

FD-30400

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**JIM BROWN**

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**M E S S A G E**

**R E P L Y**

TO [ Interstate Commerce Commission ]  
 [ Washington, D. C. ]

DATE Dec. 14, 1983

Gentlemen,

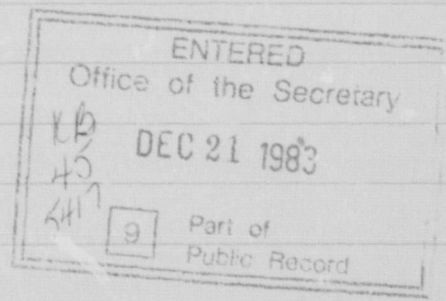
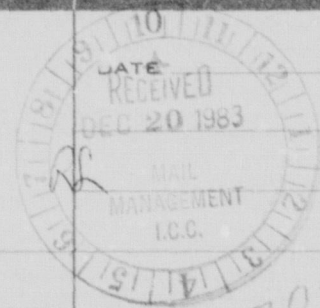
I urge you to grant the merger request of the Santa Fe and Southern Pacific railroads.

Today, if not sooner!

Union Pacific is the POT CALLING THE KETTLE BLACK. Seems as though they can't stand the competition.

Thank you,

*J. Brown*  
 A taxpayer



BY

SIGNED

FD-30400

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File 4.1m

BAY LAND AREA STUDY TEAM  
West Bay - Box 602  
Brisbane, Calif. 94005

May 16, 1986

Chairman JOHN CHAFFEE  
United States Senate  
Subcommittee on Environmental Pollution  
Washington D.C. 20510

713-30400

Dear Chairman CHAFFEE:

Please take Congressional notice that on May 21 the Interstate Commerce Commission will hear oral arguments on their liquidation of Southern Pacific for Santa Fe of Chicago under Stanley Mosk's 26 Cal.3d 526,535 (1980) off Berkeley.

Notice for these arguments says liquidation of SP will not significantly affect either the quality of the human environment or energy conservation.

In San Francisco Bay this liquidation involves adding 102 acres of rail yards on the Port of Oakland and withdrawing 195 acres of rail yards behind the Port of San Francisco in MISSION BAY for an additional \$2 billion Manhattanization of San Francisco over the next 15 years. What has this to do with water quality in San Francisco Bay?

Abandoning MISSION BAY to rail yard use historically kills shipping on the Port of San Francisco south of Second Street. The Port of Oakland is a perpetual dredging job. Dredging promotes water commerce but it decimates fisheries. The Corps of Engineers does not believe in upland disposal of spoils, which are dumped off Alcatraz for theoretical exit out the Golden Gate. Their dump is filling up and spoils are being deposited throughout the estuary killing benthic organisms with heavy metals sediments. Life is disappearing.

SF Bay and Delta is the biggest estuary on the West Coast. What is the objection of your Subcommittee to keeping it alive? Thank you for the \$12 million needed to study and perhaps reverse what's happening.

WITH EVERY BEST WISH:

LUMAN C. DRAKE

800 227-4400 days

ENTERED  
Office of the Secretary  
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Public Record

- cc Robert Roe
- Sala Burton
- Ronald V. Dellums
- Pete Wilson
- Alan Cranston
- Heather J. Gradison

APR 23 1986

## INTERSTATE COMMERCE COMMISSION

Decision No. 24

Finance Docket No. 30400

SANTA FE SOUTHERN PACIFIC CORPORATION -  
CONTROL - SOUTHERN PACIFIC TRANSPORTATION COMPANY

Decided: April 17, 1986

By petition dated March 31, 1986, applicants request that oral argument be scheduled at the earliest possible time in May. Hearings have ended and briefs have been filed. Argument will assist the Commission in arriving at a decision in the case. Therefore, oral argument is set for Wednesday, May 21, at 9:30 A.M.

Parties and members of Congress who wish to participate in oral argument must indicate whether they support or oppose the application and how much time they seek to speak. Parties must inform John Hedetniemi, Room 2370, telephone 202-275-7760, by close of business May 2, 1986. A decision will then be issued setting a schedule for argument and specifying any issues we desire the participants to address. Parties are encouraged to consolidate and coordinate their presentations. No participant will be allotted less than 10 minutes, and it is anticipated that the time for presentation will be divided equally between proponents and opponents.

This action will not significantly affect either the quality of the human environment or energy conservation.

