



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

July 11, 2016

Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20423

**RE: Surface Transportation Board Finance Docket No. 36036
Valero's Petition for Declaratory Order**

Dear Ms. Brown:

The League of California Cities (League) submits the following comments regarding Finance Docket No. 36036 of the Surface Transportation Board. We urge you to deny Valero's Petition for Declaratory Order because it is an overbroad interpretation of the Interstate Commerce Commission Termination Act and would have significant and detrimental impacts on local land use authority over non-rail carriers.

Cities are responsible for making land use decisions to protect the public health and environment of their communities. By preempting local land use authority, the Surface Transportation Board (Board) would be eliminating opportunities for public input and mitigation of these major development projects.

Courts have ruled in favor of ICCTA preemption over local land use authority when a rail carrier operates transloading, material transfer, and processing facilities. However, those rulings do not apply in this case as Valero does not meet the five-factor test developed by case law for determining if these activities are those of a rail carrier or direct agent.

Thank you for the opportunity to comment on this important matter. If you have any questions regarding the League's position on this bill, please contact me at (916) 658-8200.

Sincerely,

A handwritten signature in cursive script that reads "Chris McKenzie".

Chris McKenzie
Executive Director