



Los Angeles Regional Water Quality Control Board

April 28, 2023

Kyle Cason
Director of Public Works
City of Whittier
13230 Penn Street
Whittier, CA 90602

APPROVAL OF ALTERNATIVE ONSITE FLOW-BASED BMPS PURSUANT TO PART VIII.F.4.c.ii OF THE REGIONAL MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) PERMIT (NPDES PERMIT NO. CAS004004; ORDER NO. R4-2021-0105); 11716 FLORAL DRIVE

Dear Mr. Cason:

On January 24, 2023, the Los Angeles Regional Water Quality Control Board (Los Angeles Water Board) received a revised letter and supporting documents from the City of Whittier (City), requesting approval for the use of an onsite flow-based treatment control BMP, Modular Wetlands Linear¹ manufactured by Contech Engineered Solutions, LLC., as an alternative compliance measure for a priority development project within the City's jurisdiction.

Pursuant to Part VIII.F.4.b.i and Part VIII.F.4.c.ii of the Regional MS4 Permit, if a Permittee determines that onsite infiltration, onsite biofiltration, and offsite alternative compliance measures are not technically feasible, the Permittee may request approval from the Los Angeles Water Board Executive Officer for the use of onsite flow-based BMPs.

Background

Part VIII.F of the Regional MS4 Permit requires Permittees to implement a Planning and Land Development Program. As part of this program, Permittees shall require all priority development projects identified in Part VIII.F.1.a, to implement structural BMPs to meet the performance requirements described in Part VIII.F.4.a. Except as provided in Part

¹ The City's request letter and supporting documents referenced the use of two different flow-based BMP devices, Filterra and Modular Wetlands Linear. Los Angeles Water Board staff contacted the City for clarification on March 13, 2023 regarding which device will be used. In an email response received on March 17, 2023, it was clarified that the Modular Wetlands Linear device will be used and not the Filterra.

VIII.F.1.c (Exemptions), Part VIII.F.2 (Hydromodification Management Requirements), or Part VIII.F.4.b (Alternative Compliance) of this Order, the structural BMPs shall retain on-site the Storm Water Quality Design Volume (SWQDV). Each Permittee shall require all priority development projects to meet the performance requirements in the following order of preference per Part VIII.F.1.d:

- i. On-site infiltration, bioretention and/or rainfall harvest and use,
- ii. If subpart i above is infeasible, on-site biofiltration, off-site groundwater replenishment, and/or off-site retrofit, or
- iii. If subpart ii above is infeasible, on-site treatment, where all the above options are infeasible.

Pursuant to Parts VIII.F.4.b and VIII.F.4.c.ii, Permittees, with approval, may allow the priority development project to utilize flow-through treatment control BMPs to treat runoff leaving the site, and mitigate for the design capture volume not reliably retained onsite pursuant to Part VIII.F.4.a of the Order. Flow-through treatment control BMPs must be appropriately designed and sized and meet the following criteria:

1. Filter/treat either:
 - a. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour, for each hour of a storm event; or
 - b. The maximum flow rate of runoff produced by the 85th percentile hourly rainfall intensity (for each hour of a storm event), as determined from the local historical rainfall record, multiplied by a factor of two.
2. Be certified for “Enhanced Treatment” under the Washington State Department of Ecology’s TAPE Program; or an appropriate future BMP certification developed by the State of California.

Public Review

On January 31, 2023, the Los Angeles Water Board provided public notice and a 30-day period to allow for public review and written comment on the proposed use of onsite flow-based BMPs as an alternative compliance measure. No comments were received.

Alternative Onsite Flow-based BMPs Approval

I hereby approve the City’s proposal for the use of the requested TAPE-certified onsite flow-based BMP, Modular Wetlands Linear, as an alternative compliance measure for the priority development project at 11716 Floral Drive. The City has demonstrated that the project followed the post construction BMP preference order per Part VIII.F.1.d and that all other alternative compliance measures are not feasible. The requested BMP is appropriately designed and sized to meet the filtration/treatment and certification criteria pursuant to Part VIII.F.4.c.ii of the Regional MS4 Permit.

This approval does not constitute certification or verification of the performance of Modular Wetlands Linear since the Los Angeles Water Board does not have a testing

and certification program for treatment control BMPs. This approval is given based on the supporting documentation provided in the request and relies on the City's review of the system.

The City shall comply with Maintenance Agreement and Transfer requirements outlined in Part VIII.F.3 of the Regional MS4 Permit. These requirements include:

1. Part VIII.F.3.b – prior to issuing approval for final occupancy, the City shall require new development and redevelopment projects subject to postconstruction BMP requirements to provide an operation and maintenance plan; monitoring plan, where required; and verification of ongoing maintenance provisions for LID practices, treatment control BMPs, and hydromodification control BMPs.
2. Part VIII.F.3.b.i – verification of post-construction BMP maintenance agreement shall include all the documents included in this provision.
3. Part VIII.F.3.b.ii – the City shall ensure a plan is developed for the operation and maintenance of all structural and treatment controls. The City shall examine the plan for relevance to keeping the BMPs in proper working order. Furthermore, operation and maintenance plans for private BMPs shall be kept on-site for periodic review by City inspectors.
4. Part VIII.F.3.c.iii – the City shall verify proper maintenance and operation of post-construction BMPs operated by the City.
5. Part VIII.F.3.c.iv – for post-construction BMPs operated and maintained by parties other than the City, the City shall require the other parties to document proper maintenance and operations.
6. Part VIII.F.3.c.v – the City shall undertake any enforcement as appropriate per the established progressive enforcement policy.

If you have any questions, please contact Ms. Susana Vargas of the Municipal Stormwater Permitting Unit at Susana.Vargas@waterboards.ca.gov or by phone at (213) 576-6688. Alternatively, you may also contact Mr. Ivar Ridgeway, Municipal Stormwater Permitting Unit Supervisor by email at Ivar.Ridgeway@waterboards.ca.gov or by phone at (213) 620-2150.

Sincerely,

for Renee Purdy
Executive Officer