

June 20, 2016

The Hon. Loretta Lynch, United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Gregory J. Gould, Director
Office of Natural Resources Revenue
1849 C Street NW, Mail Stop 4211
Washington, DC 20240

Mary Kendall, Deputy Inspector General
U.S. Department of the Interior
Office of Inspector General
1849 C Street NW, Mail Stop 4428
Washington, DC 20240

Via Federal Express and E-mail

Re: Request To Investigate The Misuse Of \$53 Million In Mineral Leasing Act Payments To Utah To Fund A Private Coal Export Terminal In Oakland, California.

Dear Attorney General Lynch, Director Gould, and Deputy Inspector General Kendall,

The Sierra Club, Alliance for a Better Utah, HEAL Utah, Grand Canyon Trust, Institute for Energy Economics and Financial Analysis, Living Rivers, Center for Biological Diversity, Earthjustice (on behalf of the Sierra Club and Grand Canyon Trust), and The Sloan Law Firm, PLLC (on behalf of Living Rivers) urge you to investigate the State of Utah's misuse of \$53 million in federal community-development funds to finance a bulk shipping terminal in Oakland, California and thereby encourage mining and export of Utah coal. We believe that these actions require review by your offices for possible legal and ethical violations.

Since as early as 2001, several Utah counties have been trying to fund infrastructure to get coal from mines in Utah owned by Bowie Resource Holding Partners, LLC (Bowie) to market. By late 2014, the counties' efforts turned to securing "throughput capacity" at a proposed Oakland bulk export terminal that would guarantee the counties, and thus Bowie, a share of the volume of cargo to be moved through the terminal. The counties asked Utah's Community Impact Board (CIB)—the state entity charged with administering a portion of Utah's federal Mineral Leasing Act (MLA) proceeds—for a loan of \$53 million in MLA payments to help finance the terminal. MLA payments made to Utah and other states come from royalties paid by those who mine publically owned minerals and are intended to mitigate mining's adverse impacts on mining communities. The MLA thus restricts the use of such funds to community planning, construction and maintenance of public facilities, and provision of public service.

Despite these limitations, the CIB decided to loan the counties MLA funds to invest in a private, out-of-state export terminal under a special, state-law emergency procedure that excused the applicants from doing certain due diligence. The deal was brokered by Mr. Jeffrey D. Holt, the “Strategic Infrastructure Advisor” to the counties who was simultaneously serving as Chairman of the Utah Transportation Commission and as a private investment banker. By the deal’s terms, Mr. Holt and his investment firm may reap millions from the project.

After the CIB approved the loan, several parties—including some CIB members—questioned whether the loan was legal under the MLA. So, rather than see the loan through, Mr. Holt and county officials turned to the Utah legislature to enact a funding scheme that proponents admitted was designed to evade the MLA’s funding limitations. The result was Senate Bill (SB) 246, which swaps \$53 million in federal MLA funds with \$53 million in state transportation funds to provide the CIB \$53 million in “state” money to finance the export terminal. Many of the bill’s supporters, and the Governor of Utah who signed the bill, had received campaign contributions from the coal company expected to be the largest beneficiary of the export terminal deal.

The \$53 million of MLA funds would be used to develop a bulk coal export terminal in West Oakland, California, a neighborhood already heavily impacted by transportation pollution and burdened by some of the worst air quality in the region. The effects of coal transportation have never been studied in any environmental review relating to the proposed terminal. Thus, the MLA funds would be used not only to fund a project outside the State of Utah, but would also contribute to the continued pollution of a vulnerable community.

The terms of the loan, and the potential conflicts of interest in connection to the loan, raise legal and ethical questions that your offices have the authority to investigate. The MLA grants the United States Attorney General broad authority to bring civil and other actions when the Act may be violated. The Department of the Interior has the authority to investigate and audit the use of royalties (through its Office of Natural Resource Revenue) and the duty to ensure the integrity and accountability of its programs (through its Office of Inspector General). We therefore request that you exercise your respective statutory authorities to investigate these activities and SB 246’s funding scheme for possible violations of law.

I. MINERAL LEASING ACT PAYMENTS TO STATES MAY BE USED ONLY TO FUND PUBLIC FACILITIES AND SERVICES IN COMMUNITIES IMPACTED BY MINING.

The MLA’s plain language, legislative history, and its subsequent interpretation demonstrate that the law was not meant to subsidize private projects that promote yet more mineral leasing.

Those leasing federally-owned minerals including oil, gas, and coal must make royalty payments to the U.S. government for the development and production of those minerals. 30 U.S.C. §§ 181–195. Half of all royalty, bonuses, and mineral lease sale moneys paid to the U.S. Treasury are returned to the state in which the leased lands are located

to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically

impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service.

Id. § 191. So while the MLA gives state legislatures discretion to choose which state subdivisions receive royalty funds, it strictly limits the funds' application to three specific uses.

The legislative history shows that MLA payments under section 191 are intended for and may be used only to fund public facilities and services needed to relieve the burdens mining places on communities, *not* to invest in private developments in other states; and especially not to invest in a private development that will *increase* the burdens on mining communities. The Federal Coal Leasing Amendments Act of 1975 added section 191 to the MLA.¹ Senator Lee Metcalf, the bill's sponsor, explained the purpose of section 191:

Western States with Federal coal reserves stand in dire need of monetary assistance for planning and creating public facilities and services demanded by the thousands of workers who will be attracted to jobs in the coal mines and related processing and power generating plants. . . . We must avoid burdening the coal-producing regions with the social and environmental costs associated with coal development.²

In their June 24, 1976 letter urging President Ford to sign the bill, Senator Metcalf and Representative Patsy Mink stated:

The western coal-producing States must deal with the problems of population influx triggered by Federal coal development. For these States, new financial resources provided by [section 191] could spell the difference between a chaotic disintegration of traditional rural lifestyles, and the orderly transition to urban and semi-urban living patterns.³

The Utah Attorney General agreed that the MLA payments may be used only to fund public facilities and services in his Opinion 92-003: "an economic development project, in and of itself, is not eligible for funding with mineral lease monies because it does not qualify as 'planning' construction and maintenance of public facilities,' or 'providing a public service.'"⁴ The Attorney General explained:

¹ Federal Coal Leasing Amendments Act of 1975, Pub. L. No. 94-377, § 9, 90 Stat. 1083, 1089–90 (1976).

