

Millsmont Homeowners Association
6367 Hillmont Drive
Oakland, CA 94605
www.chimescreek.com

Contact: Chiye Azuma
Phone: 510-632-6210
Cell: 510-798-3978
email: MHA@chimescreek.com

PRESS RELEASE
FOR IMMEDIATE RELEASE

Chimes Creek Homeowners File Citizen Suit against City of Oakland and DeSilva Gates

Oakland, Calif. June 26, 2006 – A Citizen Suit under the federal Clean Water Act was filed today in federal court by the Millsmont Homeowners Association, an unincorporated association representing residents along Chimes Creek in central East Oakland. The suit charges the City of Oakland and DeSilva Gates Construction, L.L.P. with violations of their National Pollutant Discharge Elimination System permits for stormwater and wastewater discharges as well as other violations under the Clean Water Act.

The Citizen Suit follows two years of unsuccessful negotiations between the residents and the City and DeSilva Gates. The residents contend that the construction of the Monte Vista development at the Leona Quarry has contributed to an increase in the volume and turbidity of Chimes Creek, causing erosion, loss of wildlife habitat and property, and impairment of recreational use. The suit also alleges that erosion of the creek banks and poor maintenance by the City have resulted in recurring discharges of untreated wastewater from the City's sanitary sewer lines into Chimes Creek. Residents describe manholes located along the creek that regularly overflow with wastewater during the rainy season.

Stormwater discharge consists of the surface runoff generated from various land uses, including residential development, collected in the City's storm drain system which discharges into creeks and streams which, in turn, flow into the San Francisco Bay. Despite the fact that the City's storm drain system includes the use of Chimes Creek in this way city officials have argued that the City is not responsible for maintaining the creek because it is located on private property. Creekside homeowner Mark Brest van Kempen questions this reasoning: "Even if the creek is on private property, how can they pump public stormwater through my backyard and then tell me they're not responsible for the impacts?"

Millsmont Homeowners Association
6367 Hillmont Drive
Oakland, CA 94605
www.chimescreek.com

Contact: Chiye Azuma
Phone: 510-632-6210
Cell: 510-798-3978
email: MHA@chimescreek.com

During this last year alone, I have lost so much land from the storm flows, but the city engineers refuse to admit there's a problem." Brest van Kempen's neighbor, Chiye Azuma is puzzled by the hydrologic modeling presented by city engineers. "The developer's hydrologist claimed that post construction runoff of stormwater would be less than before they paved the roads and built the homes. That's based on the premise that the quarry was formerly covered with an impenetrable layer of rock, but we all know that the site was well vegetated, and there were a number of ponds at the quarry that slowed down and absorbed the stormwater. The volume and velocity of the creek waters during the last two storm seasons since construction started have been the worst we've ever seen."

Azuma emphasizes that it has never been MHA's intention to stop the development at Leona Quarry or Ridgmont. "In all the letters that we have sent to the City in the past we've made it clear that our primary interest is in protecting the creek and our properties against further damage from increased stormwater runoff. When the project was given the green light at City Council four years ago, we were promised that conditions would not be made worse. My neighbors and I have spent a good part of the last two years seeking relief from the City, and it's a shame that we have to resort to a lawsuit to get the City to keep its promise. What we really want is a plan and schedule of action for the City to restore the creek channel of Chimes Creek and repair the sewer lines that run along Chimes Creek – all on an enforceable schedule."

###

For more information about Chimes Creek and MHA's Citizen Suit against the City of Oakland and DeSilva Gates, or to schedule an interview with the members of the MHA, please contact Chiye Azuma at 510-798-3978 or email at MHA@chimescreek.com. The full text of the Citizen Suit and the 60-Day Notice are posted on the Chimes Creek website at www.chimescreek.com. Follow this link for images of the creek and sewer overflows: <http://chimescreek.info/BankErosion/Flooding01.html>