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October 7, 2010

Valeria Heusinkveld, Environmental Branch Chief
Attn: Oliver Iberien
Department of Transportation, Office of Environmental Analysis MS 8B
111 Grand Ave
Oakland, CA 94623

RE: Niles Canyon Safety Project DEIR/EA [02-ALA-84 PM 13.6 to 18.0]

Dear Ms. Heusinkveld:

After reviewing the proposed project documentation and the presentation to the Fremont City Council, the City of Fremont has great concerns about the environmental impacts of the project and the purpose and need for the project as identified in the EA/DEIR. The City requests that additional information regarding the purpose and need, a new project alternative, and potential environmental impacts be included in a revised EA/DEIR and have the document recirculated for public comment.

Purpose and Need

A combination of accident data and forecasted traffic increases has been presented by Caltrans staff for the stated purpose and need of the project. The most recent information presented by Caltrans to the City Council focused on head-on collisions. Additionally, Caltrans mentioned future traffic volumes as a reason to pursue the proposed project improvements. The purpose and need requires specific and clear articulation of the rationale and disclosure of the supporting facts for proceeding with the project. In addition to documentation of accidents, the projected future operation and capacity of the roadway needs to be included for proper context of the need. The information supporting the purpose and need requires additional support.

Page 1-5: Tables 1.1 and 1.2 show the accident rate data and accident type data between January 1, 2002 and December 31, 2004. The sentence below Table 1.2 states that the accident rates between January 2005 and December 2007 dropped below the statewide average. Please provide tables similar to Tables 1.1 and 1.2 for the three-year period between January 2005 and December 2007. It would also be beneficial if you could provide accident data for the past two years.

How does the accident rate for the period between January 2005 and December 2007 compare to the accident rate between January 1, 2002 and December 31, 2004? If there is an improvement in the accident rate, what could be attributed to the reduction in accidents?

The accident analysis should identify the number of accidents involving trucks. In its presentation to the Fremont City Council, Caltrans stated that trucks represent 2.5% of the



average daily traffic in Niles Canyon, yet were involved in 38% of the collisions. Since this is a safety project, the analysis should evaluate if the prohibition of trucks on Niles Canyon Road will reduce the accident rate. The City of Fremont is interested in initiating the process of prohibiting trucks on Niles Canyon Road to help improve safety. The adopted 2007 Scenic Corridor Protection Plan includes Policy 2a and Implementation Measure 2a.2 to pursue restriction of certain truck types.

The accident analysis should also include the types of accidents involving unsafe speeds, discussion about the requirement (for speed radar enforcement) for an engineering speed limit survey to determine if the speed limit should be changed, and mitigation measures for controlling excessive speeding.

Future Accident Performance

The current analysis of the project relies upon an unsupported statement that the improvements will not change the posted speed of the road or capacity of the road and that the purpose and need will be satisfied by the project. The City's opinion is that if the road is widened uniformly to Caltrans highway standards, it will encourage greater vehicle speeds. Numerous studies have shown that as drivers feel safer and more comfortable on wider roads, their speeds increase. Caltrans assumption that vehicle speeds will not increase even with substantial road widening, is contrary to normal traffic behavior. The document does not include supporting information about why traffic speeds or number of vehicles will not increase with the improvements and if they do whether the potential reductions in accidents by the project would be negated with increased speed and vehicle trips.

Project Alternatives

Page 1-5, Section 1.3.1.1: The project proposes to widen the existing highway section by up to 18 feet to accommodate construction of a 2-foot soft median barrier, one 12-foot lane in each direction, and a standard 8-foot shoulder. Eighteen feet of widening to a designated scenic highway is substantial and will cause significant adverse impact to the visual/aesthetic quality of the highway, as noted in the EA/DEIR. Additional alternatives with a limited physical footprint compared to the proposed project are reasonable and should appropriately be considered as there was no alternative design considered originally. The City of Fremont asks that project include two additional alternatives. The first additional alternative is a completely new alternative of minimized road widening restricted to specific areas. A second option is to emphasize non-widening improvements using design measures of only soft medians buffers ("barriers") in lieu of complete widening and/or the potential elimination of trucks.

A complete project alternative that is truly a context sensitive design must be considered for this project. The proposed project uses the term context sensitive to discuss treatments of the project improvements and mitigations, but does not use the term in a holistic manner that considers the true context of the project location as a scenic highway in a natural canyon. A true context sensitive design would look to limit the physical intrusions of safety improvements rather than trying to insert standard shoulder and lane widths uniformly throughout the project area without

regard to the size and extent of the physical improvements required to achieve them. An alternative with selective and minimal improvements may improve overall safety without the significant impacts to the scenic character of the project area. The design should consider minimum widening in selective areas based on minimum Caltrans standards of four feet for bicycle lanes and where a limited retaining wall height of no more than three feet could facilitate widening. The improvements would not be uniform throughout the corridor, but would provide incremental improvements that do not have the same degree of impacts as the proposed project, yet will result in a safer route.

