

JUDGE ISSUES TEMPORARY RESTRAINING ORDER HALTING CALTRANS HIGHWAY WIDENING IN NILES CANYON

Court Hearing on Injunction and Proceeding to Trial June 23



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Oakland, CA – Alameda Superior Court Judge Frank Roesch today granted the Alameda Creek Alliance’s request for a Temporary Restraining Order barring Caltrans from initiating construction on the first phase of the controversial \$80 million highway widening project in Niles Canyon along Alameda Creek, until a June 23 hearing on 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.

“Allowing this project to proceed would waste \$80 million in taxpayer funds while undermining a decade-long effort and millions of dollars spent on restoration projects by dozens of land and water management agencies in the watershed that are working cooperatively to restore Alameda Creek,” said Miller. “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.

Caltrans began environmental review for phase two of the project, which would cut nearly 500 more trees in the middle of the canyon and construct almost two additional miles of retaining walls and armoring along the creek, in fall 2010. The proposal received a flood of comments and storm of protest from the community. The Water Board commented it “would be unlikely to issue the necessary approvals for this project” due to significant environmental impacts. Caltrans recently agreed to reopen the public comment period for phase two of the project through July 7, to “solicit additional input from the public in determining the possible scope of a modified project.” Construction on the second phase is scheduled to begin in 2012.

The City of Fremont sent a [letter](#) to Governor Jerry Brown in May 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 of the fatal accidents. Fremont joined conservation and community groups in calling for a halt to the project and reevaluation of the need for road widening when a truck ban is in place. Nearly 400 residents showed up to oppose the project at meetings with Caltrans this spring and community groups held several protests against 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 the road widening, premised on a need for safety upgrade due to high numbers of fatal accidents. Caltrans has cited 11 to 13 fatalities in the canyon over the past decade, but several of these incidents were outside the canyon or the project area, and the majority involved driving under the influence as a major or contributing cause of the accident. It is unlikely these incidents would have been prevented by road widening in the canyon. Save Niles Canyon concluded that Niles Canyon Road is statistically safer than the average state road, there is no safety justification for road widening, and the project may actually make the canyon more dangerous for drivers and cyclists. There are less destructive alternatives Caltrans has not evaluated such as installing flashing lights, radar speed signs, median barriers, and rumble strips, focusing on localized problem areas, trimming or removing selected trees, or other measures within the existing roadway.

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. 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 wildlife habitat and remove rare sycamore forest.

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, allowing steelhead to migrate upstream into Niles Canyon in the project area and into the upper watershed for the first time in half a century.

The Alameda Creek Alliance (www.alamedacreek.org) is a community watershed group with over 1,850 members, dedicated to protecting and restoring the natural ecosystems of the Alameda Creek watershed. The Alameda Creek Alliance has been working to restore steelhead trout and protect endangered species in the Alameda Creek watershed since 1997.