restore areas that provide important water quality benefits, such as riparian corridors, wetlands, and buffer zones;
  - f) limit disturbances of natural water bodies and natural drainage systems caused by development (including development of roads, highways, and bridges);
  - g) use existing drainage master plans or studies to estimate increases in pollutant loads and flows resulting from projected future development and require incorporation of structural and non-structural BMPs to mitigate the projected pollutant load increases in surface water runoff;

- h) identify and avoid development in areas that are particularly susceptible to erosion and sediment loss, or establish development guidance that protects areas from erosion/ sediment loss;
- i) control post-development peak storm water run-off discharge rates and velocities to prevent or reduce downstream erosion, and to protect stream habitat.

**REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:**

Daniel Warner, Water Resource Control Engineer  
Central Valley Regional Water Quality Control Board  
364 Knollcrest Drive, Suite 205, Redding, California 96002  
dwarner@waterboards.ca.gov  
(530) 224-4848

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The City of Elk Grove Development Services Department is the Lead Agency responsible for compliance with the California Environmental Quality Act for the East Lawn Elk Grove Memorial Park Expansion Project pursuant to Section 21000 et seq. of the Public Resources Code. The City of Elk Grove Development Services Department approved the Negative Declaration 5 May 2016. The City of Elk Grove Development Services Department filed a Notice of Determination with the State Clearinghouse on 12 May 2016 (SCH No. 2016022041).

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from the Applicant, East Lawn Elk Grove Memorial Park Expansion Project (WDID No. 5B34CR00073) will comply with the applicable provisions of Section 301 ("Effluent Limitations"), Section 302 ("Water Quality Related Effluent Limitations"), Section 303 ("Water Quality Standards and Implementation Plans"), Section 306 ("National Standards of Performance"), and Section 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)."

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in compliance with conditions of this Certification, the Applicant's application package, and the attached "Project Information Sheet", and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan).

Any person aggrieved by this action may petition the State Water Quality Control Board to review the action in accordance with California Water Code Section 13320 and California Code of Regulations, Title 23, Section 2050 and following. The State Water Quality Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the

thirtieth day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Quality Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: [http://www.waterboards.ca.gov/public\\_notices/petitions/water\\_quality](http://www.waterboards.ca.gov/public_notices/petitions/water_quality) or will be provided upon request.



(for) Pamela C. Creedon  
Executive Officer

DLW:reb

Enclosure: Water Quality Order No. 2003-001- DWQ

cc w/o Mary Pakenham-Walsh, U.S. Army Corp of Engineers, Sacramento  
enclosures: California Department of Fish and Wildlife, Region 1, Redding  
California Department of Fish and Wildlife, Region 2, Rancho Cordova  
U.S. Fish and Wildlife Service, Sacramento  
Mr. Bill Jennings, CALSPA, Stockton  
Tim DeGraff, WRA, Inc., San Rafael

cc w/o  
Enclosures  
by email: U.S. EPA, Region 9, San Francisco  
Mr. Bill Orme, SWRCB, Certification Unit, Sacramento

## PROJECT INFORMATION

**Application Date:** 15 June 2016

**Application Deemed Complete:** 18 July 2016

**Applicant:** Alan Fisher  
East Lawn, Inc.  
4300 Folsom Blvd.  
Sacramento, CA 95819

**Applicant Representative:** Tim DeGraff  
WRA, Inc.  
2169-G East Francisco Blvd.  
San Rafael, CA 94901

**Project Name:** East Lawn Elk Grove Memorial Park Expansion

**Application Number:** WDID No. 5B34CR00073

**Type of Project:** Industrial Development.

**Timeframe of Project Implementation:** Proposed Start date is June 2016.

**Project Location:** Section 26, Township 7 North, Range 5 East, MDB&M.  
Latitude: 38.428° and Longitude: -121.391°

**County:** Sacramento County

**Receiving Water(s) (hydrologic unit):** Unnamed seasonal wetlands and emergent marsh, North Valley Floor Hydrologic Unit #531.11, Herold HA