A design measures alternative should consider means of reducing accidents without substantial road widening. The idea of truck limitations was discussed in the previous section under Purpose and Need. The current limitation of hauling of hazardous materials should be recognized as a policy choice for a state highway that has capacity and safety limitations. Furthering limiting trucks for safety concerns is reasonable. The DEIR/EA should state the number of through trucks that travel on this highway segment. Is it feasible, or even preferable, to have trucks use State Route 238 and I-680 to reach many of the actual truck destinations in the area? The extent of limited through trucks may be a practical alternative and have benefits to California Highway Patrol for better enforcement of load restrictions at existing I-680 truck scales that can be bypassed by taking State Route 84.

An additional design element consideration could focus on median barriers. There are existing two-foot soft median barriers in some portions of Niles Canyon Road. There should be a discussion in the EIR about their effectiveness and justification for additional installation of the soft median barriers in the remaining portions of Niles Canyon Road. It's presumed that if soft medians are effective in reducing over centerline head-on collisions, that implementation of more barriers would not require substantial road widening and retaining walls as described for the proposed project, thereby minimizing impacts of the project.

Environmental Impacts

The EA/DEIR does appropriately conclude that the roadway improvements and the installation of tall retaining walls will be an intrusion into the scenic corridor and will be a significant impact. The association of the viewer with the scenic surroundings will undoubtedly be diminished. The final determination will be that these impacts are significant and unavoidable as the exceptional natural and rural character of the canyon drive is changed to that of standard highway that uses contemporary retaining walls to close in and confine the views of the canyon.

The City of Fremont does take exception that the full range of significant impacts is not characterized properly by the EA/DEIR.

Page 2-5: Section 2.1.1.3 The Fremont Municipal Code standards of the 2002 Hill Initiative are acknowledged but not appropriately applied. The intent of Fremont's Hill Initiative is to protect visual resources overall, not just in the context of the residential development. Grading and structures are subject to its policies and standards. In this instance, the retaining walls are elements that the City would consider subject to the standards of the Hill Initiative. The walls

exceed the 3-foot height limitation and cause conflict with the visual resource protections measures of the Hill Initiative. Due to the substantial linear footage of walls and effects on views, this inconsistency is a significant impact.

2.1.2 Visual Aesthetics The likelihood of graffiti on the large retaining walls has not been addressed by the EA/DEIR. The large walls are likely to create an attractive nuisance for graffiti that is unlikely to be a maintenance priority of the State and likely to remain in place for long periods of time. This is an outcome of the project that will further degrade the scenic character of the area even if view of hilltops still remain above the new retaining walls. The combination of ground level impacts to viewers by removing natural landscape and terrain and likely blight caused by graffiti that will ruin the association of the viewer with the immediate surroundings does not meet the intent of a designated Scenic Highway. Reducing retaining wall heights is critical to mitigating the project impacts.

2.1.3 Cultural Resources As testimony was provided at the City Council presentation in September it became evident that localized areas of historic significance were not considered in regards to the contributions to silent filmmaking and patterns of development influencing the nearby town of Niles. Based on public testimony the entire length of the highway could be considered a historic cultural landscape, not just a collection of individual historic resources as currently portrayed in the EA/DEIR. What consideration has been given to the area as a cultural landscape with the natural aspects of Alameda Creek, the Sunol Aqueduct, the engineering features of the railroad, the railroad itself, and the cultural value of the area in historic film making? We also disagree with the finding of de minimis impacts under Section 4 (f). There may be impacts to historic resources, such as removal of tree stand and views of hills as a backdrop to local significant events and the area overall as a cultural landscape associated with broach patterns of development of Niles.

The City finds that the many unanswered issues about the project, and alternatives to the project, require further project refinement and responses to questions. The revised project should be recirculated for public comment. The City of Fremont believes the current project's significant impacts are overwhelming for the degree of improvements that are proposed. We are interested in a design alternative that can improve safety without such intrusive impacts on the scenic character of Niles Canyon.

Sincerely,



Fred Diaz,
City Manager

c: Harvey Levine, City Attorney
Jim Pierson, Transportation and Operations Director
Jeff Schwob, Planning Director