Fossil fuel fund set aside to help Utahns being returned to industry, lawsuit says

$28m grant was intended to help rural communities recover from oil drilling not help industry expand deeper into the state, suit claims

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An American flag is displayed on Union Pacific Corp train as it is loaded with coal at the Savage Industries Co processing facility in Price, Utah, in 2016. Photograph: Bloomberg/Bloomberg via Getty Images

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In July 2019, a proposed railway intended to shuttle fossil fuels across a mountainous corner of eastern Utah received a $28m grant from a local, state-run community fund. The financing allowed the group behind the railway – the Seven County Infrastructure Coalition – to kick off a federally mandated environmental impact survey, that would need to be completed before construction could begin.

There was just one problem: the grant came from a pot of money set aside to help Utahns recover from the state's legacy of oil drilling, not help the industry expand deeper into the state.

Established in 1982, the Utah Permanent Community Impact Fund "was supposed to alleviate the boom and bust cycle of energy production," said Wendy Park, a lawyer with the Center for Biological Diversity.

Park believes that the $28m grant violates the spirit of the fund, which has provided money for a range of municipal projects like new sewer systems, medical facilities, road improvement and new public buildings.

The CBD, along with the Utah-based environmental group Living Rivers, is suing to stop the municipal agency from

funding the $1.5bn railroad. The suit asks a fundamental question: is the development of yet more fossil fuel infrastructure the best way to help rural communities thrive?

Two weeks ago, a judge ruled that this unique case had standing and would proceed. If successful, the suit could send a message to state agencies to more carefully consider the projects they fund and the impact they'll have.

Under the Trump administration, the oil and gas industry has enjoyed an increasingly cozy relationship with the federal agencies that oversee the nation's public lands. The proposed Uinta Basin railway could take one of three potential routes – the favored of which would plow through 390 acres of state lands and 401 acres of roadless US Forest Service lands.

The Utah permanent community impact fund collects royalties collected from mineral leasing. Although the fund's mandate is rather broad, the intention was to return some of the profits back to the community.

Sometimes this has meant helping cities experiencing an influx of workers expand their infrastructure to support these new residents, but it could also mean repairing roads damaged by a sudden increase in use by oil tankers.

The outcome of the Living Rivers lawsuit is unlikely to delay

or stop construction, as it only challenges the source of the funding.

The Seven County Infrastructure Coalition, which describes itself as a “public implementation and ownership entity”, has demonstrated its interest in aiding the oil and gas industry. It currently has twelve other projects in the works, about half which are directly related to fossil fuel production.

The coalition argues the Uinta Basin railway will bring jobs, raise municipal revenues, increase roadway safety and diversify the economy.

But the Covid-19 pandemic has also underlined the need for better healthcare infrastructure Utah’s rural communities, something residents and activists say the community fund would be better off financing today.

“It’s important that the local governments get this money,” and not fossil fuel corporations, says Park, “especially in the context of the coronavirus pandemic, when many are struggling”.

Residents who live in regions the railway will run through oppose the construction as well.

Darrell Fordham of the Argyle Valley is concerned about potential erosion and mudslides from construction, as well as wildfires ignited by train’s sparks. Where he lives, there is

no alert system for residents, and roads are tight. “Many people could easily be trapped in wildfire,” he says.

Fordham suggested the fund could be used instead to “do municipal utility projects [or] build community centers and smaller health clinics”. He says most of the nearby healthcare facilities only have a handful of ICU beds, which has been a problem as Covid-19 cases increase in Utah.

This isn’t the first time the Utah permanent community impact fund has come under scrutiny for how funds were disbursed. Earlier this year, a state audit found much of the money in the fund has gone to building fossil-fuel exclusive infrastructure, like highways that only benefit energy companies and a proposed (but scuttled) investment in a coal terminal in Oakland, California, that would export coal across the Pacific and theoretically raise coal prices in Utah.

The audit labeled the proposed Uinta Basin railway as an example of how the funds could be misappropriated, noting there was no way to ensure it “adequately alleviate mineral extraction impact”. The audit also found that the Utah permanent community impact fund was too opaque; it didn’t do enough to do public outreach about the availability of the funds.

Finally, the audit found that the fund’s $5m cap on grants had routinely been ignored, as well as a stipulation that every

grant must be matched equally by grantees. In the case of the $28m granted to the SCIC – a group that has no fiscal income from taxes and can't apply for loans – the group put up no money, says Park from CBD.

Proponents of the railway argue that the project will benefit the community by taking tanker trucks off the roads, increasing local government incomes, and bringing jobs to the area. A railway connection might boost the price of the oil produced in the Uinta Basin; and, according to Kathleen Clarke, the head of Utah's public lands policy office, would feed into a trust fund established for schools.

And yet it's unclear whether investing in fossil fuel production in the Uinta Basin can really pay off: John Weisheit, the co-founder of Living Rivers, says there isn't enough oil in the basin to make the investment worth it. The oil will likely be gone within ten years, if oil is extracted at 2019 rates, according to a study commissioned by the SCIC.

"The economic viability of the railway is doubtful," said Park, "which is probably why private investors have never developed this railway on their own and public subsidies are required".

Opponents of the railway argue it has environmental impacts as well. It will disturb sensitive sage grouse mating grounds, and destroy 10,000 acres of big game habitat for elk, mule

deer, moose, bighorn sheep and pronghorn.

The use of public money for the development of a potentially unprofitable railway is particularly bad at a time when states and municipalities are struggling because of the economic downturn.

In the case of the Uinta Basin railway, Park said, the funding appears to do the opposite of its intended purpose: taking proceeds from drilling and returning it to the industry, rather than using it to help communities . “They pretty much give the money back to the fossil fuel companies.”

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