From:	Michael Deftos
To:	LOSSAN.SB1098
Subject:	Public comment on SB1098 draft report.
Date:	Tuesday, June 16, 2026 12:58:36 PM

Senator Catherine Blakespear and other members of the California State Legislature,

I am troubled by the LOSSAN Working Group's Recommendation 4.3 to legislate a new CEQA statutory exemption for:

> *“Activities by an (sic) rail carrier or on behalf of a rail carrier under the authority of the Surface Transportation Board for the ‘construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State.’”*

This language comes directly from 49 USC Section 10501(b), the federal statute that gives exclusive jurisdiction to the federal Surface Transportation Board over railroad transportation, preempting state and local law.

> *49 USC Section 10501 (b)*
> *The jurisdiction of the (Surface Transportation) Board over-*
>
> *(1) transportation by rail carriers, and the remedies provided in this part with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and*
>
> *(2) the <u>construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one State</u>,*
>
> *is exclusive. Except as otherwise provided in this part, the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.*

Importantly, in the seminal case of *Friends of the Eel River v. North Coast Railroad Authority (2017)*, the California Supreme Court ruled that *49 USC Section 10501* does not preempt the California Environmental Quality Act (CEQA) for state-owned rail projects:

"(A)pplication of CEQA in this context constitutes self-governance on the part of a sovereign state and at the same time on the part of an owner. It appears to us extremely unlikely that Congress, in enacting the ICCTA, intended to preempt a state's adoption and use of the tools of self-governance in this situation, or to leave the state, as owner, without any means of establishing the basic principles under which it will undertake significant capital expenditures."

"The ICCTA's deregulatory sweep must protect the zone of autonomy belonging to the state when it is the owner, such that within the deregulated zone, the state as owner may make its decisions based on its own guidelines rather than some anarchic absence of rules of decision."

"(A)pplication of CEQA…constitutes the state's governance of its own subdivision, a matter of self-management that the ICCTA presumptively was not intended to entirely preempt."

(Emphasis added)

If the Working Groups' recommendation were adopted, the State of California would be abdicating its sovereign right of oversight of adverse environmental impacts from the "*construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team switching, or side tracks, or facilities*." Instead, this environmental oversight would fall entirely with the Surface Transportation Board, a remote federal agency whose primary purpose is the economic regulation of interstate railroad transportation, with no inherent interest in protecting the environment of California. It is not clear exactly what railroad projects such a statutory CEQA exemption would apply to, but undoubtedly, railroad interests would attempt to apply it liberally.

Why would the State of California abdicate its sovereign authority of environmental oversight to the Surface Transportation Board? CEQA environmental review of such projects is critical to protecting the numerous environmentally sensitive areas in California that railroad tracks and facilities traverse and occupy, including in the LOSSAN corridor. I am very concerned that legislating such a new statutory exemption to CEQA could lead to substantial adverse environmental impacts on California, particularly on the coastal environment of Southern California, which has already been adversely affected by the LOSSAN Corridor.

Please promptly and resolutely reject this recommendation from the Working Group.

Respectfully,
Michael Deftos