Bay Land Area Study Team  
West Bay - Box 602  
Brisbane, CA 94005

It is ordered:

1. Oral argument in this proceeding will be held Wednesday, May 21, 1986, beginning at 9:30 a.m.
2. Interested parties must inform the Commission that they want to participate in oral argument, as stated above.
3. This decision will be effective on the date served.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne  
Secretary

(SEAL)



BAY LAND AREA STUDY TEAM  
West Bay - Box 602  
Brisbane, Calif. 94005

December 12, 1985

Chairman REESE H. TAYLOR Jr.  
ViceChairman HEATHER J. GRADISON  
Commissioner FREDERIC N. ANDRE  
Commissioner MALCOLM M.B. STERRETT  
Commissioner J.J. SIMMONS  
Commissioner PAUL H. LAMBOLEY  
Commissioner ANDREW J. STRENIO  
Secretary JAMES H. BAYNE  
2215 Interstate Commerce Commission  
Washington D.C. 20423

Liquidating SP for Santa Fe of Chicago  
under 26 Cal.3d 526,535 (1980) off Berkeley  
ICC Finance Docket 30400

Honorable Commissioners:

Thank you for copies of Environmental Assessment 30400 served 11.1.85. This liquidation involves interstate and water (ocean) commerce on a nationwide basis terminating in a 102-acre rail yard expansion on the Port of Oakland. We appreciate the opportunity to discuss its impact on San Francisco Bay.

In the name of Helen Lyons Freeman of Alameda, the People of California and of these United States, please take Commission notice that on October 6, 1980 US Chief Justice Warren Earl Burger of Minnesota denied certiorari on 26 Cal.3d 526,535 (1980) off Berkeley for the Santa Fe Land Improvement Co. of Chicago (pictorial map attached). In this case Stanley Mosk "quieted" 22,299 acres (34.84 sq.mi.) of downtown SF Bay waterfronts in private persons and corporation and "freed" 7,852 acres (12.27 sq.mi.) thereof of the public trust & easement for water commerce on the criterion they were not subject to tidal action on 2.2.80. (By contrast the leading US case upholding the public trust & easement for commerce by water, Illinois Central v. Illinois (1892) involved about 1,000 acres (1.56 sq.mi.) on the Chicago waterfront.)

Maps locating the 7,852 acres "freed" of the public trust for water commerce can be obtained from Our Lady of Mitigation Claire Thomas Dedrick, Calif. State Lands Division, 1807 13th Street, Sacramento, CA. 95814. All lie within 5 miles of the CCSF line in SF Bay except the Port of Oakland, terminus of ICC Docket 30400, which was left subject to water commerce. But what about the Ports of Richmond and San Francisco (south of Second Street), Mission Bay and the SP rail yards off Brisbane?

ES-5 says liquidation of SP is expected to result in a net loss of 1843 jobs over 3 years. SF Examiner for 11.19.85 (picture attached) suggests an actual figure of 10,000, an historic third of the SP workforce. Declaring the public necessity of this is the job of your Commission. If you do vote to liquidate we only request said liquidation be made conditional on Alan Furth delivering a quitclaim to the subject filled lands of 26 Cal.3d 526,535 (1980) to the City of Berkeley, to whom this waterfront was granted by the California Legislature in 1913-1915. Thank you for your ear and a copy of your decision. Seasons Greetings.

WITH EVERY BEST WISH:

cc Warren Earl Burger  
Stanley Mosk  
Corken Geo. Deukmejian  
Alan Furth  
Daniel Boggan Jr.  
Milton Marks  
Willie Lewis Brown Jr.  
Ronald V. Dellums

LUMAN C. DRAKE

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## HISTORY OF THE SOUTHERN PACIFIC

nature of the proposed contract was understood and its defects given full publicity by the San Francisco press. The *San Francisco Bulletin* commented as follows:

The scheme is an outrageous one. A proposition to sell to the Railroad Companies at a reasonable price, so much of the southern water-front as would be actually necessary for depots, warehouses, workshops, etc., might be considered favorably, but a proposal to give to what is or will be virtually a single corporation two-thirds of the frontage of a city destined to be the second in America, is utterly indefensible. . . . this immense property will be worth eventually as much as the Pacific Railroad itself.<sup>19</sup>

The *Alta* said:

If the parties who have so modestly presented their humble petition for this concession had gone one step farther, and asked for a grant of the whole State of California—all its tide and marsh lands—the control of all its rivers, bays and inlets, we do not know that the public amazement would have been any greater.<sup>20</sup>

Even the conservative *San Francisco Times* suggested that it would be well for the railroad companies to submit detailed estimates of the land needed for terminals and the uses to which this land was to be put,<sup>21</sup> while it refrained from commenting on the *Bulletin's* assertions that it was the intent of the railroads to locate their terminus well south of the city of San Francisco to the great profit of parties from Sacramento who were buying lands around Hunter's Point.

### Another Plan Substituted

Whether or not this last accusation was well founded, the opposition of the city grew so intense that the legislature did

<sup>19</sup> *San Francisco Bulletin*, March 7, 1868.  
<sup>20</sup> *Daily Alta California*, March 10, 1868.  
<sup>21</sup> *San Francisco Times*, March 13, 1868.

