

# CalTrans Sued Over Plan to Widen Niles Canyon Road

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By Ron McNicoll

The Alameda Creek Alliance (ACA) has filed suit against CalTrans over a planned bridge replacement and other work slated for Niles Canyon Road. The project would widen segments of the road, remove hundreds of trees, and raise the speed limit to 45 mph near the bridge, which ACA says will make the road more dangerous, not safer.

The suit was filed Nov. 16 in County Superior Court. The road, State Highway 84, connects Sunol to the Niles District in Fremont.

ACA director Jeff Miller said that the organization has no problem with replacing the 89-year-old bridge. In fact, improvements in the bridge's design can have a beneficial effect on fish habitat in the creek, said Miller.

However, the way CalTrans proposes to widen the bridge approaches for a half-mile threatens the environment for fish in the creek, and makes the road more dangerous, said Miller. It also would impact habitat for threatened steelhead trout, Alameda whipsnakes and red-legged frogs.

CalTrans should be trying to slow traffic by installing various traffic-calming safety measures, instead of turning a half-mile section into a freeway that would enable higher speeds, added Miller.

The ACA suit comes after CalTrans' approval of the road modifications in September. Miller said that the approval would give CalTrans the green light to start the project. The suit attempts to hold CalTrans accountable for allegedly not fulfilling requirements in the EIR.

Miller said that the CalTrans mitigation measure document failed to identify mitigation measures. "It improperly deferred what 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 past logging of 150 trees in Niles Canyon in 2011."

Miller was referring to removal of trees along the road in late February and early March 2011, which surprised local residents. When CalTrans started its work under bright lights one night, five people formed an impromptu picket line. Attendance grew to 50 people at a planned picketing a week later. Subsequently, crowds of more than 100 people attended meetings called by state lawmakers in Fremont where CalTrans explained the project. ACA sued CalTrans later in 2011, claiming failure to address issues properly. A judge upheld the suit.

"CalTrans withdrew a 2015 EIR for the current project after it was widely criticized by conservation and community groups and experts on special-status wildlife species, hydrology and fisheries, and traffic safety. CalTrans' revised environmental review released in 2017 failed to clearly identify for the public what changes were made to the project," said Miller.

"CalTrans' overbuilt approach will not address the main causes of accidents in the canyon, which are speeding, distracted driving and drunk driving," said Miller.

"CalTrans should quit trying to turn Niles Canyon Road into a freeway one segment at a time, instead slow traffic down at dangerous narrow turns. It's time for CalTrans to consider installing a median barrier for much of the length of the canyon."

Miller said that CalTrans claims the agency is required to increase the design speed of the bridge and its approaches to a posted speed limit of 45 mph. "Yet many locations throughout the canyon are posted for 30 to 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," said Miller.

In 2012 the Federal Highway Administration (FHA) 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. It noted four other locations in the canyon with higher priority needs for safety improvements than the Alameda Creek Bridge," said Miller.

CalTrans has no timeline for mitigation for tree-cutting impacts related to the bridge replacement project and no details about where mitigation tree planting will occur. "CalTrans has acknowledged that it cannot find suitable nearby 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," said Miller.

A CalTrans spokesperson said Nov. 21 that the agency had no comment on the suit, because the legal department is reviewing it.