

LR Press Release
February 10, 2026

Kane Creek Development Watch and Living Rivers file a lawsuit against Lt. Governor and Echo Canyon Municipality

SB 258 Press Release, Media Summary and FAQ

For immediate release on February 11, 2026

Lawsuit Challenges Unconstitutional Law Tailored for Echo Canyon Luxury Resort.

- [Click here to read the legal brief.](#)

Contacts:

- Laura Long: laura@kanecreekwatch.org
- John Weisheit: john@livingrivers.org
- Cody Priano: codypriano@gmail.com

News

- February 11, 2026 - [Lawsuit Seeks To Void Echo Canyon's Preliminary Municipality Certification](#). By Andrew Christensen for Moab TI.

Summary

Environmental and community groups have filed suit challenging a new Utah law that allows a private developer to form an unelected “preliminary municipality” government with full zoning and land-use powers. The lawsuit argues the statute violates the Utah Constitution by transferring government authority from elected officials to private developers; the new law appears as if it was drafted specifically to facilitate development of the Echo Canyon luxury resort along the Colorado River near Moab without having to receive approvals from county land use authorities. In addition to Echo Canyon, this law has since been used to advance at least three other controversial projects in rural Utah. Bottom line, the new law lets developers write their own rules for governing, rather than elected county representatives who are accountable to residents.

[The Complaint: FOA vs Henderson](#)

###

MOAB, UT — February 10, 2026 — Kane Creek Development Watch, in partnership with Living Rivers, filed a lawsuit in Utah’s Seventh District Court challenging the constitutionality of a state law designed to allow the Echo Canyon luxury resort (formerly Kane Creek Preservation and Development) to incorporate as a municipality while bypassing long-standing incorporation requirements.

Preliminary Municipality Law Violates the Utah Constitution

For more than a century, Utah has followed a constitutional principle shared by many states: municipal and land use authority must be exercised by elected officials accountable to the public—not by unelected private commissions. This safeguard protects local residents' right to self-government, prevents cronyism, and ensures that local land use decisions are made by entities accountable to the local voters.

That principle was abandoned in 2024 when the Utah Legislature passed Senate Bill 258. The bill allows a single property owner to incorporate land as a “preliminary municipality” and appoint an unelected governing board with nearly all the powers of a city, including land-use and zoning authority—while excluding county residents from participation.

In effect, the statute removes authority from elected county officials and transfers it to politically unaccountable private developers.

Turning a Public Canyon into a Private Resor

Filed the same day SB 258 took effect, Echo Canyon's application covers 176 acres along the Colorado River just downstream from Moab, including 70 acres of riparian floodplain and 100 acres of adjacent redrock benchlands. The proposal includes 580 homes, 100 overnight lodging units, and 72,000 square feet of commercial space.

The project would transform a largely undeveloped stretch of river—valued for wildlife habitat, cultural and archaeological resources, public lands access, extensive use by local businesses, and recreation—into a private luxury resort.

Laura Long of Kane Creek Development Watch said:

“This law appears to be intended specifically for Echo Canyon. The project faced strong local public opposition and major obstacles under county review. SB 258 sidesteps local land-use laws and cuts residents out of the process.”

Conflicts with Local Planning, Safety, and Water Law

The development conflicts with Grand County's adopted land-use and zoning ordinances, which balance responsible development and economic activity with environmental protection and public safety.

Observers also note the preliminary municipality is not required to comply with Grand County floodplain standards and other regulations. The project proposes adding 10 feet of structural fill over 70 acres in a floodplain along the Colorado River to support buildings, raising serious concerns about flood risk and long-term liability.

Nearby landowner Cody Priano warns the narrow canyon contains known rock art and unsurveyed cultural resources that could be destroyed by large-scale construction. He

also notes the statute contains no affordable housing requirements, despite Grand County's severe housing shortage. The resorts' lots are priced out of reach for local residents that need housing.

Long-time river advocate John Weisheit emphasized that the Echo Canyon developer is already the subject of a separate lawsuit filed by Living Rivers and Kane Creek Development Watch, requesting the Court order that the developer's claimed water rights have been abandoned and/or forfeited due to decades of non-use.

"The developer lacks valid and sufficient water rights to serve a municipality and made misleading claims to the Lieutenant Governor and feasibility study consultants about water availability," Weisheit said. "This new statute removes basic oversight in favor of a private developer seeking to avoid accountability."