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<sup>19</sup> But 112 years later see Stanley Mosk's 26 Cal.3d 526,535 (1980) off Berkeley and Brisbane for the Santa Fe-Southern Pacific Corp. of Chicago.

## THE SEARCH FOR A TERMINAL

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not dare to carry out its original plan.<sup>22</sup> Instead, the Southern Pacific and Western Pacific were offered each 150 acres, to be located by the companies within specified limits south of Channel Street, and still later the amount was reduced to 30 acres apiece, and a donation was substituted for a sale. So amended, the act became law on March 30, 1868. It granted and donated to the Southern Pacific Railroad Company and to the Western Pacific Railroad Company for a terminus in the city of San Francisco, to each of said companies, 30 acres, exclusive of streets, basements, public squares, and docks. The land was to be selected by the railroad companies within ninety days, but it was to lie south of Channel Street, and outside of the Red-Line water-front of Mission Bay, and was not to extend beyond 24 feet of water at low tide, nor to within 300 feet of the line which should be selected by the tide-land commissioners as the permanent water line of the front of the city. A 200-foot right-of-way was given to the companies to provide access to their tide-lands. The lands were to be located and \$100,000 spent upon them by each of the grantees within thirty months, or the grant would revert to the state.<sup>23</sup>

Compared with their original projects, the Act of 1868 represented a considerable check to the plans of Mr. Stanford and his friends. Yet the grant in San Francisco was important, and, added to what had been secured in Oakland, provided satisfactorily for the Central Pacific's transportation needs.

In 1871 the San Francisco supervisors granted to the Southern Pacific and Central Pacific railroads rights on various streets in the city in order that they might reach and enjoy their lands and depot grounds in Mission Bay. Late in the same year Stanford indicated his willingness to make Mission Bay the main terminus of both the Central Pacific and Southern

<sup>22</sup> See resolutions of a meeting of San Francisco business men in March, 1868, recommending that the legislature grant 150 acres each to the Central Pacific and Southern Pacific; and the admission of the Southern Pacific that it could get along with 250 acres.  
<sup>23</sup> Laws of California, 1867-68, Ch. 543.



A public interest law firm filed suit yesterday claiming that the state owns 60 key acres that run through the center of the 163-acre South-of-Market site where Southern Pacific wants to build its controversial Mission Bay development.

The suit claims that the Legislature donated the 60 acres to the Southern Pacific and Western Pacific Railroad companies in 1868 solely for railroad use and that if the property is no longer used for that purpose, it automatically reverts to the state.

Southern Pacific, which bought out Western Pacific in the 1940s, forfeited the land when it applied to the San Francisco Planning Commission in 1933 for permission to develop it for office, commercial and residential use, the suit contends.

"They're trying to develop land that they don't own," said Lynn Carman, attorney for the Bay Area Legal Foundation, which filed the suit in San Francisco Superior Court.

Representatives for Southern Pacific and the city declined to comment on the suit yesterday, saying they had not seen it.

The 60 acres in question are bounded by Sixth, Channel, Third and 16th streets. The area runs directly through the middle of the area SP wants to develop.

"This lawsuit cuts the heart out of the artichoke," Carman said.

Opponents of the \$2 billion to \$4 billion development have contended that the giant complex will create a second downtown. SP offered last week to scale down its original plans of 16.5 million square feet of commercial space to include more housing, and it agreed to donate 7½ acres to the city for extra housing.

But even this scaled-down version ran into heavy opposition during a two-hour public hearing on Tuesday before the Board of Supervisor's finance committee. The committee voted to spend \$61 million to acquire the 163 acres through the city's power of eminent domain. The proposal goes before the full board Monday.

Carman said that Southern Pa-

cific is not using the central 60 acres now. "A few old buildings and some unused railroad cars are sitting on the land," he said.

The suit names Robert Valasquez as the plaintiff. Carman described Valasquez as a part-time music instructor at San Francisco State University and also the son of Antonio Valasquez, an attorney who works for the Bay Area Legal Foundation. The 3-year-old foundation is based in San Rafael.

The lawsuit also asks the court to:

- Stop the city from any further processing of SP's application to redevelop the land as a waste of taxpayer's money;

- Declare the land, which was formerly known as Mission Bay when it was covered with marsh and water before 1868, public trust tidelands;

- Order land put to public use such as housing for the handicapped and low- and moderate-income people.

The suit's crucial point is that the state gave Southern Pacific and Western Pacific 30 acres each in 1868, free, as a limited "easement" for the sole use as a railroad terminus and that the two companies never possessed the clear title to the land necessary to construct offices or housing.

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Housing is a PROPRIETARY  
use of TIDELANDS, the MOST  
proprietary

SAN FRANCISCO CHRONICLE p.2 Saturday, May 5, 1984

CCSF Superior 823702 filed 5.4.84

# State Owns Some SP Land, Suit Says

Bayward of Eddy Red Line Map

By William Carlsen