

**D&C Standards Update
March 6, 2007
Meeting Notes**

This meeting was to review all proposed changes and the Standard Details. It was attended by 11 stakeholders and nine staff. Sheri Wantland began with a review of the agenda and explained that the handout entitled "Key Issues Remaining" was a summary from the presentation to the Clean Water Advisory Commission on Feb. 21. (See attachments.) She reminded the group of important concepts that had come out during the 11 previous stakeholder meetings, as follows:

- Stakeholders were told at the beginning that major buffer width changes would not occur.
- Stakeholder meetings surfaced misunderstandings and misperceptions that stakeholders agreed needed clarification rather than changes in the intent.
- The District's position on proprietary systems has shifted slightly to allow more uses.
- Stakeholders agreed early in the process that eleventh hour comments and changes would circumvent their efforts to engage throughout the process.
- Data and science were needed to support proposed changes.

Summary

Terry Keyes led discussion of the key issues remaining, with assistance from Astrid Dragoy, Nora Curtis and Carrie Pak. Astrid passed out a new graphic that illustrates Vegetated Corridor mitigation for partial fill wetlands. It was agreed the graphic should be adjusted to indicate more clearly that the total buffer area pre- and post- development is equal.

Developers continued to press for eliminating the Vegetated Corridor when wetlands are filled. Nora restated the District's goal is to balance competing positions on protection of resources.

Hypothetical discussion led one stakeholder to suggest that in some cases proprietary treatment systems could replace Vegetated Corridors. Nora Curtis responded that treatment of stormwater runoff is just one of many functions of the Vegetated Corridors, including shade, setbacks, and infiltration.

Nora reviewed the rationale for changes in the location of trails in Vegetated Corridors, which is to correct unintended consequences that have unduly impacted parks along the Tualatin River. After some discussion for clarification, stakeholders indicated they understood and agreed with the adjustments.

After proposing to extend mitigation maintenance to three years, staff reviewed accepted sites and determined that two years is appropriate. Further, a change would create bonding and administrative problems for the Cities. Therefore this standard will not change. Discussion of the advantages of longer maintenance concluded with general agreement that stronger inspection programs would resolve plant maintenance issues. It is recognized that management of invasive plants is an ongoing challenge when enhanced sites are adjacent to degraded areas. More public education is needed to support resource enhancement efforts.

In reviewing the Low Impact Development Approaches (LIDA) that are new to the Standards, Terry noted that although DEQ regulations are silent on these techniques some may qualify as underground injection control (UIC) that need permits. For this reason, the intent is to allow and promote LIDAs that can be interpreted as not being a UIC. Because the District's guidance manual will not be completed when the Standards are adopted, there will be a reference to the

future guidance manual. LIDAs will be approved on a case by case basis until an approved guidance document is available.

Initially, this update of the Standards was not going to change the use of proprietary treatment systems. However, the door is opened slightly to allow more uses. Nora described the District's concern that storm filters and vaults might conflict with hydrology, green spaces and other values. She noted the District will be looking for "sub-regional" pilot cases where developers of small infill projects might be allowed to use propriety systems that would also treat runoff from older development that currently is not treated. Staff agreed to clarify the language regarding what constitutes high density and the types of development where proprietary systems would be allowed.

Discussion of proprietary treatment systems indicated interest in combining them with swales to eliminate the concern over UICs and interfering with hydrology. The yet to be developed Bethany area might present opportunities for pilot projects.

Terry reviewed the public comments that had been submitted after Feb. 13, 2007.

Discussion of the definition of intermittent streams continued. Staff agreed to check the definitions from USGS and DSL in seeking a clearer definition. Stakeholders said that although District staff interprets the definition fairly and reasonably, they are concerned that the definition is open to different interpretations by future staff that might be detrimental to their projects. It was pointed out that the Standards offer more than one method to determine whether a stream is perennial or intermittent.

Discussion of isolated wetlands concluded with agreement that the definition is in the Standards.

Finally, Terry noted the request to change the water quality design storm. He said this is outside the scope of this update of the Standards. Staff believes the design storm is dictated by state law and the Tualatin Basin Rule. Some attendees disagreed and suggested staff ask DEQ for clarification. Nora said as the District and DEQ revisit the bacteria standards for sanitary sewer overflows this issue will also be discussed.

Next Steps

Staff will continue to refine and clarify the Standards per the stakeholder comments. District legal staff has reviewed the draft and will coordinate with staff on the final draft. Stakeholders will be notified of the final draft and will be provided an addendum that will highlight the substantive changes from the current draft. Staff plans to present final issues to the Clean Water Advisory Commission (CWAC) on March 21 and go to the Board of Directors for approval on April 17. The proposed effective date is June 1, 2007.

Sheri thanked attendees for their participation since April of 2006 and invaluable contributions to the update process.