**Water Body Type:** Wetland

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River Basin and San Joaquin River Basin, Fourth Edition, revised April 2016* (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A comprehensive and specific list of the beneficial uses applicable for the project area can be found at [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**303(d) List of Water Quality Limited Segments:** The unnamed seasonal wetland and emergent marsh are receiving water(s) for the East Lawn Elk Grove Memorial Park Expansion. The unnamed seasonal wetland and emergent marsh are not listed on the 303(d) list. This project does not impact an already impaired water body. The most recent list of approved water

quality limited segments is found at:

[http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml)

**Project Description (purpose/goal):** The East Lawn Elk Grove Memorial Park Expansion Project is located at 9189 East Stockton Boulevard in Elk Grove, California.

The Applicant proposes to expand the existing cemetery to the east and north into a portion of the Applicant's Property. The Project Area within the 127-acre Applicant's Property is two separate pieces, one approximately 17.6 acres and immediately east of the existing 12-acre East Lawn Elk Grove Memorial Park, and the other 3.89 acres immediately north of the Memorial Park. The 21.55-acre Project Area is undeveloped open space consisting of 21.16 acres of non-native annual grassland, 0.23 acre of degraded seasonal wetlands, and 0.17 acre of emergent marsh. The Project Area is bounded to the west by the existing cemetery, to the south by commercial development, to the east by undeveloped grassland, and to the north by Laguna Creek. The project will permanently impact 0.40 acre(s) of waters of the United States.

**Fill/Excavation Area:** Approximately 1,290.67 cubic yards of soil will be placed into 0.4 acres of waters of the United States.

**Dredge Volume:** N/A

**California Integrated Water Quality System Impact Data:** The Project will permanently impact 0.4 acre linear feet of jurisdictional wetland from fill activities.

**Table 1: Impacts from Fill and/or Excavation Activities**

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Wetland	--	--	--	0.4	1,290.67	--	--	--	--

Notes  
 NA Not Applicable

**United States Army Corps of Engineers File Number:** SPK-2004-00629

**United States Army Corps of Engineers Permit Type:** Nationwide Permit 39 (Commercial and Institutional Developments).

**California Department of Fish and Wildlife Lake or Streambed Alteration Agreement:** The Applicant did not apply for a Lake or Streambed Alteration Agreement.

**Possible Listed Species:** No Federally-threatened, -endangered, or California Department of Fish & Wildlife species are listed in the Section 401 Water Quality Certification Application. The

United States Army Corps of Engineers initiated informal consultation under Section 7 of the Endangered Species Act with the US Fish and Wildlife Service (Service). The Service made a determination that the proposed project is not likely to adversely affect vernal pool crustacean species.

**Status of CEQA Compliance:** The City of Elk Grove Development Services Department approved a Negative Declaration on 5 May 2016. The City of Elk Grove Development Services Department filed a Notice of Determination with the State Clearinghouse on 12 May 2016 (SCH No. 2016022041).

**Compensatory Mitigation:** Prior to commencing construction, the Applicant shall provide evidence of all off-site compensatory mitigation to the Central Valley Water Board. Evidence of on-site compensatory mitigation shall be provided with the Notice of Completion. At a minimum, compensatory mitigation must achieve a ratio of 1:1 for permanent impacts. Evidence of mitigation includes, but is not limited to, the purchase of 0.17 acres of marsh creation credits and 0.23 acres of seasonal wetland creation credits from a United States Army Corps of Engineers approved mitigation bank or purchase 0.40 floodplain mosaic credits from a United States Army Corps of Engineers mitigation bank as required by the United States Army Corps of Engineer.

**Table 2: Compensatory Mitigation for Permanent Physical Loss of Area**

Aquatic Resource Type	Comp Mitigation Type			Units		Established	Re-established	Rehabilitated	Enhanced	Preserved	Unknown
	In-Lieu	Mit. Bank	Permittee Responsible	AC (Acres)	LF (Linear Feet)						
Wetland		0.4		X							
<b>TOTAL</b>		0.4		X							

**Application Fee Provided:** Total fees of \$2,268.00 have been submitted to the Central Valley Water Board as required by Section 3833(b)(3)(A) and Section 2200(a)(3) of the California Code of Regulations.