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Office of Proceedings
July 27, 2016
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Public Record



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,

Chris McKenzie
Executive Director



**DECLARATION OF
SERVICE**

I am a citizen of the United States, over the age of 18 years, and not a party to or interested in this action. I am employed by the League of California Cities and my business address is 1400 K Street, 4th Floor, Sacramento, CA 95814. On this day I caused to be served the following document(s):

**THE LEAGUE OF CALIFORNIA CITIES' REPLY
TO VALERO'S PETITION FOR DECLARATORY
ORDER**

By United States Mail. I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses set forth below and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepared.

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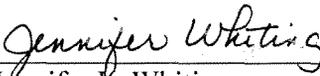
On behalf of Phillips 66 Company

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On behalf of Sacramento Area Council Of
Governments

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 20, 2016 at Sacramento, California.



Jennifer L. Whiting