

T/RWS

Decision 83 10 076 OCT 19 1983

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application by the City of Santa Barbara for an at-grade crossing of the Southern Pacific Transportation Company railroad tracks at Salsipuedes Street in the City of Santa Barbara.

Application 82-10-24

ORDER DENYING MOTION TO PERMIT LATE-FILING OF PROTEST

By motion filed August 15, 1983, Scenic Shoreline Preservation Conference, Inc. (Scenic Shoreline) requested that it be permitted to late-file its protest to Application (A.) 82-10-24. The application was filed with the Commission by the City of Santa Barbara (City) on October 12, 1982; copies of the application were sent to other persons on October 4, 1982, as evidenced by a certificate of service by mail attached to the application; and noticed in the Commission's Daily Calendar on October 14, 1982. Under the provisions of Rule 8.3 of the Commission's Rules of Practice and Procedure, the period for timely filing of a protest to A.82-10-24 expired 30 days after the matter was noticed in the Commission's Daily Calendar, which date (allowing for the fact that November 13, 1982 was a Saturday) was November 15, 1982.

In its motion, Scenic Shoreline alleges that it "did not receive a copy of the application and was unable to investigate the application and submit a protest within the thirty-day time for filing". We note that the certificate of service by mail attached to the application indicates only that two copies of the application were served on Southern Pacific Transportation Company, the affected railroad.

Responding to the motion by letter of August 19, 1983, City alleges that a copy of A.82-10-24 was provided to Frederick Eissler, President of Scenic Shoreline, in January, 1983. City further alleges that City staff and others discussed the application with Mr. Eissler on March 15 and June 18, 1983. It is also noted that Mr. Eissler addressed City's Environmental Review Committee with regard to the Salsipuedes Street Extension Project on April 15, 1983. It would thus appear that Scenic Shoreline received a copy of A.82-10-24 no later than January of 1983 and chose to pursue its opposition to the project with City until filing its motion on August 15, 1983.

Assuming that Scenic Shoreline did not receive a copy of A.82-10-24 until the end of January, it nevertheless waited 7½ months beyond this date to file its motion. The August 15, 1983, filing date for the motion is also approximately nine months beyond the date for timely filing of a protest.

No reasonable basis has been provided for the inordinate delay in filing of the motion. The motion of Scenic Shoreline to permit late-filing of a protest to A.82-10-24 will therefore be denied.

Findings of Fact

1. A.82-10-24 was filed with the Commission on October 12, 1982.
2. A certificate of service by mail dated October 4, 1982 indicates only that two copies of the application were served on Southern Pacific Transportation Company, the affected railroad.
3. A.82-10-24 was noticed in the Commission's Daily Calendar on October 14, 1982.
4. Frederick Eissler, President of Scenic Shoreline, received a copy of the application in January of 1983.
5. The motion to permit late-filing of protest to A.82-10-24 was filed on August 15, 1983, approximately 9 months after the period allowed for timely filing of a protest and 7½ months after the date on which Scenic Shoreline received a copy of the application.

Conclusions of Law

1. The period for timely filing of a protest to A.82-10-24 expired on November 15, 1982.

2. The motion of Scenic Shoreline to permit late-filing of a protest to A.82-10-24 should be denied.

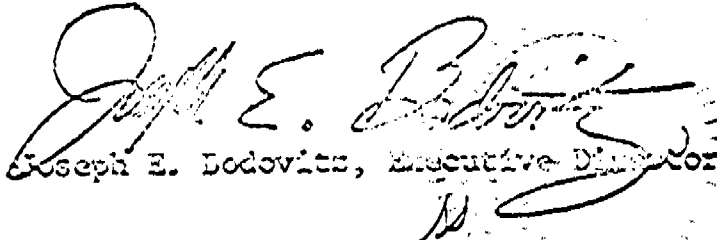
IT IS ORDERED that the motion of Scenic Shoreline Preservation Conference, Inc. to permit late-filing of a protest to Application 82-10-24 is denied.

This order becomes effective 30 days from today.

Dated OCT 19 1983, at San Francisco, California.

LEONARD M. GRIMES, JR.
President
VICTOR CALVO
PRISCILLA C. GREW
DONALD VIAL
WILLIAM T. BAGLEY
Commissioners

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY.


Joseph E. Bodovitz, Executive Director