

## STRAWBERRY CREEK WATERSHED COUNCIL

August 27, 2010

Jeffrey Shu  
State Water Resources Control Board  
Division of Water Quality  
P.O. Box 100  
Sacramento, California 95812-0100  
[JShu@waterboards.ca.gov](mailto:JShu@waterboards.ca.gov)

FAX: 916-341-5621

**Re: REQUEST FOR INCLUSION OF WATER QUALITY DATA AND INFORMATION FOR 2012 CALIFORNIA INTEGRATED REPORT – SURFACE WATER QUALITY ASSESSMENT AND LIST OF IMPAIRED WATERS [Clean Water Act Sections 305(b) and 303 (d)] for Strawberry Creek and its Headwater Tributaries in both Berkeley and Oakland, Alameda County, California, Water Board Region 2, San Francisco**

Dear Jeffrey Shu:

The Strawberry Creek Council respectfully requests that Strawberry Creek and its Headwater Tributaries be included in 2012 California Integrated Report – Surface Water Quality Assessment and List of Impaired Waters. Strawberry Creek is a significant creek in the East Bay, flowing year-round from sources within the hillsides of Strawberry and Blackberry Canyons. This constant source of water was the reason for the establishment of the University of California in the plains below. The creek is now and has been greatly impacted by the legacy contamination of the Lawrence Berkeley National Laboratory (LBNL) since the 1940s.

In 1998 LBNL was deemed eligible for listing on the National Superfund Priorities List (NPL) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or "Superfund"). LBNL was administratively removed from the eligibility listing at the beginning of the Bush Administration. Contamination remains in the soil, sediment, vegetation and surface waters of the canyons.

In 2008 litigation, *California Sportfishing Protection Alliance v. Steven Chu*, alleged that:

"...[the] Defendants' discharges of polluted storm water and non-storm water pollutants from the Defendants' facility ("the Facility") into the waters of the United States in violation of the Act and the State of California's "Waste Discharge Requirements for Discharges of Storm Water Associated With Industrial Activities Excluding Construction Activities,"...Defendants' violations of the discharge, treatment technology, monitoring requirements, and other procedural and substantive requirements of the Permit and the Act are ongoing and continuous..." (see enclosed Brief, full copy, Attachment 1).

The litigation was settled out-of-court.

To-date the Strawberry Creek Watershed Council has learned that in accordance with the settlement: 1. LBNL has carried out 4 storm water samplings, 2. It appears, based on the samplings, that the implemented mitigations were not sufficient and are cause for continued concern and, 3. That the settlement itself was not sufficient to address the systemic discharge violations.

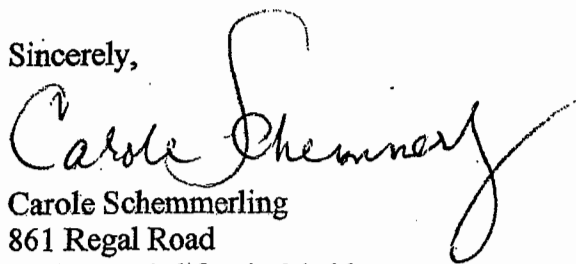
Please find enclosed four cover letters from LBNL pertaining to the above referenced samplings, indicating that "additional storm water pollution prevention measures are warranted," (March and June 2009) and "that benchmark goals were exceeded" (December 2009 and June 2010). (Attachment 2)

Strawberry Creek Watershed Council is concerned about this issue because of the current plans of LBNL to demolish and construct up to 1 million gross sq. ft. of new facilities within its hillside and canyon campus of some 200 acres. Our organization has previously communicated with your agency regarding this matter (see letter of May 7, 2010)

In accordance with your current solicitation, recently sent to the Strawberry Creek Watershed Council, we will be submitting the sampling data and the laboratory analysis reports as an addendum in a separate mailing.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Carole Schemmerling". The signature is written in dark ink and is positioned to the right of the typed name.

Carole Schemmerling  
861 Regal Road  
Berkeley, California 94708

Cc:  
Save Strawberry Canyon  
Committee to Minimize Toxic Waste

Attach:

1. Complaint for Declaratory and Injunctive Relief, *California Sportfishing Protection Alliance v. Steven Chu*, April 14, 2008
2. Letters from LBNL, March 23, 2009, June 16, 2009, December 2, 2009, June 8, 2010.