² 122 CONG. REC. 19,376 (1976) (statement of Sen. Metcalf).

³ Letter from Sen. Lee Metcalf & Rep. Patsy T. Mink to Pres. Gerald R. Ford 2 (June 24, 1976), <https://www.fordlibrarymuseum.gov/library/document/0067/1562861.pdf>.

⁴ Use of Mineral Lease Monies for Economic Development, Utah Op. Att'y Gen. No. 92-03, at 1 (1993), attached as Ex. 1; *see also id.* at 5 ("Economic development, by itself is not one of the traditional local government services that Congress intended to be eligible for funding by mineral monies.").

Congress recognized that local communities need the funds to assist them in building governmental infrastructure and providing local governmental services during the boom and bust cycles that accompany natural resources development. By restricting the use of the funds to planning, constr[uction] and maintenance of public facilities, and to the provision of public services, Congress provided a source of funding for traditional local governmental services that are impacted, such as law enforcement, public health, and governmental facilities.⁵

The State of Utah thus agreed decades ago that the MLA was not meant to subsidize private projects to promote mineral leasing.

II. FACTUAL BACKGROUND⁶

A. The Proposal to Construct a Bulk Export Terminal in Oakland

The \$53 million in MLA funds would go to develop a bulk export terminal in Oakland, California. The proposed terminal is one piece of a decades-long redevelopment project at the former Army Base located on the West Oakland waterfront.⁷ The redevelopment is intended to modernize freight infrastructure at the former Army Base, and includes the development of a bulk terminal known as the Oakland Bulk and Oversized Terminal (OBOT).⁸

The City of Oakland contracted with joint venture Prologis CCIG Oakland Global LLC (CCIG) to develop portions of the former Army Base, including the bulk terminal.⁹ CCIG has in turn awarded a lease to Terminal Logistics Solutions (TLS) to potentially develop the terminal.¹⁰

⁵ *Id.* at 5.

⁶ All documents referenced by or attached to this memo are from publicly available sources or were obtained by the Sierra Club through state open record law requests to various Utah government entities.

⁷ See CITY OF OAKLAND, 2012 OAKLAND ARMY BASE PROJECT INITIAL STUDY/ADDENDUM 19–20 (2012), <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak035061.pdf>, attached as Ex. 2.

⁸ *Id.* at 30.

⁹ Army Base Gateway Redevelopment Project, Lease Disposition and Development Agreement between The City of Oakland and Oakland Redevelopment Successor Agency and Prologis CCIG Oakland Global, LLC (2012), <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak038435.pdf>, attached as Ex. 3; Development Agreement between City of Oakland and Prologis CCIG Oakland Global, LLC Regarding the Property and Project Known as “Gateway Development/Oakland Global” (July 16, 2013), <http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak055211.pdf>, attached as Ex. 4.

With Utah’s investment, nearly half of the terminal’s capacity will be devoted to coal export; a fact the terminal’s proponents kept secret until it was revealed in an April 7, 2015 article in a local Utah newspaper.¹¹ As recently as December 2013, CCIG’s president and chief executive officer, Phil Tagami, assured the public that coal would not be a part of the Army Base development: “CCIG is publicly on record as having no interest or involvement in the pursuit of coal-related operations at the former Oakland Army Base.”¹² And none of the environmental review documents for the redevelopment project—including the 2002 Final Environmental Impact Report, or the 2012 Addendum to that report—considered the coal export possibility or studied the numerous health and environmental concerns associated with coal transportation.¹³

Transporting coal through the area would worsen the health of a community already struggling with poor health and high pollution burdens. According to the California Environmental Protection Agency, the community adjacent to the redevelopment area is severely burdened by diesel pollution and hazardous waste exposure, and its residents suffer from extremely high rates of asthma.¹⁴ The California Air Resources Board’s Health Risk Assessment for the area found that residents of West Oakland are exposed to three times the amount of diesel particulate matter compared to the other residents of the air basin.¹⁵ The health outcomes for area residents are grim. When compared to the outcomes for residents in the hillside neighborhoods of Oakland, residents living near the redevelopment area are more likely to give birth to premature or low birth weight children, suffer from diabetes, heart disease, stroke, and cancer.¹⁶ Individuals born in West Oakland can expect to die 15 years earlier than individuals born in the Oakland Hills.¹⁷

¹⁰ See Brittany Patterson, *How a major terminal to ship Utah coal to the Far East sneaked into Oakland*, CLIMATEWIRE (Sept. 22, 2015), attached as Ex. 5.

¹¹ *Project could transform local coal market to international*, RICHFIELD REAPER (Apr. 7, 2015), attached as Ex. 6; see Brian Maffly, *Proponents buried coal’s role in Oakland export terminal*, S.L. TRIB. (Mar. 30, 2016) (describing coal’s share of terminal capacity), attached as Ex. 7.

¹² See Julie Small & Dan Brekke, *Oakland Mayor, Port Developer in Dispute Over Plan to Ship Coal*, KQED NEWS (July 6, 2015), attached as Ex. 8.

¹³ *Current Environmental Review Documents* (case file no. ER01-035), CITY OF OAKLAND <http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157> (last visited June 15, 2016).

¹⁴ California Office of Envntl. Health Hazard Assessment, CAL ENVIROSCREEN VERSION 2.0, <http://oehha.ca.gov/ej/ces2.html> (last visited June 15, 2016) (results for census tract 6001401700: zoom map of Cal EnviroScreen 2.0 results to tract in Oakland near Bay Bridge).

¹⁵ CALIFORNIA AIR RESOURCES BOARD, DIESEL PARTICULATE MATTER HEALTH RISK ASSESSMENT FOR THE WEST OAKLAND COMMUNITY 2 (Dec. 2008), <http://www.arb.ca.gov/ch/communities/ra/westoakland/documents/westoaklandreport.pdf>, attached as Ex. 9.

¹⁶ COMMUNITIES FOR A BETTER ENVIRONMENT, EAST OAKLAND DIESEL TRUCK SURVEY REPORT 4–5 (Sept. 2010), <http://www.cbecal.org/wp-content/uploads/2013/01/Diesel-truck-study-FINAL-092710.pdf>, attached as Ex. 10.

¹⁷ *Id.* at 5.

