

Judge Halts Niles Canyon Project

June 16, 2011

Alameda Superior Court Judge Frank Roesch granted the Alameda Creek Alliance's request for a Temporary Restraining Order barring Caltrans from continuing construction of the first phase of the \$80 million highway widening project in Niles Canyon along Alameda Creek. A June 23 hearing will be held to determine whether the Alameda Creek Alliance may proceed to trial challenging the inadequate environmental review for the Route 84 "Safety Improvement" project.

"We are pleased the judge recognized that protection of Alameda Creek wildlife habitat should get its day in court and prohibited any further Caltrans destruction in Niles Canyon until a hearing on the merits of the case," said Jeff Miller, director of the Alameda Creek Alliance. "A project of this magnitude with severe impacts on the ecology and beauty of the canyon needs a proper environmental review."

Judge Roesch is also expected to rule on June 23 whether to grant a more permanent injunction against further construction until the legal issue of whether an Environmental Impact Report must be prepared for the project is resolved. Caltrans cut nearly 100 trees in the canyon this spring and intended to resume the project June 15, including removing tree stumps and other vegetation, grading and filling in the creek channel and floodplain, and building huge retaining walls, which would cause considerable damage to wildlife habitat. The court hearing will be held on Thursday, June 23, at 11 am in Alameda Superior Court, Department 31, located at 201 – 13th Street, on the second floor.

Miller stated, "Caltrans has a one-size-fits-all approach that disregards the scenic beauty and habitat value of the canyon and devalues the communities of Niles and Sunol. Caltrans has not considered less ecologically damaging alternatives and their proposed project may actually make the road more dangerous for drivers and cyclists."

The Alameda Creek Alliance filed a lawsuit on June 7 alleging violations of the California Environmental Quality Act. In 2006 Caltrans approved a "Negative Declaration" for the project, claiming no significant environmental impacts, rather than preparing the required EIR for a project with significant impacts.

The Alameda Creek Alliance and regulatory agencies submitted comments about impacts to sensitive species such as steelhead trout, California red-legged frog and Alameda whipsnake. Caltrans failed to provide notice of project approval to the public and those who commented on the draft environmental review.