

**RESPONSE TO COMMENTS RECEIVED ON THE MITIGATED
NEGATIVE DECLARATION FOR LANDS OF DAL PROPERTIES –
File Nos. GP08-08-02 and PDC09-007**

**LIST OF AGENCIES & ORGANIZATIONS COMMENTING ON THE
INITIAL STUDY**

A. California Regional Water Quality Control Board, May 18, 2009

RESPONSES TO COMMENTS RECEIVED ON THE INITIAL STUDY

The following section includes all of the comments on the Initial Study that were received by the City of San José during the review period. The comments have been excerpted from the letters and are presented as “Comment” with each response directly following (“Response”). The actual letters submitted follow the responses to comments.

LETTER A from the California Regional Water Quality Control Board, May 18, 2009

Comment A-1:

The proposed use of pervious concrete pavers and the discharge of roof runoff to landscaped areas are consistent with the requirements of Provision C.3 of the Santa Clara County NPDES Permit for stormwater discharges (Board Order No. 01-024; NPDES Permit, CAS0299718, as amended by Order Nos. 01-119 and 2005-0035), issued to the Santa Clara Valley Urban Runoff Pollution Prevention Program. However, the proposed use of continuous deflection separator (CDS) units to treat runoff from the public street areas is not appropriate. CDS units belong to a class of treatment devices referred to as “hydrodynamic separators”. Water Board staff discourage the use of hydrodynamic separators at sites with significant areas of currently undeveloped open space. These devices are more appropriate at dense infill sites that lack adequate surface area for landscape-based treatment devices. At sites with available, unused surface area, such as the Project site, it is possible to design the Project to set aside sufficient surface area for appropriate stormwater treatment BMPs. When they are used, hydrodynamic separators are only appropriate if used in combination with BMPs that are capable of removing the fine particulate matter that is not amenable to removal by hydrodynamic separators, and in combination with filter media that permanently absorbs hydrocarbons. CDS units should discharge to landscape-based treatment measures to treat the CDS effluent to remove fines and hydrocarbons. Research sponsored by a CDS unit manufacturer has demonstrated that hydrocarbons removed by a CDS unit during one storm tend to be washed out of the units by subsequent storms, unless the units are equipped with hydrocarbon absorbing media.

Response A-1:

Since this is a Planned Development Zoning the Stormwater Treatment Plan is conceptual only. At the Planned Development Permit stage the City will continue to explore this approach, as well as other feasible approaches for stormwater treatment on the public streets in this project.

Comment A-2:

Water Board staff encourage the project proponents to consider replacing the existing culvert with a free span bridge, rather than extending the existing 48-inch diameter culvert or constructing a second 48-inch diameter culvert. Free span bridges have much smaller impacts on creek habitat and creek stability. Extending the existing culvert or constructing a second culvert will require a permit from the Water Board. This permit will cover all of the Project's impacts on water quality, including the treatment provided for stormwater runoff.

Response A-1:

In the existing condition, the culvert passes the low flow while the road acts as a weir in a larger storm event and helps to attenuate the higher flows and minimize downstream erosion. Replacing the culvert with a free span bridge would allow large flows to pass through unchecked and create significant downstream erosion and sediment pollution in Misery Creek and Thompson Creek.