The construction of a coal terminal in Oakland also would run counter to commitments made by state and local officials to fight climate change. State of California legislators and officials have recognized the urgent need to reduce the production of greenhouse gas emissions, and over the years have passed landmark legislation like Assembly Bill 32 and issued executive orders to enable reductions goals. Most recently, in April 2015, Governor Jerry Brown issued an executive order mandating that the state reduce its greenhouse gas emissions to 40 percent below 1990 levels by 2030.¹⁸ And on June 17, 2014, the Oakland City council approved a resolution opposing the transportation of hazardous fossil fuels like coal through the City, expressing concern about the effects of coal exports and stressing the need for a transparent process and full environmental review.¹⁹ The California Senate also recently passed a bill requiring an environmental review of the Oakland terminal before it may proceed.²⁰

B. Utah Counties and Mr. Holt Seek to Construct a Rail Line to Connect a Utah Coal Mine to the National Rail Network and the Oakland Terminal.

For many years, Utah coal interests have supported development of infrastructure to increase coal shipments as a means to support increased production. As early as 2001, several Utah counties (specifically Sevier, Juab, Sanpete, Millard, Piute, and Wayne Counties) undertook an effort to promote construction of a 43-mile rail line that would connect a coal transfer terminal near Salina, Utah with the Union Pacific Railroad 16 miles south of Nephi, Utah.²¹ The purpose of the line, known as the Central Utah Rail Project, is “to provide rail access to local industries, primarily the Sothern Utah Fuel Company (SUFCO) coal mine owned by Bowie Resources” to move bulk cargo to other parts of the country.²² The Surface Transportation Board predicted in its draft environmental impact statement for the line that coal shipments from the SUFCO mine would occupy between 87% and 90% of the total shipping volume on the line.²³

¹⁸ Press Release, Office of Governor Brown, Governor Brown Establishes Most Ambitious Greenhouse Gas Reduction Target in North America (Apr. 29, 2015), attached as Ex. 11.

¹⁹ Resolution No. 85054 C.M.S., Oakland City Council (2014), attached as Ex. 12.

²⁰ SB 1278, 2015–2016 Reg. Sess. (Cal. 2016) (passed Senate June 1, 2016; awaiting Assembly vote), attached as Ex. 13; see David DeBolt, *California Senate approves bill tied to Oakland coal terminal*, SAN JOSE MERCURY (June 2, 2016), attached as Ex. 14.

²¹ SURFACE TRANSP. BD., FINAL ENVIRONMENTAL IMPACT STATEMENT FOR THE SIX COUNTY ASSOCIATION OF GOVERNMENTS PROPOSED RAIL LINE BETWEEN LEVAN AND SALINA, UTAH 1-1 (2015), Ch. 1 attached as Ex. 15.

²² *Id.* at 1-5. The SUFCO mine is the same mine that would provide the coal for transport through the Oakland facility. Darwin BondGraham, *Banking on Coal in Oakland*, EAST BAY EXPRESS (Aug. 19, 2015), attached as Ex. 16.

²³ SURFACE TRANSP. BD., DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS), FINANCE DOCKET NO. 34075, SIX COUNTIES ASSOCIATION OF GOVERNMENTS, CONSTRUCTION AND OPERATION EXEMPTION RAIL LINE BETWEEN LEVAN AND SALINA, UTAH 4-54 (2007), Ch. 4 attached as Ex. 17.

In October 2014, Mr. Holt entered into talks with the Sevier County Commission to determine how to finance the proposed Central Utah Rail Project.²⁴ At the time, Mr. Holt wore three hats: he worked for Bank of Montreal Capital (BMO Capital),²⁵ served as chair of the Utah Transportation Commission, and served as a member of the CIB.²⁶ Mr. Holt resigned from the CIB sometime in late 2014 due to unidentified “potential future conflicts of interest.”²⁷ On October 20, 2014, Mr. Holt provided Sevier County a draft contract “for the railroad assignment.”²⁸ Three days later, he raised the prospect of the Oakland export terminal with the county.²⁹ Over the next three or more months—through at least December 2014—Sevier County employed Mr. Holt, through BMO Capital, as a strategic advisor to help it finance the rail project.³⁰ The county agreed to pay BMO Capital at least \$2 million if and when the rail line became “Fully-Funded and Operational,”³¹ providing Mr. Holt a powerful incentive to ensure that central Utah coal had an outlet to West Coast export facilities to help induce the rail line’s construction. Mr. Holt helped the county prepare an application to the CIB for a \$100,000 grant for the project,³² which the CIB approved in February 2015.³³ The Surface Transportation Board granted its approval for the project effective October 3, 2015.³⁴ The rail proponents still require additional approvals (including for a right-of-way over federal lands) before the line can be built.

²⁴ See E-mail from Jeff Holt, BMO Capital, to Gordon Topham, Sevier Cty. (Oct. 20, 2014), attached as Ex. 18; E-mail from Jeff Holt, BMO Capital, to Malcolm Nash, Sevier Cty. (Oct. 23, 2014), attached as Ex. 19.

²⁵ BMO Capital is headquartered in New York City.

²⁶ Press Release, BMO Financial Group, BMO Capital Markets Continues to Grow its U.S. Public Finance Business (Apr. 7, 2009), attached as Ex. 20; *Herbert makes appointments to 2 Utah commissions*, KSL.COM (Oct. 13, 2009), attached as Ex. 21; DEP’T OF WORKFORCE SERVS., LEGISLATIVE REPORT OF THE PERMANENT COMMUNITY IMPACT BOARD, FISCAL YEAR 2014 (2014), https://jobs.utah.gov/housing/cib/documents/CIB_Legislative_Report_2014.pdf, attached as Ex. 22.

²⁷ Heila Ershadi, *Could rail service come to Moab?*, MOAB SUN NEWS (Mar. 15, 2015), attached as Ex. 23.

²⁸ E-mail from Jeff Holt to Gordon Topham (Oct. 20, 2014), *supra* note 24, Ex. 18.

²⁹ E-mail from Jeff Holt to Malcolm Nash (Oct. 23, 2014), *supra* note 24, Ex. 19.

³⁰ See, e.g., E-mail from Jeff Holt, BMO Capital, to Malcolm Nash, Sevier Cty. (Dec. 16, 2014), attached as Ex. 24; Letter from Jeff Holt, BMO Capital, to Sevier Cty. Comm’n (Dec. 22, 2014), attached as Ex. 25; see also, e.g., Permanent Community Impact Fund Board Meeting, Minutes 1 (Jan. 8, 2015) (Mr. Holt appearing at CIB meeting on behalf of BMO Capital) [hereinafter Jan. 8, 2015 Minutes], attached as Ex. 26; Permanent Community Impact Fund Board Meeting, Minutes 1 (Feb. 5, 2015) (same) [hereinafter Feb. 5, 2015 Minutes], attached as Ex. 27.

