

CITY COUNCIL MEETING

September 16, 1981

CC-6  
~~CC-7~~

TENDER OF DEFENSE  
TO COUNTY APPROVED  
RE CLAIM FOR REFUND  
OF TAXES AND SUIT  
FOR TAXES

Following introduction of the matter, Council, on motion of Councilman Katnich, Murphy second, approved the tendering of defense to the County of San Joaquin regarding claim for refund of taxes and suit for taxes: Atchison, Topeka and Santa Fe Railroad.



GERALD A. SHERWIN  
COUNTY COUNSEL

MICHAEL N. GARRIGAN  
CHIEF DEPUTY COUNTY COUNSEL

PATRICK H. CURRAN  
CHIEF DEPUTY COUNTY COUNSEL

OFFICE OF THE  
**COUNTY COUNSEL**

COUNTY OF SAN JOAQUIN  
COURTHOUSE  
222 EAST WEBER AVENUE  
STOCKTON, CALIFORNIA 95202  
TELEPHONE 944-3551 (Area Code 209)

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TERRENCE R. DERMODY  
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PATRICIA M. FREDERICK  
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PETER CROOK  
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GEORGE H. CUNNINGHAM  
DEPUTY COUNTY COUNSEL  
REBECCA A. DAVIS  
DEPUTY COUNTY COUNSEL  
FRANK V. BRUNO JR.  
DEPUTY COUNTY COUNSEL

August 27, 1981

Ron Stein, Esq.  
City Attorney  
City of Lodi  
221 West Pine Street  
Lodi, Ca. 95240

John D. Brinton, Esq.  
City Attorney  
City of Manteca  
P. O. Box 906  
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Leo Milich, Esq.  
City Attorney  
City of Escalon  
6721 3rd Street  
Riverbank, Ca. 95376

Re: Claim for Refund of Taxes and Suit for Taxes: Atchison,  
Topeka and Santa Fe Railroad

Gentlemen:

I have received the annual letter from Jay R. Martin of Crosby, Heafey, Roach & May, attorneys for Santa Fe Railroad, regarding the above-referenced proposed litigation. I have attached a copy of the letter for your review. In years past, we arranged to have the County represent the interest of the various cities and then to have another county act as the lead agency for all of the counties in the State. If it is your desire to proceed in that same way this year, please send me a letter similar to the attached copy of the form proposed by Mr. Martin. Once again, even though Mr. Martin in another attachment to his letter to me did not include the City of Lodi as one of the proposed defendants, I would ask that the City of Lodi consider tendering the defense of the action to us in any case.

If you have any questions regarding this case, please feel

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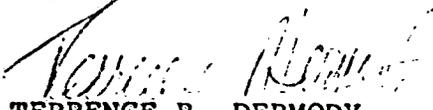
Ron Stein, Esq., et al.  
August 27, 1981  
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free to give me a call.

Very truly yours,

GERALD A. SHERWIN  
County Counsel

By

  
TERRENCE R. DERMODY  
Deputy County Counsel

TRD:kcr  
Enclosures

LAW OFFICES  
CROSBY, HEAFEY, ROACH & MAY

PROFESSIONAL CORPORATION  
1939 HARRISON STREET  
OAKLAND, CALIFORNIA 94612

(415) 834-4820

TELEX 171337

CHRM OAK

WALNUT CREEK OFFICE

WALNUT CREEK PLAZA  
1990 N. CALIFORNIA BLVD., SUITE 618  
WALNUT CREEK, CALIF. 94596  
TELEPHONE (415) 832-8300

OF COUNSEL  
PETER J. CROSBY, JR.

REC'D AUG 5 1981

August 3, 1981

EDWIN A. HEAFEY, JR.  
CHARLES E. BERTA  
CHRIS G. GARBARICH  
CHARLES W. DENNY  
RONALD A. WAGNER  
STEPHEN H. SCHADLICH  
RAOUL D. KENNEDY  
KENNETH F. JOHNSON  
JOHN A. REDING  
BOYD E. BURNISON  
HERBERT I. PIERCE III  
MICHAEL R. SILVEY  
PATRICK J. BECHERER  
JOHN E. CARNE  
WILLIAM W. SCHOFIELD, JR.  
JAMES M. WOOD  
ALBERT B. NORRIS  
ROY H. IKEDA  
WED N. ISORAWA  
CAROLE D. RUDY  
STEPHEN G. BLITCH  
STEPHEN G. SCHREY  
JAMES C. MARTIN  
KURT C. PETERSON  
N. CHRISTIAN DIEHL III  
YOLANDA N. MORTHBIDGE  
R. JEROME TWITTY, JR.  
MIKE C. WOOD  
DAVID V. OTTERSON  
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BRUCE C. F. MARTIN  
ALAN D. HAMILTON

