CSX CORPORATION

Peter J. Shudtz
Vice President-Federal Regulation and
Washington Counsel

Suite 560, National Place
1331 Pennsylvania Avenue, NW
Washington, DC 20004
Phone (202) 626-4929
Fax (202) 783-5929
Cell (804) 347-6492
Peter_Shudtz@csx.com

RECEIVED
JUL 01 2016
CITY OF BENICIA
COMMUNITY DEVELOPMENT

July 1, 2016

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

RE: STB Finance Docket No. 36036, Petition for Declaratory Order
Valero Refining Company – California

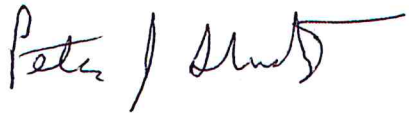
Dear Ms. Brown:

CSX Transportation, Inc. ("CSXT") supports the request of Valero Refining Company – California ("Valero") that the Board institute a declaratory order proceeding in STB Finance Docket No. 36036. Valero's petition asks that the Board address one of the most significant questions facing the railroad industry today: May state and local governments use their police powers to indirectly regulate railroad operations and disrupt interstate commerce? CSXT believes the answer to be an unequivocal no, but continued examples of this issue arising in states and localities around the country present a compelling case for the Board to act to clarify this developing area of the law.

The ICC Termination Act ("ICCTA") was passed to "prevent a patchwork of local regulation from interfering with interstate commerce." *See Reading, Blue Mountain & Northern R.R. Co. – Petition for Declaratory Order*, STB Fin. Docket No. 35956, at 4 (STB served June 6, 2016). But state and local governments are now testing the scope of ICCTA preemption with rules, permitting conditions, or other actions that indirectly affect railroads. While indirect, this practice still has the effect of creating a patchwork of inconsistent and disruptive regulation. It has been one of the Board's guiding principles to avoid such outcomes. *See, e.g., Desertxpress Enterprises, LLC—Petition for Declaratory Order*, STB Fin. Docket No. 34914, at 1 (STB served May 6, 2010). It is imperative for the Board to open a proceeding in this docket and address this significant question for the railroad industry, its customers, the public and, indeed, the states and localities seeking to indirectly regulate railroads.

CSXT, therefore, respectfully requests that the Board initiate a proceeding and establish a procedural schedule that gives all interested parties an opportunity to participate.

Sincerely,



CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing CSX Transportation Inc.'s Reply to letter of support for Valero's Petition for Declaratory Order has been served this 1st day of July, 2016, via e-mail or first-class mail upon the following as indicated:

RAtkins@sidley.com

RKoss@adamsbroadwell.com

JPrange@nrdc.org

JMarks@nossaman.com

KSheys@nossaman.com

Peter Shudtz
Vice President-Federal Regulation
and Washington Counsel