³¹ Letter from Jeff Holt to Sevier Cty. Comm’n 2 (Dec. 22, 2014), *supra* note 30, Ex. 25.

³² See E-mail from Jeff Holt to Malcolm Nash (Dec. 16, 2014), *supra* note 30, Ex. 24.

³³ Feb. 5, 2015 Minutes 7–8, *supra* note 30, Ex. 27.

³⁴ 80 Fed. Reg. 53,915 (Sept. 8, 2015).

C. Utah Counties and Mr. Holt Seek Expedited CIB Approval of a Loan to Invest in the Oakland Bulk Terminal.

Bowie's plan to mine coal from its SUFCO mine and ship it on the Central Utah Rail line apparently depends on finding capacity at a West Coast terminal to export the coal to Asia.³⁵ As early as summer 2014, Carbon and Emery Counties were investigating "the need to secure throughput capacity [i.e., a guaranteed share of the volume of cargo to be moved] from a west coast bulk export terminal."³⁶ By late February 2015, Mr. Holt and BMO Capital organized site visits to the proposed Oakland terminal site for Sevier and Carbon County officials.³⁷ Bowie would be "a Series A shareholder" in the Oakland terminal, according to a term sheet Mr. Holt sent to the Counties.³⁸ The term sheet explained, "Presumably Bowie will get the throughput allocations to their mines in the Counties, at least for some number of years."³⁹

The CIB apparently was given a presentation regarding the Oakland terminal project on March 7, 2015.⁴⁰ At an April 2, 2015 CIB meeting, four counties (Carbon, Sevier, Sanpete, and Emery; collectively "the Counties") asked the board to consider and approve a \$53 million loan for the Oakland bulk terminal.⁴¹ The Counties proposed that they would fund \$50 million of the terminal cost in exchange for "throughput allocation at the terminal," while the remaining \$200 million required for the project would come from third-party lenders.⁴² Press reports indicate that BMO Capital, Mr. Holt's employer, is packaging the third-party investments for the terminal operator.⁴³ The Counties would use the additional \$3 million from the MLA loan to pay "project

³⁵ BondGraham, *Banking on Coal*, *supra* note 22, Ex. 16.

³⁶ Presentation by Carbon, Sevier, Sanpete, and Emery Counties to Permanent Community Impact Fund Board, Request from Carbon, Sevier, Sanpete and Emery Counties for \$53,000,000 for Throughput Allocations in a Multi-Commodity Bulk Terminal at the site of the former Oakland Army Base 2 (April 2, 2015) [hereinafter CIB Presentation], attached as Ex. 28.

³⁷ See E-mail from Gordon Walker, CIB Chair, to Emily Hashimoto, BMO Capital (Feb. 26, 2015), attached as Ex. 29.

³⁸ Preliminary Term Sheet, Multi-Commodity Bulk Export Terminal, at 1 (attached to e-mail from Jeff Holt to Counties (Mar. 25, 2015)), attached as Ex. 30.

³⁹ *Id.* at 2. In return for their investment, the Counties would be guaranteed 49% of the terminal's export capacity, or its "throughput allocation." *Id.* at 1.

⁴⁰ See E-mail from Candace Powers, CIB Fund Manager, to Robert Simmons, Governor's Office of Energy Dev. (Apr. 27, 2015), attached as Ex. 31.

⁴¹ CIB Presentation, *supra* note 36, Ex. 28.

⁴² *Id.* at 4.

⁴³ Brian Maffly, *Utah's coal-export deal still faces high hurdles*, S.L. TRIB. (Mar. 18, 2016), attached as Ex. 32; see BMO Capital, Information Sheet, Deep Draft West Coast Multi-Commodity Bulk Terminal (Mar. 2015) (attached to e-mail from Jeff Holt to Counties (Mar. 25, 2015)), attached as Ex. 30.

expenses,” including “strategic advisory fees.”⁴⁴ Mr. Holt was listed as the “Strategic Infrastructure Advisor” to the Counties at the time.⁴⁵

Mr. Holt was one of six presenters advocating on behalf of the Counties at the meeting.⁴⁶ The presenters explained that investment in the terminal would secure the Counties “guaranteed throughput capacity for Utah products” at the terminal.⁴⁷

The presenters also specifically acknowledged the link between the Central Utah Rail Project and the proposed terminal. They noted that the Central Utah Rail Project could help get Utah products to the terminal,⁴⁸ an outcome that would trigger the Counties’ duty to pay BMO Capital \$2 million under their agreement on the Rail Project.⁴⁹ Mr. Holt had informed the Counties earlier of the linkage between the two projects: “Without the throughput guarantees [of the terminal], rail feasibility is unlikely. These two projects must be contractually linked in the negotiations.”⁵⁰

The motion to grant the Counties funding was taken up on a “Request for Special Consideration,” which permits the Board to suspend its rules (and thus potentially to ignore the Counties’ failure to undertake at least one prior public hearing).⁵¹ Even though the Counties had not yet submitted a formal application to the CIB,⁵² the Board nonetheless granted the \$53 million loan at the April 2 meeting after representations by the project proponents that the Counties could not “proceed in the process [of securing throughput capacity] without a contingent commitment of funding.”⁵³ The CIB minutes indicate that the loan would be

⁴⁴ CIB Presentation, *supra* note 36, at 5, Ex. 28.

⁴⁵ *Id.* at 1.

⁴⁶ *Id.*

⁴⁷ *Id.* at 2.

⁴⁸ *Id.* at 1–2.

⁴⁹ *See supra* note 31 and accompanying text.

⁵⁰ Memo from Jeff Holt to Carbon, Sevier, Sanpete, and Emery Counties (Mar. 25, 2015) (attached to e-mail from Jeff Holt to Counties (Mar. 25, 2015)), attached as Ex. 30.

⁵¹ Permanent Community Impact Board Meeting Minutes 9 (Apr. 2, 2015) [hereinafter Apr. 2 Minutes], attached as Ex. 33; *see* UTAH ADMIN. CODE R. 990-8-3(E) (“The Board requires all applicants to have a vigorous public participation effort. All applicants shall hold at least one formal public hearing to solicit comment concerning the size, scope and nature of any funding request prior to its submission to the Board.”); *id.* 990-8-4(F) (“In instances of bona fide public safety or health emergencies or for other compelling reasons, the Board may suspend the provisions of this section and accept, process, review and authorize funding of an application on an expedited basis.”).

