

## CALTRANS WARNED OVER ILLEGAL ENVIRONMENTAL REVIEW, PERMIT VIOLATIONS FOR NILES CANYON PROJECT



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**Niles, CA** – Attorneys for the Alameda Creek Alliance sent a [legal memo](#) to Caltrans last week warning the agency that the 2006 environmental review for phase one of the Niles Canyon State Route 84 Safety Improvement Project is inadequate under state law and that work should be halted until an Environmental Impact Report is prepared. The letter also warns Caltrans that tree cutting operations in Niles Canyon this spring violated several provisions of a permit issued by the San Francisco Bay Regional Water Quality Control Board. Caltrans intends to illegally resume construction under phase one of the project beginning June 15, with removal of tree stumps and other vegetation and grading and filling in the Alameda Creek channel and floodplain, activities that will further damage trout habitat in Alameda Creek.

“Caltrans cannot legally proceed with any more destruction under phase one of this damaging, unnecessary and controversial project to widen Niles Canyon Road until they have prepared the required Environmental Impact Report, as their Negative Declaration is legally inadequate” said Jeff Miller, director of the Alameda Creek Alliance. “Frankly, we’ve had it with the disregard for public input and environment-be-damned attitude of Caltrans and we intend to stop all phases of this project.”

Following protests from the community and requests from state Senator Ellen Corbett and Assembly member Bob Weickowski, Caltrans recently agreed to reopen the formal comment period for phase two of the project for 45 days, to “solicit additional input from the public in determining the possible scope of a modified project.” Additional public comments on phase two will be taken beginning today through July 7.

“Caltrans concedes that the public and interested agencies were not properly notified or given an opportunity to provide input on phase two of the project, yet refuses to reopen the environmental review for phase one, which was deliberately concealed from the public,” said Miller. “The hundred trees cut along the creek pales in comparison to the destruction of trout habitat Caltrans plans if they are allowed to complete phase one.”

The City of Fremont sent a [letter](#) to Governor Jerry Brown earlier this month requesting that he intervene to stop the Niles Canyon project, citing “extreme” and “shocking” environmental impacts and “blatant disregard for getting input from the public on this project.” Fremont is investigating a ban on large trucks in the canyon, since trucks cause a disproportionate number of traffic accidents (38%) and most of the fatal accidents. Fremont has joined numerous conservation and community groups in calling for a halt to the project and a 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 in April and May and conservation and community groups have held several protests against the cutting of native trees in Niles Canyon and plans to further destroy trout habitat along Alameda Creek.

“No one wants this project,” said Miller. “The Governor should investigate this blatant waste of \$76 million in public funds, destruction of important trout habitat in Alameda Creek that jeopardizes a decade of restoration efforts, and the blight of a designated scenic highway and the natural beauty of Niles Canyon.”

Caltrans approved phase one of the project in 2006 with a Negative Declaration, stating that there was no impact on the environment. The Alameda Creek Alliance was never notified that the project was approved. Caltrans refused to conduct a transparent and thorough environmental review and has not been forthcoming in disseminating information to the public about the project. Caltrans plans further activity under phase one this summer including filling portions of the creek channel and floodplain with concrete retaining walls and rip-rap boulders. Despite severe inadequacies in the environmental review process and failure to adequately notify or inform the public of the project, Caltrans refuses to put the project on hold.

The San Francisco Public Utilities Commission transferred title and gave legal easements of 1.7 acres of public lands in Niles Canyon to Caltrans in 2010 for construction of phase one, the areas where trees have been cut and further impacts to the creek are planned. Caltrans cut trees being monitored by the SFPUC as part of a legally required monitoring and mitigation program for impacts from the 2006 Niles and Sunol dam removals. The public is awaiting a memo from the SFPUC explaining what exactly happened. The Alameda Creek Alliance is lobbying the SFPUC to ensure no additional public land is transferred for phase two.

In fall 2010 Caltrans began environmental review for phase two of the project, which would take out nearly 500 more trees in the middle of the canyon and damage more irreplaceable trout habitat by adding nearly two additional miles of retaining walls and armoring along the creek. The Regional Water Quality Control Board announced it “would be unlikely to issue the necessary approvals for this project” due to significant environmental impacts. The second phase is scheduled to begin in 2012.

Local community group Save Niles Canyon reviewed the safety data Caltrans has used to justify the controversial road widening project, which is premised on a need for safety upgrade due to high numbers of fatal accidents. Caltrans cited 11 fatalities in the Canyon in the EIR for phase two of the project and 13 fatalities in public handouts. Deceptively, several of these incidents were outside of the Canyon or outside the project area, and the majority involved driving under the influence as a major or contributing cause of the accident. None of these incidents would have been prevented by the project. Save Niles Canyon concludes that Niles Canyon is safer than the average state road, there is no safety justification for the road widening, and the project will actually make the canyon more dangerous for drivers and cyclists.

Alameda Creek Alliance, Save Niles Canyon, Save Our Sunol, Friends of Coyote Hills, Southern Alameda County Sierra Club, East Bay Chapter of the California Native Plant Society, Tri-City Ecology Center, and Local Ecology and Agriculture Fremont are opposing the project. It would widen much of Niles Canyon Road between Fremont and Interstate 680 to provide 12-foot lanes, a 2-foot median, and 2-foot to 8-foot shoulders. It would require cutting 600 native trees from the Alameda Creek riparian corridor, filling the creek and floodplain with over four miles of cement retaining walls and rip-rap, and damaging habitat for steelhead trout, California red-legged frog, Alameda whipsnake, rare sycamore forest habitat, and other native wildlife. There are less destructive alternatives Caltrans has not evaluated such as installing 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.

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 2011-2013, allowing steelhead to migrate upstream into Niles Canyon and the upper watershed for the first time in half a century.

*The Alameda Creek Alliance ([www.alamedacreek.org](http://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.*