

COMMUNITY GROUPS CHALLENGE UTAH FUNDING FOR PROPOSED OAKLAND COAL EXPORT TERMINAL

Utah Attorney General Asked to Reject Proposal to Use Public Funds

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Contact:

Jess Dervin-Ackerman, Sierra Club SF Bay Chapter, (510) 693-7677, jess.dervin-ackerman@sierraclub.org,

April Thomas, Sierra Club's Beyond Coal campaign, (206) 321-3850, april.thomas@sierraclub.org

Dick Cumiskey, Sevier Citizens for Clean Air & Water, (435) 527-4448, dickc@cut.net

Aaron Paul, Grand Canyon Trust, (303) 477-1486, apaul@grandcanyontrust.org

Ted Zukoski, Earthjustice, (303) 996-9622, tzukoski@earthjustice.org

Wendy Park, Center for Biological Diversity, (510) 844-7138, wpark@biologicaldiversity.org

OAKLAND, Calif.— The Center for Biological Diversity, Grand Canyon Trust, the Sierra Club and Earthjustice sent a [letter](#) to Utah Attorney General Sean Reyes today urging him to invalidate \$53 million in state payments in support of a scheme to export millions of tons of coal from Utah and send it through a proposed bulk terminal in Oakland, Calif.

The project, known as the Oakland Bulk and Oversized Terminal, is being built by a group of developers led by Prologis CCIG Oakland Global LLC. After years of assurances that coal would not be transported through the bulk terminal, in April 2015 Oakland community members learned that the developers had secretly cut a funding deal with four Utah counties that would bring coal into Oakland.

“Utah Physicians for a Healthy Environment believe that it is morally and legally wrong for Utah's CIB to be using these funds to prop up a dying, dirty energy market,” said Tim Wagner, executive director of UPHE. “We hope that the attorney general will do the right thing to protect Utahns from this health risk and financial fallacy.”

In exchange for \$53 million in “community impact board” (CIB) funding, the Utah counties would be guaranteed shipping rights to at least 4 million to 5 million tons of the bulk terminal's 9 million to 10 million ton annual shipping capacity. Utah officials have stated that they intend to use this capacity to export coal to overseas markets. This development followed a number of public statements by CCIG's President and CEO, Phil Tagami, that the company had no interest in the pursuit of coal operations at the former Oakland Army Base.

“This is a raw deal for Utah from every angle,” said Aaron Paul, staff attorney for the Grand Canyon Trust. “It shouldn't take an opinion from the attorney general for the CIB to see that it shouldn't be promoting more coal mining in Utah by building a California

seaport with money that is supposed to be spent in Utah's communities to offset coal mining's burdens on those communities."

Utah's board approved the \$53 million in funding as a loan in April, but made approval contingent on a legal opinion by Attorney General Reyes supporting the board's actions.

To date Reyes has not officially released an opinion.

The letter to Attorney General Reyes asserts that the board does not have the authority to make the risky loan. Utah law requires that board funds be used in Utah, that funds benefit the public and not be a pass-through to a private venture, and that the funds mitigate impacts from fossil fuel production. The \$53 million loan meets none of these criteria. Board funds will be used to benefit California developers and out-of-state mining companies, not the Utah public, and will encourage more coal mining, rather than alleviating mining's impacts.

"The only people who stand to benefit from this misuse of Utah public funds are the terminal's California developers and out-of-state mining companies, not Utah residents," said Jessica Yarnall Loarie, staff attorney with the Sierra Club Law Program. "Those private benefits will come at the expense of local communities and the environment. Utah's misuse of CIB funds for coal exports will worsen the problems of fossil fuel extraction that the funds are intended to mitigate."

Dick Cumiskey, president of Sevier Citizens for Clean Air & Water, noted that his group favored using these funds as they were intended, such as "for road maintenance, school improvements, and for necessary additions to the sheriff's department and for EMT upgrades." "This possible CIB loan smells," Cumiskey said. "The possible default and payback directly impacts the taxpayers of Sevier County. We firmly believe this is an illegal loan and that its use for a private party outside of Utah is incomprehensible. We welcome the AG's intervention."

In addition, the letter states that the board's process in approving these funds appears to have been rushed to avoid taxpayer scrutiny. No advance public hearing was held on this matter despite a legal requirement to do so in non-emergency situations. CIB approved the loan without an application and based on only a power point presentation. One of the counties submitted a skeletal application weeks after the loan's approval and only in response to CIB's request to the counties for a loan application.

"Utah officials' hasty approval process violated the law and ignored the harmful effects of coal transport and combustion on our health and climate. While the rest of the world is moving away from this dirty fossil fuel to cleaner energy sources, Utah residents could be stuck with more mining pollution, more health problems, and a \$53 million bill," said Wendy Park, an attorney at the Center for Biological Diversity.

The letter also raises questions about the role of Jeffrey Holt, an investment banker who is both the proponent of the loan for the Utah counties and chair of Utah's Transportation Commission. Holt was also a board member just a few months before asking the board to approve the huge loan. Questions have been raised as to whether Holt's private bank employer has a financial stake in the loan.

“We hope Attorney General Reyes will ask some tough questions about the rush to send Utah’s money to California,” said Ted Zukoski, an attorney at Earthjustice.

Community groups signing the letter include West Oakland Environmental Indicators Project, Sevier Citizens for Clean Air & Water, Inc., Mormon Environmental Stewardship Alliance, HEAL Utah, Utah Physicians for a Healthy Environment, Uranium Watch, Living Rivers, Communities for a Better Environment, San Francisco Baykeeper, Oakland Education Association, California Interfaith Power & Light, No Coal in Oakland, Sunflower Alliance, Beacon Presbyterian Fellowship, St. John's Presbyterian Church, Movement Generation Justice & Ecology Project, Climate Workers, 350 Bay Area, Center for Biological Diversity, Grand Canyon Trust, Earthjustice, Sierra Club, Southern Utah Wilderness Alliance and Green Action for Health & Environmental Justice.

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