⁵² *See* E-mail from Sandy Lehman, Carbon Cty. Comm’n Sec’y, to Candace Powers, CIB Fund Manager (Apr. 28, 2015) (submitting application on April 28, nearly four weeks after the CIB meeting), attached as Ex. 34.

⁵³ Apr. 2 Minutes, *supra* note 51, at 9, Ex. 33.

“contingent on legal authorization” because “[t]he Board [had] expressed concern about the legalities of the project.”⁵⁴

Carbon County finally submitted an application for the loan on April 28, nearly four weeks after the CIB approved it.⁵⁵ The application included a brief description of the project—six sentences in total—and virtually no due diligence, financial data, or analysis of the risks inherent in the investment.⁵⁶ The only security offered for the loan was “through put contracts and capacity at the terminal.”⁵⁷

D. The Terminal’s Proponents Attempt to Downplay the Likelihood that It Will Be Used to Export Utah Coal.

Public records and media reports make clear that proponents of the CIB loan—including Mr. Tagami and Mr. Holt—hoped the public would remain ignorant of the Oakland export terminal’s ties to coal transport.⁵⁸ But that that effort failed when the funding scheme’s details were exposed in April and May 2015.⁵⁹

An April 7 article in the “Richfield Reaper”—a local Utah newspaper—disclosed that the CIB loan was linked to coal exports,⁶⁰ a connection Mr. Holt immediately sought to downplay. Mr. Holt emailed county officials, CIB board members and staff, and his investment banking colleagues on April 8, labeling the article “unfortunate” and writing, “If anything needs to be said [to the media], the script was to downplay coal, and discuss bulk products and a bulk terminal. The terminal operator is TLS, not Bowie. Bowie is known for coal. TLS is a bulk operator.”⁶¹ Mr. Holt also highlighted Mr. Tagami’s intent that the loan and terminal not be tied to coal, stating, “Phil Tagami had been pleased at the low profile that was bumping along to date on the terminal and it looked for a few days like it would just roll into production with no serious discussion. At this point there is nothing to do about it but weather the storm and see what

⁵⁴ *Id.*

⁵⁵ E-mail from Sandy Lehman to Candace Powers (Apr. 28, 2015), *supra* note 52, Ex. 34.

⁵⁶ *See* Permanent Community Impact Fund Board Application Form for Bulk-Commodity Marine Terminal located in Oakland CA (undated) (attached to e-mail from Sandy Lehman to Candace Powers (Apr. 28, 2015)), attached as Ex. 34.

⁵⁷ *Id.* at 3.

⁵⁸ *See, e.g.,* Maffly, *Proponents buried coal’s role*, *supra* note 11, Ex. 7; Small & Brekke, *supra* note 12, Ex. 8.

⁵⁹ *E.g.,* Brian Maffly, *Utah coal: California, here it comes – and not everyone is happy*, S.L. Trib. (Apr. 27, 2015; updated Sept. 22, 2015), attached as Ex. 35; *Project could transform local coal market to international*, *supra* note 11, Ex. 6.

⁶⁰ *Project could transform local coal market to international*, *supra* note 11, Ex. 6.

⁶¹ E-mail from Jeff Holt, BMO Capital, to Keith Brady, Emery County et al. (Apr. 8, 2015), attached as Ex. 36.

additional fallout occurs.”⁶² Mr. Holt closed by advising, “less press [is] best. Controlled message is critical.”⁶³

Nearly two weeks later, on April 21, the Utah Governor’s office forwarded Mr. Holt a press inquiry from a reporter with the Salt Lake Tribune about the connection between the CIB loan and coal exports.⁶⁴ Mr. Holt responded, “No one ever mentioned 6 mm ton of coal in the CIB meeting. Not sure where that may have come from. We will caucus amongst ourselves about how to approach the Trib.”⁶⁵

E. The Legality and Wisdom of the CIB’s Loan Are Publically Questioned.

As information about the loan and the coal connection spread in the media, numerous members of the public and the media questioned the legality and the wisdom of the CIB spending MLA funds on a privately owned California coal export terminal. At least one CIB member, Mike McKee, expressed his concern in a newspaper interview that he “do[es]n’t think that Oakland, California, is really returning [funding] to the area of impact” as required by the MLA.⁶⁶

The Salt Lake Tribune’s editorial board called the CIB’s loan a “pyramid-scheme,” of “highly questionable” merit, and the result of a “shadowy” process.⁶⁷ And an Alliance for a Better Utah board member penned a Salt Lake Tribune op-ed calling the loan “disturbing,” given the loan’s questionable legality and the “troubling” process used to approve it.⁶⁸

Two coalitions of concerned organizations and individuals wrote the Utah Attorney General in the fall of 2015 requesting that he review the CIB loan and presenting legal argument that the MLA and Utah state law prohibit the use of MLA funds for such a purpose.⁶⁹ The letters explained that the MLA’s plain text and legislative history clearly establish that the CIB loan violates the MLA’s restrictions on the use of federal leasing funds because the export terminal is

⁶² *Id.*

⁶³ *Id.*

⁶⁴ E-mail from Spencer Cox, Lt. Gov., to Jeff Holt & Gordon Walker (Apr. 21, 2015), attached as Ex. 37.

⁶⁵ E-mail from Jeff Holt to Spencer Cox, Lt. Gov. (Apr. 21, 2015), attached as Ex. 38.

⁶⁶ Molly Marcello, *Questions raised about CIB funding of major infrastructure projects*, MOAB TIMES (Sept. 17, 2015) (second alteration in original), attached as Ex. 39.

⁶⁷ *Editorial: Coal port scheme lives in the shadows*, S.L. TRIB. (Nov. 9, 2015), attached as Ex. 40.

⁶⁸ David Irvine, Op-ed: *Oakland coal port is private investors exploiting state fund*, S.L. TRIB. (Nov. 6, 2015), attached as Ex. 41.