Long concluded: "Utah's municipal incorporation laws exist to ensure grassroots incorporation and democratic governance by real residents. SB 258 discards those core values of the state and allows a single developer to create what is essentially a private government, and build without complying with county zoning and land use regulations, all to line their own pockets."

#

Media Brief

Case: Kane Creek Development Watch & Living Rivers v. Lt. Gov. of the State of Utah et al.

Court: Utah Seventh District Court

Filed: February 10, 2026

What's at Issue

A new Utah law (SB 258) allows a property owner to form a "preliminary municipality" governed by an unelected board with city-level powers. Plaintiffs argue the law violates the Utah Constitution's protections for democratic self-government.

Why It Matters

- Transfers land-use and zoning authority from elected officials to private developers
- Removes county oversight over previously unincorporated areas with no residents
- Eliminates county resident participation, elections, and accountability
- Sets a statewide precedent affecting rural counties across Utah
- Allows private developers to write their own land use code and other municipal ordinances
- Creates financial and safety risks to rural counties and their citizens because if the development fails, the county will be on the hook to take over any partially built infrastructure and debt obligations of the preliminary municipality

Echo Canyon Development

- 176 acres along the Colorado River near Moab
- 580 homes, 100 lodging units, 72,000 sq. ft. commercial
- Includes floodplain and culturally sensitive lands
- Detrimental impacts to the local economy – numerous Grand County guiding and recreation businesses rely on the Kane Creek/Kings Bottom area to serve their clients and make a living
- Increased water use and strain on local water resources and springs on public lands
- Risk to natural environment and protected cultural resources, including documented petroglyphs, grave site, and artifacts located on or adjacent to the property

Key Legal Claims

- SB 258 violates the state constitution by granting municipal powers and authority to entities with private governing board primarily made up of unelected officials.
- SB 258 violates the state constitution by arbitrarily targeting rural counties, as preliminary municipalities can only be created in Utah's lower-population counties.
- SB 258 violates the state constitution by allowing creation of a municipality that is neither a city, nor town, and contains no actual people.
- SB 258 violates the state and federal constitutions by removing the ability of Grand County residents to petition their elected representatives to redress grievances.
- SB 258, and Echo Canyon specifically, violates the state constitution by allowing Echo's governing board, who claim to be public officers, to make a profit from public money and/or property.
- As Echo Canyon itself is a constitutionally invalid entity, Echo Canyon's actions under the statute are invalid.
- The court should halt further action by Echo Canyon and the developers that have been supposedly authorized pursuant to the law

Related Issues

- Conflicts with Grand County land-use and zoning plans.
- Floodplain development/public safety concern.
- Separate from existing lawsuit challenging the developer's claimed water rights, which Watch and Living Rivers claim are subject to judicial forfeiture. The defendants filed motions to dismiss in that lawsuit, and a hearing on those motions is scheduled for March 19.

Plaintiffs

Kane Creek Development Watch
Living Rivers

Defendants

Diedre M. Henderson, in her capacity as Lieutenant Governor of the State of Utah;
Kane Creek Preservation and Development, LLC, a Delaware limited, liability company;
Craig Weston, an individual; and
Echo Canyon, a Utah preliminary municipality

FAQ — Myth vs. Fact

Myth: This law creates housing and supports local economies.

Fact: The statute does not require affordable housing or local workforce housing. Echo Canyon is a high-end resort development, not a housing solution for local residents. Moreover, it hurts the local economy by impeding the ability of local businesses to use the Kane Creek/Kings Bottom area, a critical area for Grand County's unique recreation economy

Myth: Preliminary municipalities are just another planning tool.

Fact: They grant nearly all municipal powers to developers—without elections, residents, or accountability. That is unprecedented in Utah.

Myth: The county still has oversight.

Fact: SB 258 strips counties of land-use and zoning authority within a newly created preliminary municipality's boundaries.

Myth: This project follows existing rules.

Fact: The law appears designed to allow the Echo Canyon proponents to bypass Grand County's land-use authority after the project faced strong opposition and regulatory hurdles.

Myth: The lawsuit is anti-development.

Fact: The lawsuit is pro-democracy. It challenges a process that replaces public decision-making with private control by an unelected commission.

Myth: The developer has secured all necessary water.

Fact: A separate lawsuit seeks a judicial finding that the developer's claimed water rights have been abandoned and forfeited due to decades of non-use.

Bottom Line:

Utah's constitution and traditional incorporation laws exist to protect local residents' right to self-determination, rural communities, and public safety. SB 258 undermines those values—and Echo Canyon is the test case

###