August 5, 2011

CalTrans District 4
Attn: V. Shearer
by electronic delivery

Re: Comments on "Niles Canyon II Draft EIR"

To Whom It May Concern:

Please accept the following comments on the Draft EIR for the Niles Canyon II project. They were prepared by Gordon Becker of the Center for Ecosystem Management and Restoration (CEMAR), a non-partisan, not-for-profit organization in Oakland, California. The comments presented here should be considered part of the commentary submitted by Mr. Jeff Miller and the Alameda Creek Alliance, as the DEIR review and comment preparation was conducted on their behalf.

I, Gordon Becker, have a master's degree in Water Resources Management from the University of Wisconsin-Madison. I also completed a Fisheries Science master's curriculum at CalState East Bay. Through CEMAR, I have published comprehensive reviews of steelhead distribution and steelhead restoration opportunities in tributaries of the San Francisco Estuary. I have lectured extensively on my research at local universities, meetings of the American Fisheries Society (AFS) and the Salmonid Restoration Federation, the State of the San Francisco Estuary conference and other venues. I was part of the Upland Goals project regarding conservation strategies and serve as a member of the Technical Advisory Committee for the South Bay Salt Ponds Restoration. I am a Certified Fisheries Professional through AFS. I have many years of experience preparing and reviewing environmental review documents.

<u>Comments</u>

p. 1-7. There is no Section 1.3.1.2 between sections 1.3.1.1 and 1.3.1.3. This missing section is an appropriate place to evaluate the environmentally superior alternative, a safety project that minimizes encroachment on the creek.

p. 1-8. The DEIR states, "The current facility is safely navigable..." It is unclear, then, why the current preferred alternative, with substantial cost and environmental impacts, was selected over the No Build Alternative. More importantly, an alternative should be pursued involving site-specific safety enhancements that improve safety while minimizing environmental impact. The current project applies inappropriate design criteria to conditions that occur in Niles Canyon.

p. 2-4. The DEIR notes that the project proposes, "Minimizing the removal of large, specimen-size riparian trees to the greatest extent feasible." This does not appear to be true, as the project adheres to inappropriate shoulder width standards requiring excessive retaining wall construction and involving removal of great numbers of such trees.

p. 2-4. For reasons cited in the comment above, the proposed project is inconsistent with Policy WA22 of the SFPUC Alameda Watershed Management Plan.

p. 2-4. The DEIR states, "Grading...will be minor..." This statement appears to be biased, as 1.62 miles of retaining walls are proposed which cannot be accomplished with "minor" grading. Either a standard for "minor" should be established and the project compared, or the statement should be removed from the document.

p. 2-20. The DEIR states, "Impacts from increased roadway dominance...will be minor..." As above, the review should use standards to rather than introduce apparently biased evaluative language. The statement also is inconsistent with subsequent conclusions such as "...strong decline in visual quality..." (p. 2-21) and "...substantial decline in the intactness, unity, and overall visual..." (p. 2-24) and "strong decline in vividness, intactness, unity, and overall visual quality" (p. 2-30).

p. 2-47. The DEIR notes the need to consider impacts on natural floodplain values and consider measures to minimize floodplain impacts. It also notes the need to analyze the practicability of alternatives to any longitudinal encroachments on the floodplain. However, the environmental consequences discussion in the hydrology section does not provide any impacts analysis, nor does it suggest mitigation or minimization measures for identified impact ("...proposed improvements...will have an insignificant impact on the Base Floodplain"). The DEIR must show the project's encroachment on the floodplain, analyze the impact, and find alternatives (such as reducing or eliminating downslope retaining walls). If alternatives are not selected, the DEIR must provide minimization and mitigation measures for the impact. Figures in Appendix E, FEMA Floodplain Mapping, are not labeled and are not at a scale usable for evaluating the overlap of the project and the floodplain.