⁶⁹ One letter was sent on October 22, 2015 on behalf of Living Rivers and others. Attached as Ex. 42 [hereinafter Living Rivers letter]. The second was sent on November 2, 2015 on behalf of the Center for Biological Diversity and others. Attached as Ex. 43 [hereinafter CBD letter].

not a public facility or public service, a conclusion Utah's Attorney General had itself reached back in 1992.⁷⁰

The Utah Attorney General has not, as of today, responded to either letter nor issued any public opinion on the legality of the CIB loan, and apparently does not intend to.⁷¹

F. Mr. Holt and the Counties Lobby for and the Utah Legislature Passes a Bill to Circumvent the MLA's Limitations on the Use of MLA Payments.

The questions raised about the legality of the CIB's loan and the failure of the Utah Attorney General to issue an opinion on the issue apparently encouraged the loan's supporters to seek an alternate way to redirect MLA payments to fund the export terminal: through the Utah Legislature. Senator Stuart Adams introduced SB 246 in the Utah Senate Government Operations & Political Subdivisions Standing Committee on March 2, 2016, a mere eight days before the end of the legislative session.⁷² At Senator Adams's side as he discussed the bill was Mr. Holt,⁷³ who returned to Utah after having resigned from the Transportation Commission and moving to the Manhattan office of BMO Capital.⁷⁴ Senator Adams first presented his view that MLA funds are intended to help communities with the economic challenge of getting their minerals to market, a view unsupported by the MLA's text or purpose.⁷⁵ Senate Bill 246, Senator Adams explained, would facilitate the use of MLA funds to invest in the Oakland terminal.⁷⁶ As described in more detail below, SB 246 funnels \$53 million in MLA payments to the state's transportation fund, while moving exactly the same sum from the transportation fund to the CIB to fund the export terminal.⁷⁷ Senator Adams asked Mr. Holt to testify in support of the proposed funding scheme, but Mr. Holt demurred.⁷⁸

⁷⁰ CBD letter, *supra* note 69, at 3–8, Ex. 43; Living Rivers letter, *supra* note 69, at 2–4, Ex. 42. In addition, the letters explained that the loan violates Utah's Community Impact Alleviation Act, UTAH CODE § 35A-8-301, *et seq.*, and article VI, section 29 of the Utah Constitution. CBD letter, *supra* note 69, at 8–13, Ex. 43; Living Rivers letter, *supra* note 69, at 5–7, Ex. 42.

⁷¹ See Molly Marcello, *AG's office unlikely to issue opinion on legality of CIB funding for major infrastructure projects*, MOAB TIMES (Dec. 17, 2015), attached as Ex. 44.

⁷² *Status*, S.B. 246 Funding for Infrastructure Revisions, UTAH STATE LEGISLATURE, <http://le.utah.gov/~2016/bills/static/SB0246.html> (last visited June 16, 2016).

⁷³ See *Funding for Infrastructure Revisions: Hearing on S.B. 246 Before the S. Gov't Operations & Political Subdivisions Comm.*, 2016 Leg., 61st Gen. Sess. 3:45–:50 (Utah Mar. 2, 2016), http://utahlegislature.granicus.com/MediaPlayer.php?clip_id=20069&meta_id=624979, partial transcript attached as Ex. 45.

⁷⁴ See Lee Davidson, *Jeffrey Holt resigns as Utah Transportation Commission chairman*, S.L. TRIB. (Feb. 17, 2016), attached as Ex. 46.

⁷⁵ *Hearing on S.B. 246*, *supra* note 73, at 2:15–:30, Ex. 45.

⁷⁶ *Id.* 2:37–3:50.

⁷⁷ See *infra* section III.

⁷⁸ *Hearing on S.B. 246*, *supra* note 73, at 3:55–4:05, Ex. 45.

Carbon County Commissioner and CIB member Jae Potter, however, did testify in support of the bill. He admitted that the purpose of the bill was to take money away from impacted communities and give it to the coal industry: “This opportunity is about taking dollars that could be used for mitigation and to improve communities, and giving the coal industry in particular the ability to grow and continue to modify in adapting to the future.”⁷⁹ Senator David Hinkins also spoke in support, explaining that no taxpayer dollars would be spent on the export terminal because the bill effectively uses MLA payments to fund the terminal.⁸⁰

Senate Bill 246 passed out of committee and was debated in the full Senate on March 7, 2016.⁸¹ Again, Senator Adams explained to the chamber that the bill simply funnels MLA money through the state transportation fund so that the CIB can use it to subsidize the Oakland terminal: “These funds are not state tax dollars. The 53 million dollars is in a savings account; this community impact board has it in their savings account. . . . It’s all community impact money. . . . We are simply trading federal money for state money.”⁸² He described the legislative effort as “helping [the Counties] find a vehicle to be able to spend [MLA money]” on the export terminal.⁸³ It is necessary “to trade that federal money for state money,” Senator Adams explained, “because federal money has strings attached to it that we’re trying to alleviate.”⁸⁴

The Senate passed the bill 20 to 7.⁸⁵ The House passed SB 246 by a 52 to 17 vote after defeating an amendment that would have required an independent banker or other financial advisor to “fully assess[] the potential risks and benefits” of the loan.⁸⁶ Governor Herbert signed the bill on

⁷⁹ *Id.* 17:15–18:00.

⁸⁰ *Id.* 23:50–24:25 (“We’re not talking about taxpayer dollars, per se. It’s money that was taken [from] some of the royalties that come[] off of these extraction industries, and that’s the money we’re talking about.”).

⁸¹ *Status*, S.B. 246 Funding for Infrastructure Revisions, *supra* note 72.

⁸² *Funding for Infrastructure Revisions: S. Floor Debate on S.B. 246*, 2016 Leg., 61st Gen. Sess. 1:38:40–1:39:40 (Utah Mar. 7, 2016), http://utahlegislature.granicus.com/MediaPlayer.php?clip_id=20172&meta_id=627705, partial transcript attached as Ex. 47; *see also id.* 1:58:30–:45 (“The CIB gives us \$53 million, we give them \$53 million.”); *id.* 2:01:20–:30 (“The state’s role in this is simply trading state money for federal money.”).

⁸³ *Id.* 1:40:05–1:40:15.

⁸⁴ *Id.* 1:59:30–1:59:45.

⁸⁵ *Status*, S.B. 246 Funding for Infrastructure Revisions, *supra* note 72.

⁸⁶ *Id.*; *see* SB 246, H. Amendment 2, 2016 Leg., 61st Gen. Sess. (Utah 2016) (introduced Mar. 8, 2016, failed Mar. 10, 2016), <http://le.utah.gov/~2016/pamend/sb0246s02.hfaf.02.pdf>.

