



Third Lawsuit Challenges Caltrans Road Projects Jeopardizing Niles Canyon

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Contact: Jeff Miller, Alameda Creek Alliance, (510) 499-9185, jeff@alamedacreek.org

Oakland, CA – The Alameda Creek Alliance has filed a third [lawsuit](#) challenging Caltrans approval and environmental review for road widening projects in Niles Canyon, east of Fremont, California. Today's lawsuit challenges the [Niles Canyon Medium-Term Improvements Project](#), based in part on inadequate mitigations for extensive tree cutting in the canyon. The Alliance also filed [suit](#) in November 2017 against the [Alameda Creek Bridge Replacement Project](#) over the same issues.

"The local community wants a road safety project that doesn't unnecessarily cut trees and damage important creek habitat in Niles Canyon," said Jeff Miller, director of the Alameda Creek Alliance. "Caltrans can't seem to figure out how to improve road safety without cutting more than 500 trees along Alameda Creek and marring the beauty of this state Scenic Highway. Converting segments of this narrow, windy road into freeway is a terrible proposal; for real road safety we need to be slowing down, not speeding up, traffic in the canyon."

Together the Caltrans projects would widen almost a mile of road shoulders and re-engineer nearly another mile of Niles Canyon Road, requiring significant excavation, construction of retaining walls, and cutting or damaging more than 500 trees. Both projects would damage habitat for threatened steelhead trout, Alameda whipsnakes and red-legged frogs, and fail to provide adequate mitigations for significant impacts to native trees. Caltrans plans to start construction on both projects in the winter of 2019.

"We're particularly concerned about these projects removing rare and regionally significant sycamore trees along Alameda Creek, since these large native trees provide food, shade, streambank stability and important habitat for trout and other wildlife, and are irreplaceable," said Miller. "Caltrans has nearly two years until construction starts and ought to be able to reduce the numbers of riparian trees to be removed and identify specific mitigations and replanting that will in some measure mitigate for the loss of these trees and their habitat values. If Caltrans can't follow the law in terms of disclosing the impacts of its projects to the public and conducting adequate environmental review, the agency bears full responsibility for delays in the projects."

Caltrans has not yet mitigated impacts related to cutting 150 native trees along Alameda Creek for a proposed highway widening project in lower Niles Canyon that was stopped by a court order in 2011. Caltrans has acknowledged that it cannot find suitable nearby tree planting mitigation sites that are acceptable to regulatory agencies, nor can it adequately mitigate for cutting large, mature riparian trees such as sycamores and the loss of the habitat values they provide for native wildlife.

The Niles Canyon Medium-Term Safety Improvements Project would add two traffic signals on Highway 84 in Sunol at Main Street and Pleasanton-Sunol Road, re-design a low speed curve in the middle of the canyon, widen the shoulders of straightaways on both sides of Sunol, improve guard rails and remove trees and utility poles near the roadway, install rockfall protection systems including mesh cable netting and barriers in the lower canyon, and install speed feedback and warning signs at dangerous locations. The

previously-approved Alameda Creek Bridge Replacement Project would replace the 90-year old Alameda Creek Bridge and add modern safety railings and road shoulders for bicyclist and motorist safety. But Caltrans also proposes engineering the approaches to the bridge and at the low speed curve to increase motorist speeds to 45 mph.

Caltrans approval of both projects violates the California Environmental Quality Act by failing to identify mitigation measures and improperly deferring what specific mitigation will be provided until after project approval. Caltrans did not disclose that mitigation for cutting trees, particularly riparian trees, would likely not be feasible, given that the agency has failed to implement promised mitigation for the cutting of 150 trees in Niles Canyon in 2011.

Background

Caltrans claims the agency is “required” to increase the design speed of the bridge and low speed curve to the posted canyon speed limit of 45 mph. Yet many locations throughout the canyon are posted for 30-35 mph because of tight turns in the narrow canyon. The Federal Highway Administration and Caltrans’ own Highway Design Manual allow a lower than “standard” design speed, based on environmental, safety and other considerations.

A dozen community groups have proposed safety solutions for Niles Canyon Road that do not involve needless destruction of the environmental and scenic values of Alameda Creek or Niles Canyon, and have opposed Caltrans’ plans to increase the design speed of road segments. The Alameda Creek Alliance, East Bay Chapter of the California Native Plant Society, Citizens Committee to Complete the Refuge, Save Niles Canyon, Southern Alameda County Sierra Club, Trout Unlimited, and Bay Area Transportation Working Group have objected to the environmentally damaging elements of the Caltrans projects.

The proposed projects do contain some environmentally beneficial elements: the bridge replacement includes removal of a concrete weir in Alameda Creek which may be a barrier to migratory fish passage, lowering the number of bridge piers that are in the creek, and removal of invasive plants; the medium-term project includes replacement of a culvert at the bottom of Stonybrook Creek with a free-span bridge, and removal of invasive plants. The Stonybrook culvert removal is being used by Caltrans as mitigation for the tree cutting in 2011.

Caltrans initially proposed a three-phase highway safety project that involved uniform widening of much of Niles Canyon Road between Fremont and Interstate 680, which would have significantly damaged habitat for steelhead trout and other endangered species, and removed rare sycamore forest along the creek. Caltrans tried a stealth approval of phase one of the project, without alerting the public, and started cutting trees in the canyon in spring of 2011. After large public protests, the Alameda Creek Alliance filed suit challenging the inadequate environmental review. A court order in June 2011 halted construction and a settlement agreement in December 2011 forced Caltrans to abandon the highway widening project. In 2012 the Federal Highway Administration conducted a road safety assessment for Niles Canyon, finding that Caltrans’ proposed highway widening was not warranted by the safety data. The FHA identified accident hot-spots within Niles Canyon that should be addressed.