



# COUNTY OF YOLO

## Board of Supervisors

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County Administrator, **Patrick S. Blacklock**  
Deputy Clerk of the Board, **Julie Dachtler**

January 26, 2016

City of Benicia  
250 East L Street  
Benicia, CA 94510

Dear Mayor Patterson and Members of the City Council,

Thank you for providing the County of Yolo with copies of the Revised and Final Environmental Impact Reports (“EIR”) for the project at the Valero Oil Refinery that would result in the daily delivery of 70,000 barrels of oil by rail through Yolo County on its way to Benicia. We appreciate your staff’s diligence in analyzing the up-stream effects of the project in response to Yolo County’s July 15, 2014 comments, among others.

Although the City’s revised analysis correctly acknowledges that the project will have significant impacts to communities along the Union-Pacific rail line, the County is concerned that these significant impacts are not sufficiently mitigated. Indeed, the City eschews its responsibility to consider possible mitigation measures on the incorrect premise that any such efforts would be preempted by federal law. As more fully discussed in the letter submitted by the Sacramento Area Council of Governments (SACOG), the City has an obligation to require the implementation of feasible mitigation measures as a condition of a project’s approval. See *City of San Diego v. Cal. State Univ.*, 61 Cal. 4th 945, 957 (2015); *Town of Atherton v. California High-Speed Rail Auth.*, 228 Cal. App. 4th 314, 331 (2014) (“Case law demonstrates that the ICCTA does not preempt all state and local regulations. The circuits appear generally, for example, to find preemption of environmental regulations, or similar exercises of police powers relating to public health or safety, only when the state regulations are either discriminatory or unduly burdensome.”) (internal quotations omitted).

In light of the significant impacts identified in the Revised Draft EIR, we ask that the City of Benicia reconsider its position on preemption and not approve the project until the impacts are mitigated. SACOG’s October 30, 2015 letter provides mitigation measures that are both feasible and necessary to lessen the impact on our local communities. Without these mitigation measures in place, the project should not be approved.

Sincerely,

Jim Provenza  
Chair, Yolo County Board of Supervisors