

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT

TUOLUMNE COUNTY CITIZENS FOR
RESPONSIBLE GROWTH, INC.,

Plaintiff and Appellant,

v.

CITY OF SONORA et al.,

Defendants and Respondents;

CALIFORNIA GOLD DEVELOPMENT CORP.
et al.,

Real Parties in Interest and Respondents.

F051508

(Super. Ct. No. CV51552)

**ORDER MODIFYING
OPINION**
[NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on October 2, 2007, and reported in the Official Reports (155 Cal.App.4th 1214) be modified in the following particulars:

1. On page 49, under the heading "DISPOSITION," the paragraphs and footnote are deleted and the following paragraphs and footnotes inserted in their place:

The judgment is reversed. The matter is remanded to the superior court with directions to vacate its order denying the petition for writ of mandate and to enter a new order that (1) denies the seventh cause of action and (2) grants the petition for writ of mandate and directs City to (a) set aside the resolution or decision adopting the mitigated negative declaration, (b) set aside the resolution or decisionmaking findings under CEQA in connection with its approval of the project, (c) set aside the resolution or

decision approving the project,²³ (d) complete an environmental evaluation of the entire CEQA project and (e) generate appropriate environmental review documents.²⁴ The superior court shall retain jurisdiction over the proceedings by way of a return to the writ.²⁵

Costs on appeal are awarded to Responsible Growth.

Except for the modification set forth, the opinion previously filed remains unchanged. There is no change in the judgment.

DAWSON, J.

WE CONCUR:

VARTABEDIAN, Acting P.J.

HARRIS, J.

²³In *Lighthouse Field Beach Rescue v. City of Santa Cruz* (2005) 131 Cal.App.4th 1170, 1200, the city's failure to consider the whole of the project compelled the Court of Appeal to overturn the city's adoption of a negative declaration.

²⁴We do not presume the appropriate documents will be (1) an initial study and related mitigation negative declaration or (2) an initial study and EIR.

In addition, our disposition of this appeal should not be construed to require City to exercise its lawful discretion in a particular way. (Pub. Resources Code, § 21168.9, subd. (c).)

The issue whether any or all specific project activity should be suspended or enjoined in accordance with the terms of Public Resources Code section 21168.9, subdivision (a)(2) is best addressed by the superior court on remand. Certain findings are required which cannot be made on the record before this court.

²⁵This statutory requirement is set forth in Public Resources Code section 21168.9, subdivision (b). (E.g., *County Sanitation Dist. No. 2 v. County of Kern*, *supra*, 127 Cal.App.4th at p. 1637 [superior court directed to require public agency to respond to writ by filing a return].)