JUSTIN M. ROACH, JR.  
E. ROBERT CUNNINGHAM  
JAY R. MARTIN  
RICHARD J. HEAFEY  
E. MELVILLE McRINNEY  
WILLIAM A. QUINBY  
PETER W. DAVIS  
RONALD V. ROSEQUIST  
NORMAN TUTTLE II  
MIKE C. BUCKLEY  
DENNIS J. GOULD  
STEPHEN A. McFEELY  
JAMES J. MARCHIANO  
TIMOTHY J. MURPHY  
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JOHN M. KEMP  
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ERIC G. WALLIS  
MICHAEL J. LOEB  
STEVEN M. ROHN  
JAMES T. WILSON  
JUDITH R. EPSTEIN  
GEORGE M. HANNEN  
MICHAEL M. WALIN  
CHARLES H. SEAMAN  
WALTER EDWIN THOMAS  
DIRR A. FULTON  
JOHN E. DITTOE  
JANICE C. HAYES  
ALLEN R. SANFORD  
ANN O. BASRINS  
ELIZABETH A. ENGLAND

TO COUNTY COUNSEL OF:

ALAMEDA, BUTTE, CONTRA COSTA, FRESNO, KINGS,  
LOS ANGELES, MADERA, MERCED, ORANGE, RIVERSIDE,  
SAN DIEGO, SAN JUAQUIN, SIERRA, SOLANO,  
STANISLAUS, TULARE, YOLO, YUBA.

Re: Santa Fe v. State Board of Equalization

Gentlemen:

This office represents a number of railroads which have recently filed claims for refund of taxes on state-assessed property for the 1980-1981 tax year. This is the third year in which the railroads have filed such claims.

Most of the county Boards of Supervisors have now rejected the 1980-1981 claims for refund which we filed. In the remaining counties, action will be taken shortly or the claims will be deemed denied by operation of law.

As a result of suggestions by a number of County Counsel, we adopted the following process the last two years. Your office, together the the county counsel offices in seventeen other counties, agreed to accept service on behalf of their cities. This procedure has worked well, and we would like to take advantage of the same procedure again this year.

August 3, 1981  
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To simplify the process, we have again enclosed (1) a form by which your office may advise the respective city attorneys of this proposal; and (2) a form by which they can tender the defense of this action to your office. In addition we have enclosed a list of those cities within your county in which any of the railroads which we represent has unitary property assessed by the State Board of Equalization.

If you have any questions or suggestions concerning this procedure, please call.

Very truly yours,

  
Jay R. Martin

JRM:jld  
Enclosures

TO: Office of the City Attorney of \_\_\_\_\_

Gentlemen:

We have been advised that the following railroads will soon be filing an action in the Superior Court for a refund of taxes paid with respect to property assessed by the State Board of Equalization:

1. The Atchison, Topeka and Santa Fe Railway Company;
2. The Union Pacific Railroad Company;
3. The Western Pacific Railroad Company;
4. Sacramento Northern Railway;
5. Tidewater Southern Railway Company;
6. Burlington Northern, Inc.,

We have also learned that one or more of these railroads has state assessed property within the boundaries of your city and that, under the applicable provisions of the Revenue and Taxation Code, your city will be named as a defendant in the action against the State Board of Equalization.

Under the provisions of Section 5149 of the Revenue and Taxation Code, you may tender the defense of this action to the County, and the County Counsel's office will represent your city in the action.

The County Counsel has determined that the administrative difficulties and potential confusion which could arise from this litigation can be substantially reduced if you will tender the defense of this action to the County prior to the filing and service of the Complaint. Along with other advantages, this will allow the County Counsel to insure that all pleadings on your behalf are uniform and that they are filed on a timely basis.

The County Counsel, therefore, recommends that you tender the defense of this action to the County by executing and returning the enclosed form.

If you have any questions concerning the form or the action, please call \_\_\_\_\_ of this office.

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County Counsel

The City of \_\_\_\_\_ hereby tenders the defense of the action for refund of taxes which will be filed by the following railroads in which this City will be named as a defendant.

1. The Atchison, Topeka and Santa Fe Railway Company;
2. The Union Pacific Railroad Company;
3. The Western Pacific Railroad Company;
4. Sacramento Northern Railway;
5. Tidewater Southern Railway Company;
6. Burlington Northern, Inc.,

This tender of defense authorizes the County Counsel's office to proceed on behalf of this City in all matters connected with this litigation including the acceptance of service of the Summons and Complaint in this action.

