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Groups call for federal investigation of Utah plan to finance Oakland coal export terminal

Letter to Attorney General Loretta Lynch cites potential legal and ethical violations of federal law

SALT LAKE CITY-Conservation, health, and good government groups today sent a letter to U.S. Attorney General Loretta Lynch calling for a formal investigation into potential legal and ethical violations in Utah's extraordinary \$53 million taxpayer-funded loan to build a deepwater terminal in Oakland, Calif., to export coal.

The letter, which also was addressed to Gregory J. Gould, director of the Office of Natural Resources Revenue, and Mary Kendall, interim Inspector General of the Department of the Interior, cites Utah's misuse of federal community development funds and the elaborate web of potential conflicts of interest that propelled the scheme through state agency and legislative approval processes with scant public scrutiny.

"It's staggering that the Legislature and Governor were willing to throw tens of millions in taxpayer money at a project so rife with conflicts of interest," said Michael Shea, Policy associate at HEAL Utah. "It is very clear that someone from the outside should take a careful look at this."

The letter lays out the twists and turns in the decades-long effort to export Utah coal overseas through a Pacific port. Several Utah counties began seeking funding to build transport operations to export coal from mines owned by Bowie Resource Holding Partners as early as 2001. In late 2014, in a deal brokered by Jeffrey Holt, a private investment banker, "strategic infrastructure advisor" to the counties and then-chairman of the Utah Transportation Commission, the counties requested a \$53 million loan from Utah's Community Impact Board to finance the terminal.

The Community Impact Board (CIB) is charged with administering proceeds from the royalties to the state under the federal Mineral Leasing Act (MLA). The Act restricts the use of the money to community planning, construction and maintenance of public facilities, and provision of public services to mitigate the adverse impacts of mining on the communities.

The Community Impact Board approved the loan, and then, when questions arose about the misuse of funds, the 2016 legislature gave fast-track approval to Senate Bill 246, a procedure designed to evade the Mineral Leasing Act's funding limitations by swapping state general fund money with Mineral Leasing Act money for the loan.

"It is inconceivable that this is an intended or proper use of \$53 million of MLA, CIB or taxpayer funds and this appears to represent the worst kind of corporate cronyism that members of the Utah legislature are usually so fond of rallying against," said Joshua Kanter, Board Chair, of the Alliance for a Better Utah. "Diverting these funds is not only improper but will leave these communities without the money they really need to help them retool their economic base as the coal industry continues its decline. There has been no showing that there is a shortage of available port capacity for Utah coal or that exporting Utah coal to Asia makes economic sense, either of which is easily addressed by the free-market without this shell-game and abuse of the public trust."

Many of the bill's proponents in the legislature and the governor who signed the bill had received campaign contributions from Bowie, the coal company expected to be the largest beneficiary of the export terminal deal. At the same time, Strategic Infrastructure Advisor Jeffrey Holt and his investment firm could reap millions if the project is completed.

"From the very beginning, the proposal to use Utah taxpayer resources to prop up an out-of-state coal export terminal has never had the best interest of Utahns at heart," said Lindsay Beebe, Utah Organizing Representative for the Sierra Club's Beyond Coal campaign. "We need to develop real solutions to help our communities as our state transitions away from coal. Instead, our public officials have shown that they are more eager to hand out political favors than to help Utah communities across the state that deserve our support."

Meanwhile in California, public records and media reports revealed that Holt and port developer Phil Tagami attempted to conceal the plan to ship coal through the Oakland terminal, instead emphasizing that it would be used to ship agricultural products.

Many residents near the terminal, who already are burdened by significant air pollution, have vocally opposed coal shipments through their communities due to the environmental and public health impacts.

The Oakland City Council is meeting June 27 to consider placing "health and safety" restrictions on the operation of any coal terminal in the city. Utah's legislation to transfer \$53 million in state funds for the project also goes into effect July 1, lending increased urgency to the call for a federal investigation.