March 22.⁸⁷ The law takes effect on July 1, 2016, the first day of the new fiscal year when the funds are to be shuffled.⁸⁸

Many of the legislators who supported SB 246, and Governor Herbert who signed the bill, received campaign contributions from Bowie, the coal company the bill was designed to subsidize. During the 2013–14 election cycle, Bowie made campaign contributions to 20 representatives and 11 state senators, including Senator Adams.⁸⁹ Twenty-five of those legislators voted to pass SB 246; only three voted against the bill.⁹⁰ Bowie also contributed at least \$14,000 to Governor Herbert’s Leadership PAC since 2014.⁹¹

III. SB 246’S PROVISIONS.

As its sponsors openly admitted, SB 246 funnels \$53 million in MLA payments to the state transportation budget to free the same sum from that budget for the CIB to use to fund the export terminal. The bill as enacted creates an “Impacted Communities Transportation Development Restricted Account” within the state’s general transportation fund,⁹² and directs the legislature to appropriate \$53 million in MLA payments into that restricted account (\$26 million in fiscal year 2016–17 and \$27 million in fiscal year 2017–18).⁹³ The Utah Department of Transportation may use money from the restricted account only for highway projects “that are qualified projects” under the MLA.⁹⁴

SB 246 further requires the state’s Division of Finance to redirect \$53 million (\$26 million in fiscal year 2016–17 and \$27 million in fiscal year 2017–18, the exact same amounts appropriated

⁸⁷ *Status*, S.B. 246 Funding for Infrastructure Revisions, *supra* note 72.

⁸⁸ SB 246 § 8, 2016 Leg., 61st Gen. Sess. (Utah 2016) (enacted), attached as Ex. 48.

⁸⁹ *Public Search: Bowie Resource Holdings LLC*, STATE OF UTAH FINANCIAL DISCLOSURES, <https://disclosures.utah.gov/Search/PublicSearch/FolderDetails/1412984> (last visited June 14, 2016); Darwin BondGraham, *Utah Lawmakers Voting to Spend Public Funds on Oakland Coal Terminal Took \$29,000 from Company that Stands to Profit*, EAST BAY EXPRESS (Mar. 10, 2016), attached as Ex. 49.

⁹⁰ *Compare Public Search: Bowie Resource Holdings LLC*, *supra* note 89, with Utah Legislature, *House 3rd Reading – Passed*, S.B. 246 FUNDING FOR INFRASTRUCTURE REVISIONS, <http://le.utah.gov/DynaBill/svotes.jsp?sessionid=2016GS&voteid=1241&house=H> (last visited June 14, 2016), and Utah Legislature, *Senate 2nd and 3rd Readings – Passed*, S.B. 246 FUNDING FOR INFRASTRUCTURE REVISIONS, <http://le.utah.gov/DynaBill/svotes.jsp?sessionid=2016GS&voteid=1220&house=S> (last visited June 14, 2016). Two of the legislators did not vote for the bill because they were absent, and one, Jon Cox, had left the House in July 2015.

⁹¹ *Public Search: Bowie Resource Holdings LLC*, *supra* note 89.

⁹² SB 246 § 7 (enacting UTAH CODE § 72-2-128).

⁹³ *Id.* § 6 (amending UTAH CODE § 59-21-2(2)(d)).

⁹⁴ *Id.* § 7 (enacting UTAH CODE § 72-2-128(4)).

to the Impacted Communities Transportation Development Restricted Account) from the state's general transportation fund to a newly created "Throughput Infrastructure Fund" to be administered by the CIB.⁹⁵ The CIB is to "make grants and loans from the [fund] for a throughput infrastructure project."⁹⁶ "Throughput infrastructure project" means only "(i) a bulk commodities ocean terminal; (ii) a pipeline for the transportation of liquid or gaseous hydrocarbons; (iii) electric transmission lines and ancillary facilities; or (iv) a shortline freight railroad and ancillary features."⁹⁷

IV. FEDERAL AGENCIES SHOULD EXERCISE THEIR STATUTORY AUTHORITIES TO INVESTIGATE WHETHER ANY ACTIONS OR ACTIVITIES RELATED TO DIVERTING MLA PAYMENTS TO THE CIB VIOLATE THE LAW.

We urge you to exercise your respective statutory authorities to investigate whether SB 246 or the activities leading up to its passage and funding of the Oakland terminal violate any state or federal laws. Senate Bill 246 was intended to circumvent the MLA's funding restrictions, and will help facilitate a coal export project that poses risks to human health and the environment. In addition, the proponents of the Oakland terminal and SB 246 have engaged in activities that raise ethical concerns—particularly involving conflicts of interest—that undermine the integrity of the public process.

Senate Bill 246's proponents have admitted that the bill was intended to circumvent section 191 of the MLA.⁹⁸ Senator Adams, SB 246's sponsor, explained to the press, "There is no risk to [Utah] taxpayers' money" because the scheme works as follows: "If I give you a \$10 bill to hold on to for 10 minutes, and then exchange it with you for two \$5 bills—all that has happened is the money has been changed."⁹⁹ He stated, "the community impact money is basically paying for" the terminal under his bill.¹⁰⁰ And according to the Deseret News, "[Senator] Adams and the Community Impact Fund Board Chairman Keith Heaton said swapping funds to pay for

⁹⁵ *Id.* § 2 (enacting UTAH CODE § 35A-8-308, creating fund); *id.* § 3 (enacting Utah Code § 35A-8-309, giving CIB authority over new fund); *id.* § 4 (amending UTAH CODE § 59-12-103(9) and (14), reducing appropriations to general transportation fund by \$53 million and appropriating same amount to new Throughput Infrastructure Fund).

⁹⁶ *Id.* § 3 (enacting UTAH CODE § 35A-8-309(1)(a)).

⁹⁷ *Id.* § 1 (adding subsection (8) to UTAH CODE § 35A-8-302). The specific enumeration of three projects in addition to the bulk terminal suggests the bill's proponents envision that the Throughput Infrastructure Fund will be used in the future to funnel MLA payments through the transportation budget for other uses supporting fossil fuel development that are otherwise prohibited by the MLA.

⁹⁸ *See generally supra* text accompanying notes 75–84 (statements from Sen. Adams, Sen. Hinkins, and Commissioner Potter).