It should be noted that the CEQA checklist for this project cites "no impact" for part c) of the Hydrology section. This is incorrect and inconsistent with the DEIR, which calls the impact "insignificant." The project's potential effect on the channel carrying the 100-year flood must be described and avoided or mitigated.

p. 2-49. The DEIR notes that "Alameda Creek [is] susceptible to the erosive flows resulting from an increase in runoff rate and volume resulting from an increase in impervious area." This area is described as 9.13 acres. The Avoidance, Minimization, and/or Mitigation Measures simply do not address this impact. The measure at the top of p. 2-50 indicates that "identifying and protecting desirable vegetation" will occur and "additional vegetation will be selected for preservation where feasible." The DEIR must describe this to-be-protected vegetation or acknowledge that the

project removes vegetation as needed, increases impervious surface, and offers no mitigation for the increased runoff rate and volume.

p. 2-60. The DEIR notes that a 52-foot retaining wall will encroach on Alameda Creek permanently. The standard for this environmental review has been established to be "no practicable alternative," yet no evidence is provided that the proposed project is the only alternative. The project should be redesigned to avoid this impact. Alternately, substantial compensation should be provided if the effect is determined to be unavoidable. The DEIR does not include the necessary analysis, conclusions, or mitigation.

p. 2-61. The DEIR makes the illogical conclusion that a new retaining wall that consumes natural streambank will not alter hydrology or habitat. Analysis of the actual effects on hydrology and habitat should be provided, alternatives considered, and, if the impact is determined to be unavoidable, mitigation must be offered.

p. 2-74. While it does not affect the DEIR analysis, it should be noted that the BART weir IS NOT expected to be removed in summer of 2011. It will be modified, likely in the summer of 2012.

p. 2-74. The DEIR notes that juvenile steelhead occur in the vicinity of the project area, but states, "...the anadromous form of steelhead is not considered present in the project vicinity." Steelhead/rainbow trout (*Oncorhynchus mykiss*) has two life history forms, stream-maturing and ocean-maturing. Stream-maturing *O. mykiss* occur upstream from the project area and may produce smolts that migrate through the project area and become ocean-rearing. (Smolt trapping would confirm if steelhead outmigration occurs from Alameda Creek, but has not yet been conducted in the lower watershed.) In this context, the DEIR should treat Niles Canyon as potential anadromous steelhead habitat, analyze possible effects on individuals and habitat, and avoid or propose mitigation for possible effects.

pp. 2-77 and 2-80. While the DEIR establishes that removing riparian vegetation and building in the creek channel will have effects on steelhead habitat, it does not characterize the amount or degree of the effects or offer Avoidance, Minimization, and/or Mitigation Measures. The DEIR cannot rely on possible future consultation with NMFS to defer or avoid mitigating known project effects.

Commonly understood functions of riparian areas include: 1) increasing resistance to erosion; 2) contributing large woody debris that provides instream habitat; 3) shading and water temperature modulation; 4) allochthonous food source; and 5) dissolved nutrient input (see, for example, Gregory *et al.* 1991). The DEIR must acknowledge the impact of removing 439 native trees on aquatic habitat. Consistent with previous comments, such effects appear avoidable with adoption of a safety project with design criteria appropriate to the environmental setting. In particular, downslope retaining walls and associated tree removal should be avoided due to associated substantial effects on hydrology and habitat. If disturbance of the creek

or riparian areas is deemed essential, meaningful measures must be presented as part of the project that compensate for adverse effects on steelhead and other aquatic species.

Summary

The proposed project appears unnecessary to accomplish the goal of providing safe driving conditions in Niles Canyon. Rather, design criteria were used appropriate for standard topographic, environmental, and aesthetic conditions that do not occur in the canyon. Site specific criteria and design solutions should be applied, especially to limit construction and disturbance of downslope areas.

The project area is the subject of an enormously important biological restoration effort in the form of restoring steelhead trout to Alameda Creek. The proposed project is particularly inconsistent with this multi-year, multi-stakeholder, multi-million dollar program and should be revised or cancelled to achieve consistency with habitat goals for the Niles area. Staff at the Center for Ecosystem Management and Restoration welcome the opportunity to contribute to the ongoing effort to design a suitable safety project for this environmentally sensitive area.

References

Gregory, S.V., F.J. Swanson, W.A. McKee, and K.W. Cummins. 1991. *An Ecosystem Perspective of Riparian Zones.* **Bioscience.** Vol. 41, No. 8, pp. 540-551.