



# Friends of Sausal Creek

PROMOTING WATERSHED AWARENESS

January 20, 2012

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EPA Emeritus

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UC Berkeley Administrator

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Civil Engineer

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## STAFF

**Kimra McAfee**  
Executive Director

**Megan Hess**  
Restoration and  
Nursery Manager

*Friends of Sausal Creek is a  
501(c)(3) non-profit organization*

San Francisco Bay Regional Water Board  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Attn: Habte Kifle

Re: Administrative Civil Liability Complaint No. R2-2011-0005

Dear Mr. Kifle:

The Board of Directors of the Friends of Sausal Creek is writing regarding Administrative Civil Liability (ACL) Complaint No. R2-2011-0005, East Bay Municipal Utility District. In particular, we are concerned with the unauthorized discharge to Sausal Creek on August 5, 2010, which appears to have killed 25 rainbow trout in Sausal Creek. It is our understanding that a draft settlement agreement has been proposed for the complaint and that public comment on the settlement agreement is being accepted through January 20, 2012.

Having reviewed the settlement agreement, we appreciate the effort put into the investigation and negotiation. However, we are dismayed that the agreement does not include a supplemental environmental project (SEP).

The indigenous rainbow trout population in Sausal Creek is one of the few breeding populations in the urban East Bay. FOSC volunteers and community members, in partnership with the City of Oakland, the Alameda County Flood Control District, and other agencies, have spent more than ten years of effort and a great deal of donated money to improve the watershed habitat to encourage survival and growth of native species in the watershed, including the rainbow trout population. Currently we are working with the City and the Flood Control District to daylight a section of the creek. One of the purposes of the daylighting project is to improve fish habitat and creek access on a reach of the creek just downstream of the reported unauthorized discharge.

We believe a SEP performed by the Friends of Sausal Creek is appropriate as part of the resolution of this complaint for the following reasons:

- 1) The discharge into the storm drain on Wellington Street killed 25 trout in the reach of Sausal Creek directly below Wellington Street.
- 2) Using a portion of the fine paid by EBMUD for an SEP in the area affected by the discharge would show the community that EBMUD is committed to offsetting the damage done to the creek.

3) FOSC is currently working to improve habitat for fish in that reach of creek. Part of this effort includes implementing a bioassessment monitoring program that follows SWAMP protocol to improve the quality of our monitoring data.

As previously submitted to the Regional Board via Athena Honore (San Francisco Estuary Partnership) for EBMUD's consideration, we propose a SEP along the general lines of the Sausal Creek Dimond Park Restoration Project (attached herein). Subsequent to submitting this SEP outline in April 2011 to Ms. Honore, in June 2011 we proposed adding a bioassessment element to the SEP. At that time, FOSC's restoration manager and key volunteers began their training on SWAMP protocol so that we can resume our water quality and aquatic insect monitoring programs using state approved monitoring methods as recommended in our watershed plan. This bioassessment monitoring fits into the previously submitted SEP proposal for several reasons, including both the nature of this ACL complaint as well as the fact that FOSC's monitoring program was described in the City's grant application for this creek daylighting project but is currently unfunded.


FOSC would be happy to meet with representatives of the San Francisco Bay Regional Water Board and EBMUD to more fully define a workable SEP. The FOSC board of directors believes that monetary fines are not sufficient to mitigate this sort of violation which directly harmed the waters of the state. We do not feel that a settlement agreement which fails to return money and effort to the impacted watershed is either sufficient or appropriate, particularly when there is an active and vocal grassroots movement engaged in preserving the Creek and its environment.

If you have any questions, our contact information is below. Thank you for your assistance.

Sincerely,



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Board President  
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cckohnert@sbcglobal.net



Kimra D. McAfee  
Executive Director  
(510) 501-3672  
coordinator@sausalcreek.org

Enclosure

*Formed in 1996, the Friends of Sausal Creek is a group of community members protecting the Sausal Creek Watershed at a grassroots level. We recognize that citizen participation, from residents to decision-makers, teachers and students, is critical for building long-term commitment to protecting Sausal Creek as a natural resource for the greater Oakland community.*



# Friends of Sausal Creek

*Promoting Watershed Protection*

## SAUSAL CREEK DIMOND PARK RESTORATION PROJECT

The Friends of Sausal Creek (FOSC) is currently collaborating with the City of Oakland on a \$2.9 million dollar Sausal Creek restoration project in Dimond Park. The City has secured funding for the project from Alameda County Flood Control and Water Conservation District, a California River Parkways Grant (Proposition 84), and the Measure DD Bond (Oakland Trust for Clean Water and Safe Parks). The project entails a major restoration of 745 linear feet of Sausal Creek through Dimond Park, of which 180 linear feet involves channel daylighting. The site where the August 2010 Sausal Creek fish kill occurred is located within this stretch of creek. Under the secured funding, the Friends of Sausal Creek will provide \$50,000 of native plants propagated from seeds and cuttings collected within the Sausal Creek Watershed; in addition, the Friends of Sausal Creek is providing an in-kind match for the project of an additional \$10,000 in plants and \$70,000 in staff and volunteer labor for long-term maintenance of the project. This includes leading volunteer workdays to remove invasive, non-native plants and filling in with native plants on an as-needed basis as the restoration site vegetation matures. There is currently no funding for the staff time to coordinate and lead these activities. The Friends of Sausal Creek proposes a Supplemental Environmental Project with a budget of \$38,000 to coordinate and lead community workdays, to propagate the infill plants, and for necessary tools and supplies required by both the restoration and native plant nursery workdays. The project is to begin construction in August 2012 and will be completed in 2013.

In total this multi-objective project will enhance and create over 1.15 acres of riparian habitat in a highly urban area within the City of Oakland. This riparian restoration is adjacent to successful restoration work within Dimond Canyon just upstream, and will remove significant barriers to fish passage, reconnecting reaches of Sausal Creek for the native rainbow trout after decades of being disconnected. In addition to the daylighting and improved fish habitat and passage, failing walls, invasive plants, and eroding bank will all be addressed. The project will provide opportunities for more biodiversity and high quality riparian habitat; will stabilize steep banks using soil bioengineering methods; and will raise awareness of both the creek and the restoration and daylighting process through the project's interpretive components.

Contact: Kimra McAfee, FOSC Executive Director, (510) 501-3672, [coordinator@sausalcreek.org](mailto:coordinator@sausalcreek.org)