

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

MENDOCINO RAILWAY,
Petitioner,
v.
SUPERIOR COURT FOR THE
COUNTY OF MENDOCINO,
Respondent;
CITY OF FORT BRAGG,
Real Party in Interest.
A165104
Mendocino County No. 21CV00850

BY THE COURT:*

The court has carefully considered the parties' briefing regarding the propriety of writ review. Writ review could be found appropriate under *San Diego Gas & Elec. Co. v. Superior Court* (1996) 13 Cal.4th 893, 913 & fn. 17, which differs from the present matter in some important respects, but the court retains discretion to decide whether writ review is appropriate in this particular case. The court determines the circumstances of this case warrant a denial of extraordinary writ review. The factors asserted by petitioner in favor of writ review—to the extent the court finds them persuasive—are outweighed by other considerations, including but not limited to the desirability of reviewing these issues after development of a more complete factual record in the superior court, petitioner's failure to persuasively

* Before Simons, Acting P.J., Burns, J., and Wiseman, J. (Retired Associate Justice of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.)

demonstrate as a factual matter that it will suffer cognizable irreparable harm absent writ review and lacks other adequate remedies at law, and the lack of a showing that resolution of the issues will impact (significantly or otherwise) any other cases. (*Babb v. Superior Court* (1971) 3 Cal.3d 841, 851; *James W. v. Superior Court* (1993) 17 Cal.App.4th 246, 252; *Omaha Indemnity Co. v. Superior Court* (1989) 209 Cal.App.3d 1266, 1269, 1271-1274; *Los Angeles Gay & Lesbian Center v. Superior Court* (2011) 194 Cal.App.4th 288, 299-300; *Ordway v. Superior Court* (1988) 198 Cal.App.3d 98, 101, fn. 1, disapproved on other grounds, *Knight v. Jewett* (1992) 3 Cal.4th 296; *Lamadrid v. Municipal Court* (1981) 118 Cal.App.3d 786, 789 [“It is well established that the court in which extraordinary review is sought has discretion to gauge the potential adequacy of subsequent . . . review on a case-by-case basis.”].) The court further observes that “[t]he Court of Appeal is generally in a far better position to review a question when called upon to do so in an appeal instead of by way of a writ petition,” since on “appeal, the court has a more complete record, more time for deliberation and, therefore, more insight into the significance of the issues.” (*Omaha Indemnity Co., supra*, 209 Cal.App.3d at p. 1273.)

In light of the court’s decision, as well as the parties’ agreement that the California Public Utilities Commission (CPUC) should not be considered a real party in interest to this proceeding, and the lack of a response filed by the CPUC to this court’s May 4, 2022 order served on that entity, the court does not take any further action regarding that issue.

The previously issued stay is dissolved.

Date: 06/09/2022

Simons, Acting P.J.