

Handout presented to CWAC on March 21, 2007

3.11.1 Partial Wetland Fills

As of the February 21st CWAC meeting, proposed changes included:

- VC mitigation will not be required along edge of partial fill
 - Minimum 1:1 mitigation for the “lost” VC; on-site mitigation preferred
 - All remaining on-site VC must be enhanced to good condition

Since the last CWAC and Stakeholder meetings, we have received the following comments:

- Required VC area should be based on post-fill configuration
- Allowing zero buffer width is relaxing the protection too much

Based on additional comments, the following changes are being proposed.

3.11.1.a The amount of Vegetated Corridor to be mitigated shall be based on post-fill conditions with full Vegetated Corridor widths as shown in Table 3.1.

Rationale: The proposed change is consistent with conditions of mitigations for total wetland fills conditions (3.11.2.a) allowing the mitigated vegetated corridor area to be based on the post-fill configuration. Although the zero buffer width is not ideal, it prevents conflict with COE/DSL rules prohibiting filling wetland to create buffer.

3.11.2 Vegetated Corridor (VC) Mitigation for Total Wetland Fills

As of the February 21st CWAC meeting, proposed changes included:

- new mitigated wetlands required standard buffer widths based on post-development configuration
- For small wetlands that are less than 50 cu. Yd.:
 - When the existing VC condition is marginal or degraded, no mitigation is required.
 - When the existing VC condition is good, Payment to Provide is allowed.

Since the last CWAC and Stakeholder meetings, we have heard the need to clarify when small wetlands provisions are applicable.

Based on additional comments, the following changes are being proposed.

3.11.2.b For total fills of less than 50 cubic yards which do not require a DSL/COE permit or which do not result in physical mitigation:

- 1. If the existing associated VC is in Marginal or Degraded Corridor Condition, no mitigation for lost VC will be required.*
- 2. If the existing associated VC is in Good Condition, the District may allow Payment to Provide as VC mitigation.*

Rationale: As originally written, the provisions applying to small wetlands could have been read to supercede the requirement to provide full buffers on new mitigation wetlands.

4.05.8 Proprietary Treatment Systems (PTS)

During the February 21st CWAC meeting, limited use of PTS was discussed. The proposal at that time was to allow PTS if the applicant met the following conditions:

1. Treatment efficiency
2. Maintenance
 - a. Not maintained by the District or Cities, unless by IGA
 - b. Long-term maintenance plan required
3. Application
 - a. Single parcel (i.e., commercial/industrial uses)
 - b. Shared/common parking lots from adjoining commercial, industrial, or multi-family, or condominium parcels
 - c. Major collector or arterial improvements in existing ROW
 - d. Ultra dense residential uses

Since the last CWAC and Stakeholder meetings, we have received various comments including:

- PTS should be allowed for all lots smaller than 25,000 sq ft (basically all development within UGB)
- PTS should be allowed for development projects smaller than 3 acres
- PTS should be allowed for retrofit opportunities for areas without prior treatment

Based on additional comments, the following changes are being proposed.

1. PTS serving multiple parcels will be publicly maintained
2. PTS can be used for master planned regional facilities
3. Applicants will be responsible for maintenance for a 2-year period, including replacing canisters

Rationale: Expand the use of PTS throughout the District service area is in direct conflict with Integrated Water Resources Management (IWRM) strategy to restore hydrology and reduce impervious surface.

The District has also received additional information regarding maintenance costs and product availability. The District has had specific concern with long-term maintenance of facilities marketed by a single vendor. This concern with PTS became less of an issue as additional suppliers entered the market. It now appears, however, that all PTS manufacturers have merged with a bigger firm resulting in a single vendor supplier, once again.

With the potential for having a single vendor supplier issue, the District will be conducting a feasibility study on the most cost efficient maintenance protocol, which may include developing an in-house capability. Depending on this feasibility study, it may require additional time to plan, design, and construct a site that can be used for filling replacement cartridges.

The maintenance cost comparison also needs to be re-examined. The maintenance cost comparison of traditional swale vs. PTS was completed assuming a maintenance frequency of replacing filters once every three years. The manufacturer requires annual inspection and suggests typical maintenance periods of 12 to 36 months. Other local metro area agencies have experienced the need to clean on an annual basis. This may significantly impact the maintenance cost comparisons.

The District's experience with any HOA maintained facilities or systems has been less than ideal. There have been countless failed HOAs. This is precisely the rationale for traditional swales being required to be publicly maintained. Due to the need for specialized equipment and confined space entry procedures, maintenance on PTS cannot be performed by individuals or homeowners. The staff feels that the newly promulgated legislation on HOAs will need to be "tested" before we can fully rely on HOAs being fully responsible for maintenance of these highly technical and costly systems. In addition, potential issue of inequity associated with having HOAs be responsible for maintenance of what would normally be included as part of a monthly SWM fee will need to be addressed.

The District agrees that for small infill developments, there may be opportunities to provide treatment to previously untreated sites. As such, we have added the following to allowed use list:

4.05.8.c.5 Treatment of runoff as part of a master planned regional facility approved by the District.

Finally, small infill projects may also provide opportunities to use LID techniques to offset or eliminate the need for treatment. Moving in this direction is more in line with the District's overall IWRM goals.

The District will complete a vigorous examination of these and other issues as appropriate during the next two to three years.

We received no additional comments since the last CWAC meeting as they relate to VC Monitoring periods (staying with 2 years); and Low Impact Development Practices.

We did receive additional comment on the Methodology for Documenting Intermittent Status of Stream. We are researching DSL and Corps' methodology presently.