

Environmental groups sue Utah board over oil railway grants

Utah officials violated federal law last year when they [awarded nearly \\$28 million in grants](#) to plan and develop a railway that oil-producing counties have proposed to connect with the national rail network in hopes of enhancing the marketability of the Uinta Basin's waxy crude.

That's according to a lawsuit filed Tuesday by environmental groups demanding the money be returned to the Utah Permanent Community Impact Fund, which takes in federal mineral royalties to fund projects in rural communities that alleviate the impacts associated with mineral extraction.

"This money is meant to help repair damage done by the fossil fuel industry, not subsidize it," said Wendy Park, an attorney at the Center for Biological Diversity. "The [community impact] board is supposed to help rural communities build health centers, libraries, and other community facilities. Instead it's giving gifts to private oil companies and buying more pollution."

Joined by Living Rivers, the center filed the lawsuit in Salt Lake City's 3rd District Court, naming the Utah Permanent

Community Impact Fund Board, or CIB, and the [Seven County Infrastructure Coalition](#) (SCIC), the interlocal entity developing the 85-mile [rail line](#). The lawsuit seeks a declaration that CIB funding for the railway violates both state law and the federal Mineral Leasing Act, an order for the grants' return and a prohibition against any future CIB participation in the \$1.4 billion project.

The Department of Workforce Services, the CIB's parent agency, declined comment because it has yet to be served with the lawsuit.

The project is under review by the federal [Surface Transportation Board](#). The line would connect a loading station outside Myton with the [Union Pacific tracks in Price Canyon](#). The infrastructure coalition has defended its use of CIB money, saying the project would boost rural job creation.

"As we put in rail, we will stabilize the economy," coalition Executive Director Mike McKee said last year. "Other types of industry will be able to move into the basin as a result of the rail."

But those objectives are not legal uses of this money, according to the lawsuit.

"Indeed, the SCIC's purpose in developing the oil railway is

not local planning or the creation or maintenance of any public facilities or public services," the lawsuit states. ["Its express purpose is economic development in the form of increased fossil fuel development."](#)

The coalition has long said the railway would serve as a new transportation pathway with the goal of ramping up the production, sales and price of Uinta Basin crude. Critics say the railway would benefit only private oil producers instead of the broader public in contravention of the Mineral Leasing Act, which requires federal royalty revenues be reserved to support services and facilities that benefit communities.

"Rather than alleviating the impact of fossil fuel development," the lawsuit states, "the [Mineral Leasing Act] funding will be used for the opposite purpose, i.e., to increase development, which necessarily will increase the social, economic, and public finance impacts on the affected areas."

Railway backers say the railway would be a common carrier, available to nonenergy industries, and would reduce the number of tanker trucks rolling up and down U.S. Highway 40 shuttling oil to the Salt Lake City refineries that process the bulk of the basin's production.

In issuing the grants, the CIB ignored its own policies that limit the amount of CIB dollars toward any one project to \$5

million and require matching contributions from sponsoring agencies, according to the lawsuit.

The lawsuit's allegations mirror concerns raised by [a recent legislative audit](#) and [advice the Utah attorney general's office delivered to the CIB](#) at its June 2019 meeting, when it approved the most recent and largest grant.

"As you know, the office of the attorney general issued an opinion in 1993 that mere economic development is not proper under the Mineral Lease Act," Assistant Attorney General Alison Garner told the board.

She stressed the need to ask the right questions about the project to demonstrate due diligence.

"The project may generate more royalties for CIB to distribute along with jobs and taxes for local governments, but at bottom, does it primarily benefit oil companies — as is stated in the application?" she said. "Does it alleviate the burden of impacts of mineral development or does the project actually exacerbate current burdens or even create new burdens associated with mineral development?"

The groups that filed Tuesday's lawsuit argue those queries were swept under the rug.

The infrastructure coalition contends the railway would enable oil production to quadruple and erase the steep

discount these producers are saddled with because they have nowhere else to ship their oil. That will mean a massive increase in royalties coming back to the CIB to fund other projects.

State officials have accepted, even celebrated, that reasoning. Now a court will tackle the critical question of whether it is legal.