

ALAMEDA CREEK ALLIANCE STOPS FIRST PHASE OF NILES CANYON ROAD WIDENING PROJECT

Lawsuit Settlement Invalidates CalTrans Project Approval and Permits



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Oakland, CA – The California Department of Transportation signed a [settlement agreement](#) today with the Alameda Creek Alliance that forces the agency to terminate the approval and permits for the first phase of a controversial \$80 million highway widening project in Niles Canyon along Alameda Creek. CalTrans will rescind its 2006 approval and flawed environmental review for the Route 84 Safety Improvement Project, notify regulatory agencies it is withdrawing the project, terminate the project construction contract, and comply with mitigation requirements for work already done, such as tree cutting along Alameda Creek.

“This is a victory both for protecting Alameda Creek and forcing transparency in public agency decisions,” said Jeff Miller, director of the Alameda Creek Alliance. “CalTrans must mitigate for damaged trees along Alameda Creek and cannot pursue a highway project in lower Niles Canyon without adequate environmental review and full public participation. If CalTrans comes back with a revised project, we strongly suggest it not involve significant highway widening or unnecessary damage to trout habitat.”

“Unfortunately, CalTrans is still pursuing another larger and even more ecologically damaging highway widening project in the middle of Niles Canyon, so streamside trees and wildlife habitat along Alameda Creek in the canyon are not safe yet,” said Miller. “We are monitoring any project approval for phase two, since the environmental review for that project was also severely flawed.”

CalTrans cut nearly 100 trees in the canyon this spring and intended to resume the environmentally damaging project in June. The Alameda Creek Alliance filed suit challenging the inadequate environmental review for the project, winning a court order halting plans to remove tree stumps and vegetation, grade and fill the creek channel and floodplain, and build huge creekside retaining walls. Alameda Superior Court judge Frank Roesch issued a preliminary injunction in June barring CalTrans from continuing construction and [excoriated](#) the agency’s clandestine project approval and obstruction of the public process. Judge Roesch is expected to sign the settlement agreement and retain jurisdiction to enforce the settlement. San Francisco attorneys Brian Gaffney, Kelly Franger and Erin Ganahl represented the Alameda Creek Alliance.

“CalTrans’ Niles Canyon projects would waste \$80 million in taxpayer funds and undermine a decade-long effort by dozens of land and water management agencies to restore Alameda Creek,” said Miller. “CalTrans’ one-size-fits-all approach disregards the scenic beauty and wildlife habitat in the canyon and devalues the communities of Niles and Sunol. We all want a safer roadway, but CalTrans must consider less ecologically damaging alternatives. Highway widening may make the road more dangerous for drivers and cyclists.”

If CalTrans pursues a future project between Rosewanes and Farwell underpasses in lower Niles Canyon, it cannot rely on the discredited 2006 project approval, but must initiate a new environmental review process with proper public notice, consider public comments, and apply for new state and federal permits.

Background

The three phases of the project would widen much of Niles Canyon Road between Fremont and Interstate 680 to provide 12-foot lanes, a 2-foot median, and up to 8-foot shoulders. In total, CalTrans proposes cutting 600 trees along Alameda Creek and filling the creek and floodplain with over four miles of cement retaining walls and rip-rap. This would significantly damage steelhead trout habitat and remove rare sycamore forest.

CalTrans internally “approved” phase one in 2006 without issuing a notice of determination or otherwise alerting the public that the project had been finalized. CalTrans hid project approval from permitting agencies and the Alameda Creek Alliance, which raised concerns about impacts to steelhead trout and other protected wildlife. CalTrans filed a “Negative Declaration,” claiming no significant environmental impacts, rather than preparing the required Environmental Impact Report for a project with significant impacts.

Phase two would cut nearly 500 more trees in the middle of the canyon and add almost two miles of retaining walls and armoring along the creek. CalTrans began environmental review for phase two in 2010, but reopened the public comment period after a storm of opposition and protest from the community. CalTrans has refused to consider any substantive changes to phase two. Construction on the second phase was scheduled for 2012, but the lawsuit over phase one and public opposition will likely delay the project.

The City of Fremont sent a [letter](#) to Governor Brown requesting he intervene to stop the project, citing “extreme” and “shocking” environmental impacts and “blatant disregard for getting input from the public.” Fremont is investigating a ban on large trucks in the canyon, since trucks cause a disproportionate number (38%) of traffic accidents and most fatal accidents. Fremont joined conservation and community groups in calling for a halt to the project and reevaluation of the need for road widening once a truck ban is in place. Hundreds of local residents opposed the project at public meetings and protested the tree cutting. Save Niles Canyon, Save Our Sunol, Friends of Coyote Hills, Southern Alameda County Sierra Club, East Bay Chapter of the California Native Plant Society and Tri-City Ecology Center are also opposing the project.

Save Niles Canyon reviewed safety data CalTrans used to justify road widening, premised on a purported high numbers of fatal accidents. CalTrans cited 13 fatalities over the past decade, but several incidents were outside the canyon or project area. The majority involved driving under the influence as a major or contributing cause of the accident, a factor unlikely to be prevented by road widening. Niles Canyon Road is statistically safer than the average state road. CalTrans’ project may actually make the canyon more dangerous for drivers and cyclists by increasing vehicle speeds. There are less destructive alternatives CalTrans has not evaluated such as flashing lights, radar speed signs, median barriers, rumble strips, focusing on localized problem areas, trimming selected trees, or other measures within the existing roadway.

Alameda Creek is an ‘anchor watershed’ considered regionally significant for restoration of threatened steelhead trout to the entire Bay Area. Since 1997, numerous organizations and agencies have cooperated on restoration projects to allow migratory fish from the Bay to reach spawning habitat in upper Alameda Creek. Thirteen fish passage improvement projects, including dam removals, construction of fish ladders, and installation of fish screens, have been completed in the watershed since 2001. Several more projects in

the lower creek are expected to be completed by 2013-2105, allowing steelhead to migrate into Niles Canyon in the project area and further upstream into the upper watershed for the first time in half a century.