⁹⁹ Amy Joi O'Donoghue, *Coal story: It's about Utah, California and what lies ahead*, DESERET NEWS (Mar. 26, 2016), attached as Ex. 50.

¹⁰⁰ Robert Gehrke, *New bill would have Utah taxpayers invest \$51 million in California coal port*, S.L. TRIB. (Mar. 2, 2016), attached as Ex. 51.

community needs when there may be federal strings or limitations attached [as here] is not an unusual state practice.”¹⁰¹

Not only does SB 246 circumvent the spending restrictions in section 191, but investing in the privately developed Oakland bulk terminal undermines the objectives of that provision. Rather than alleviating the injuries mining inflicts on Utah’s communities, the legislation will exacerbate those injuries by encouraging yet more mining. As explained above, Congress enacted MLA section 191 to help communities whose public facilities and services are strained by mining of federal minerals.¹⁰² Senator Metcalf, section 191’s sponsor, explained that the section was intended to “avoid burdening the coal-producing regions with the social and environmental costs associated with coal development.”¹⁰³ And the Utah Attorney General recognized that “Congress provided a source of funding for traditional local governmental services that are impacted, such as law enforcement, public health, and governmental facilities.”¹⁰⁴

SB 246 deprives impacted Utah communities of MLA funds that would mitigate impacts to their governmental services. Carbon County Commissioner and CIB member Jae Potter admitted that the bill “is about taking dollars that could be used for mitigation and to improve communities, and giving [it to] the coal industry.”¹⁰⁵

In addition to depriving impacted communities of important federal funds, SB 246 will to *increase* the burdens on these communities from coal mining. If the bill’s proponents are correct, SB 246 would result in increased demand for coal from the Counties and, accordingly, increased coal mining in these communities. And this would increase the burden on community services and infrastructure, an outcome exactly the opposite of what Senator Metcalf sought by sending MLA payments to states in the first place.¹⁰⁶ It also would, as discussed above, burden Oakland’s communities with hazardous coal dust from trains transporting Utah coal to the export terminal.

Given the apparent misuse of MLA payments and the substantial harm this investment of federal funds would cause to the environment and the health of individuals in Utah and Oakland, we urge you and your offices to review the facts and circumstances regarding:

¹⁰¹ O’Donoghue, *supra* note 99, Ex. 50; *see also* Lee Davidson, *Utah Senate OKs fund-swapping scheme to help fund California port*, S.L. TRIB. (Mar. 8, 2016) (“[Senator] Adams said the swap he proposes ‘is cleaner and easier, and doesn’t have the tentacles of federal money.’”), attached as Ex. 52.

¹⁰² *See supra* section I.

¹⁰³ 122 CONG. REC. 19,376 (1976) (statement of Sen. Metcalf).

¹⁰⁴ Utah Op. Att’y Gen. 92-03, *supra* note 4, at 5, Ex. 1.

¹⁰⁵ *Hearing on S.B. 246, supra* note 73, at 17:15–18:00, Ex. 45.

¹⁰⁶ *See supra* text accompanying notes 2–3 (explaining that funds’ use was restricted to planning, construction and maintenance of public facilities, and provision of public service to reduce burden on communities).

- 1) the action taken by the Community Impact Board on April 2, 2015, including Mr. Holt's potential conflict of interest as a booster for the terminal, his potential to reap large profits for his employer if the rail line and terminal are constructed, and his role as Chair of the State Transportation Commissioner and a CIB member;
- 2) the circumstances that led to the introduction of SB 246;
- 3) the circumstances and events leading up to the passage of the bill by the State of Utah and approval by the Governor; and
- 4) the purpose and effect of SB 246 to evade the requirements of the Mineral Leasing Act.

The actions the CIB, Utah Legislature, and Governor have taken to try to fund the Oakland bulk export terminal are a matter of public controversy, and have undermined the integrity of public processes in Utah. Their actions raise troubling questions, including: Did Mr. Holt or others have conflicts of interest in pressing the CIB and State of Utah to fund the Oakland terminal? Did the proponents of the Oakland terminal investment breach federal or state law? Does the legislation itself violate the law? These questions deserve to be answered through an outside, independent review of Utah's investment in the Oakland terminal.

Each of your agencies has authority to investigate these questions. First, the MLA's enforcement provision grants the United States Attorney General broad authority to bring civil and other actions when the MLA has been or will be violated. Section 195(a) of the MLA makes it "unlawful for any person . . . to organize or participate in any scheme, arrangement, plan, or agreement to circumvent or defeat the provisions of [the MLA] or its implementing regulations."¹⁰⁷ That section provides for civil and other actions where there is a violation of subsection (a): "Whenever it shall appear that any person is engaged, or is about to engage, in any act which constitutes or will constitute a violation of subsection (a) . . . , the Attorney General may institute a civil action . . . for a temporary restraining order, injunction, civil penalty of not more than \$100,000 for each violation, or other appropriate remedy."¹⁰⁸

Second, the order establishing the Office of Natural Resources Revenue directed that that office's functions include "royalty and revenue collection, distribution, auditing and compliance, [and] investigation and enforcement."¹⁰⁹

Third, the mission of the Interior Department's Office of Inspector General is to "provide independent oversight and promote excellence, integrity, and accountability within the programs, operations, and management of the Department of the Interior."¹¹⁰

¹⁰⁷ 30 U.S.C. § 195(a)(1).

¹⁰⁸ *Id.* § 195(c); *see also id.* § 195(b).

¹⁰⁹ U.S. DEP'T OF THE INTERIOR, SECRETARIAL ORDER NO. 3299 (2010).

We request that each of your offices use your authorities to investigate and take all appropriate action to address these potential legal and ethical violations. We will contact your offices in the coming weeks to request a meeting to discuss our request.

Thank you for your attention to this matter. Please contact Chris Eaton at Earthjustice if you have any questions about this request.

Sincerely,

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¹¹⁰ See *About Us*, U.S. DEPARTMENT OF THE INTERIOR, OFFICE OF THE INSPECTOR GENERAL, <https://www.doioig.gov/about-us> (last visited June 14, 2016).

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Cc: John W. Huber, United States Attorney, Utah
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Gary Herbert, Governor, State of Utah
Sam Gill, Salt Lake County District Attorney
Keith Heaton, Chairman, Community Impact Board
Candace Powers, Program Manager, Community Impact Board
Darryl White, Chief Executive Officer, BMO Capital Markets