

IN THE SUPREME COURT OF CALIFORNIA

CENTER FOR BIOLOGICAL)
DIVERSITY et al.,)
))
Plaintiffs and Respondents,)
))
v.)
))
DEPARTMENT OF)
FISH AND WILDLIFE,)
))
Defendant and Appellant;)
))
))
THE NEWHALL LAND)
AND FARMING COMPANY,)
))
Real Party in Interest)
and Appellant.)
_____)

S217763
Ct.App. 2/5 B245131
Los Angeles County
Super. Ct. No. BS131347

ORDER MODIFYING OPINION AND DENYING PETITION FOR REHEARING

THE COURT:

The opinion herein, filed November 30, 2015, and appearing at 62 Cal.4th 204, is modified as follows:

The final paragraph on page 240 is modified to read as follows:

“Nor is Justice Chin’s assumption regarding the project’s superlative environmental profile necessarily supported by the record. As plaintiffs point out, the hypothetical business-as-usual model used in the EIR to assess greenhouse gas emissions counterfactually assumes the continuation of building and vehicle efficiency standards and an electricity generation source mixture that have, in

actuality, been superseded by stricter standards and practices. The EIR's calculation of a 31 percent reduction in comparison to this model therefore does not mean Newhall Ranch would emit 31 percent fewer greenhouse gasses than other mixed-use projects that could actually be built under current standards. Finally, one should not assume a sizeable new housing development, to be built largely on undeveloped land with habitat for several sensitive species, will have comparatively minor impacts either on greenhouse gas emissions or on fish and wildlife. The dissent's claim that today's decision threatens the 'subver[sion]' of CEQA into a tool for delay of a uniquely meritorious project (dis. opn. of Chin, J., *post*, at p. 254) is neither warranted by the facts nor consonant with the scope of judicial review under CEQA."

This modification does not affect the judgment.

The petition for rehearing of real party in interest Newhall Land and Farming Company is denied. The petition for rehearing or request for modification without change in judgment of plaintiffs Center for Biological Diversity et al. is denied.

Chin, J., is of the opinion the petition for rehearing should be granted.