AGENDA
D&C Standards Update Stakeholder Meeting
March 6, 2007

3 p.m. Welcome and Introductions

3:10 Proposed changes that are generally agreed upon

- Vegetated Corridor Mitigation for Linear (pipe) Projects
- Pipe materials, laterals, and cover requirements
- Payment to Provide Program
- Plant Densities
- Erosion Prevention and Sediment Control
- Numerous housekeeping items

3:15 Proposed changes that continue to generate comments

- Vegetated Corridor Mitigation for Total Wetland Fill
- Vegetated Corridor Mitigation for Partial Wetland Fill
- Trail Location within Vegetated Corridor
- Vegetated Corridor Monitoring
- Low Impact Development Practices
- Proprietary Treatment Systems

3:20 New comments since Feb. 13

- Brown—intermittent stream definition
- Platt—buffer width, pre-fill vs. post-fill, intermittent stream definition
- Wegener—adopt Portland’s water quality design storm
- Neu—fee in lieu and proprietary treatment systems
- DeHarpport—buffer averaging and setback

3:25 Have we missed any?

3:40 Discussion

4:40 Concluding Remarks

4:50 Next Steps—effective date June 1, 2007

5:00 Adjourn

Key Issues Remaining

1. VC Mitigation for Total Wetland Fill

COE and DSL regulate wetlands/CWS regulates buffer around them

Issue: When wetlands are filled, CWS requires buffer mitigation equal to pre-development buffer area. Equivalent area can be impractical due to new wetland configuration.

Proposed Changes

VC still required for new mitigated wetlands

For small wetlands (less than 50 cu. yd.):

- When existing VC condition is *marginal or degraded*, no mitigation required
- When existing VC condition is *good*, Payment to Provide is allowed

2. VC Mitigation for Partial Wetland Fill

Issue: Conflicting regulations—when wetlands are partially filled, CWS requires VC on remaining wetland. But, COE and DSL prohibit more filling of wetlands for VC which has led to applicants asking to fill additional wetland only to provide the required VC.

Proposed Changes

VC will not be required along edge of partial fill

- Minimum 1:1 mitigation for the “lost” VC; on site preferred
- All remaining on-site VC must be enhanced to good condition

Potential Challenge

Seeking best compromise with conflicting regulations, while addressing concerns about relaxing rules for VC surrounding a wetland.

3. Trail Locations within VC

Issues: Trails within buffers can impact water quality. Options for trail placement are limited (property, easements). The 2004 increase in Tualatin River VC significantly impacts Tualatin Parks. Alternative alignments and low impact techniques are not well-known or accepted.

Proposed Changes

- Allow Tualatin River trails similar to other streams (35' from top of bank)
- Add flexibility when low impact techniques and alternative trail configurations are used
- Clarify that definition of trail width includes shoulders

Potential Challenge

Concerns about relaxing VC rules. Some have asked District to expand VC widths to accommodate trails and prohibit trails within existing VC widths.

4. VC Monitoring

Issue: When VC is enhanced to good condition, some believe current requirement to monitor for 2 years is not enough time for successful mitigation.

Proposed Changes

None—keep 2 year monitoring period. Initial proposals to extend monitoring to 3 years was not supported by further review of accepted sites. And, proposal for District to assume maintenance is not feasible.

5. Low Impact Development Practices

Issue: Cities/County must comply with Metro Goal 5 requirements and the Tualatin Basin Plan is to implement the Healthy Streams Plan and encourage habitat friendly development practices. However, low impact development techniques are new and unproven in the Basin and they overlap other codes (building, plumbing, etc.)

Proposed Changes

Suggested list of LID practices the District will allow.

Potential Challenges

The District's LID guidance document is still being developed and reviewed. Potential for confusion with guidance documents produced by other jurisdictions.

6. Use of Proprietary Treatment Systems

Issues: Increasingly difficult to find land for swales due to density and infill projects. Urban transportation projects rarely have additional right of way for swales without impacting structures.

Proposed Changes

Allow limited use of proprietary treatment systems:

- Continue approval for single parcels
- Allow for high pollutant loading areas, extremely high density development, collector and arterial road improvements in existing right of way
- Require long-term maintenance plan
- Facilities serving multiple parcels must be publicly maintained

Potential Challenges

Proliferation of proprietary systems might conflict with Integrated Water Resources Management goals to restore hydrology and reduce impervious surface.

7. Methodology for Documenting Intermittent Status of Stream

Issue: Unclear definition.

Suggested Changes

"The stream channel is dry (without visible flow or standing water) during two sampling visits which are at least 30 but no more than 90 days apart during a year with wet to average precipitation patterns....Change the subsequent references to "30 day" to read "30 to 90 day." Clarify "average year" precipitation.

Proposed Schedule

March 21	Clean Water Advisory Commission (CWAC) public comment
April 17	Board of Directors first public hearing
April 24	Board of Directors adoption of R & O
June 1, 2007	Effective date of updated Standards