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City Attorney

CITIES WITHIN EACH COUNTY

ALAMEDA COUNTY

Alameda  
Albany  
Berkeley  
Emeryville  
Fremont  
Hayward  
Livermore  
Oakland  
Pleasanton  
San Leandro  
Union City

BUTTE COUNTY

Chico  
Oroville

CONTRA COSTA COUNTY

Antioch  
Concord  
El Cerrito  
Hercules  
Martinez  
Pinole  
Pittsburg  
Richmond  
San Pablo

FRESNO COUNTY

Fresno  
Orange Cove  
Parlier  
Reedley

KERN COUNTY

Arvin  
Bakersfield  
Shafter  
Tehachapi  
Wasco

KINGS COUNTY

Corcoran  
Hanford

LASSEN COUNTY

No cities

LOS ANGELES COUNTY

Arcadia  
Azusa  
Bell  
Carson  
Claremont  
Commerce  
Cudahy  
Downey  
Duarte  
El Segundo  
Glendale  
Glendora  
Hawthorne  
Hermosa Beach  
Huntington Park  
Industry  
Inglewood  
Irwindale  
Lakewood  
La Mirada

LOS ANGELES COUNTY (Cont'd)

Laverne  
Lawndale  
Long Beach  
Los Angeles  
Manhattan Beach  
Maywood  
Monrovia  
Montebello  
Norwalk  
Paramount  
Pasadena  
Pico Rivera  
Pomona  
Redondo Beach  
San Dimas  
Santa Fe Springs  
South Gate  
South Pasadena  
Torrance  
Vernon  
Whittier

MADERA COUNTY

Madera

MERCED COUNTY

Atwater  
Merced

MODOC COUNTY

No cities

ORANGE COUNTY

Anaheim  
Buena Park  
Fullerton  
Irvine  
La Habra  
Orange  
Placentia  
San Clemente  
San Juan Capistrano  
Santa Ana  
Tustin  
Yorba Linda

PLACER COUNTY

No cities

PLUMAS COUNTY

Portola

RIVERSIDE COUNTY

Blythe  
Corona  
Hemet  
Lake Elsinore  
Perris  
Riverside  
San Jacinto

SACRAMENTO COUNTY

Sacramento

SAN BERNARDINO COUNTY

Barstow  
Colton  
Fontana  
Montclair  
Needles  
Ontario  
Rancho Cucamonga  
Redlands  
Rialto  
San Bernardino  
Upland  
Victorville

SAN DIEGO COUNTY

Carlsbad  
Chula Vista  
Del Mar  
Escondido  
National City  
Oceanside  
San Diego  
San Marcos  
Vista

SAN FRANCISCO COUNTY

San Francisco

SAN JOAQUIN COUNTY

Escalon  
Manteca  
Stockton  
Tracy

SANTA CLARA COUNTY

Milpitas  
San Jose

SIERRA COUNTY

Loyalton

SISKIYOU COUNTY

No cities

SOLANO COUNTY

Fairfield  
Vacaville

STANISLAUS COUNTY

Hughson  
Modesto  
Oakdale  
Riverbank  
Turlock

SUTTER COUNTY

Live Oak  
Yuba City

TULARE COUNTY

Exeter  
Lindsay  
Porterville  
Tulare  
Visalia  
Woodlake

YOLO COUNTY

Woodland

YUBA COUNTY

Marysville

CITY COUNCIL

JAMES A. McCARTY, Mayor  
ROBERT G. MURPHY, Mayor Pro Tem  
RICHARD L. HUGHES  
WALTER KATNICH  
JAMES W. PINKERTON, Jr

CITY OF LODI

CITY HALL, 221 WEST PINE STREET  
POST OFFICE BOX 320  
LODI, CALIFORNIA 95241  
(209) 334-5634

HENRY A. GLAVES, Jr  
City Manager

ALICE M. REIMCHE  
City Clerk

RONALD M. STEIN  
City Attorney

September 24, 1981

Terrence R. Dermody  
Deputy County Counsel  
Office of the County Counsel  
County of San Joaquin Courthouse  
222 E. Weber Avenue  
Stockton, CA 95202

Re: Claim for refund of taxes and suit for taxes:  
Atchison, Topeka and Santa Fe Railroad

Dear Mr. Dermody:

Please be advised that the City Council of the City of Lodi, in action taken at a regular meeting held September 16, 1981, tendered the defense of the heretofore referenced action for refund of taxes which will be filed by various railroads in which this City will be named as a defendant.

We have enclosed herewith a form as provided by you for this action showing its order by the Lodi City Council and executed by Alice M. Reimche, City Clerk.

Should you have any questions concerning the Council's actions in this matter, please do not hesitate to call this office.

Very truly yours,

  
Alice M. Reimche  
City Clerk

AR:dg

Enc.

The City of Lodi, California, hereby tenders the defense of the action for refund of taxes which will be filed by the following railroads in which this City will be named as a defendant.

1. The Atchison, Topeka and Santa Fe Railway Company;
2. The Union Pacific Railroad Company;
3. The Western Pacific Railroad Company;
4. Sacramento Northern Railway;
5. Tidewater Southern Railway Company;
6. Burlington Northern, Inc.

This tender of defense authorizes the County Counsel's Office to proceed on behalf of this City in all matters connected with this litigation including the acceptance of service of the Summons and Complaint in this action.

By Order of the Lodi City Council

  
Alice M. Reimche  
City Clerk