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

(Yuba)

FOREST TULL et al.,

Petitioners and Appellants,

v.

YUBA COUNTY et al.,

Defendants and Respondents;

A. TEICHERT & SON, INC.,

Real Party in Interest and Appellant.

C068607

(Super. Ct. No. 03-000774)

ORDER MODIFYING OPINION
AND DENYING REHEARING

[CHANGE IN JUDGMENT]

FOREST TULL et al.,

Plaintiffs and Appellants,

v.

YUBA COUNTY et al.,

Defendants and Respondents;

A. TEICHERT & SON, INC.,

Defendant and Appellant.

(Super. Ct. No. 07-000762)

THE COURT:

The opinion in the above matter, filed January 11, 2013, is modified as follows:

On page 40, delete the last sentence of the first full paragraph and replace it with the following:

Also, the Tulls contend the new turn lane in the middle of State Road 20 that the County plans for queuing Teichert trucks that turn onto the haul road is inadequate to protect residents when turning onto their properties because it eliminates the safe-harbor lane currently used by residents.

On pages 62 to 63, delete the paragraphs under the heading “DISPOSITION” and replace them with the following:

The judgment is reversed and the matter remanded to the trial court to: (1) grant Forest and Bobbie Tulls’ and the Kibbe Area Planning and Protection Association’s second amended supplemental petition for writ of mandate and complaint for declaratory and injunctive relief on grounds that the final environmental impact report violates the California Environmental Quality Act by failing to properly assess alternate routes, analyze traffic noise and vibration, and describe hydrology and drainage impacts of the project; (2) deny the Tulls’ challenge to the adequacy of the final Environmental Impact Report’s analysis of traffic safety impacts arising out of locating the private haul road at the Kibbe Road and State Road 20 intersection; (3) order Yuba County to rescind its Environmental Impact Report certification, the reissued grading permit, and the newly issued encroachment permit for A. Teichert & Son, Inc.’s, private haul road to the Kibbe Road and State Road 20 intersection until a final Environmental Impact Report is properly certified; (4) dismiss the Tulls’ challenge to Yuba County’s issuance of a vested rights letter under the Surface Mining and Reclamation Act (Pub. Resources Code, § 2710 et seq.) to A. Teichert & Son, Inc., for its Hallwood mine site; and (5) declare invalid Yuba County ordinance 11.10.580 to the extent that it conflicts with California Code of Regulations, title 13, section 15090, subdivision (a).

The trial court shall retain jurisdiction over this action by way of a return to the writ of mandate demonstrating that Yuba County has rescinded its invalid Environmental Impact Report certification, reissued grading permit, and the newly issued grading permit, and project approvals,

after which Yuba County shall exercise its independent judgment as to how to proceed. (Pub. Resources Code, § 21168.9, subd. (b).)

Forest and Bobbie Tull and the Kibbe Area Planning and Protection Association shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(3) & (5).)

This modification changes the judgment.

The petitions for rehearing are denied.

BLEASE, Acting P.J.

NICHOLSON, J.

HOCH, J.