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Grand County balks at joining eastern Utah clout-building coalition

Energy • Group hopes to build a \$3 billion, 100-mile rail spur to transport crude oil.

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Several eastern Utah counties are forming the state's newest, and possibly largest, political subdivision.

The so-called "Seven County Infrastructure Coalition" is meant to pool members' clout and resources to develop regional projects.

The first is a proposed \$3 billion, 100-mile rail spur up and over and through the mountains of eastern Utah to move crude oil out of the Uinta Basin.

But the coalition is leaving the station without Grand County, the prospective member most reliant on tourism and outdoor recreation.

While membership has the support of key county leaders, many in Moab view the coalition as a vehicle whose primary purpose is promoting yet more oil and gas development.

"The coalition has the capacity to adversely affect its own members," said Chris Baird, executive director of the Greater Canyonlands Watershed Council. "It's a very vague contract."

Baird says the new coalition was initiated by the Uinta Basin counties and stems from a Utah Department of Transportation study which recently concluded oil and gas production is overwhelming existing infrastructure. Most of the state's projected growth is in oil shale and tar sands which are spread throughout eastern Utah, including Grand County.

Representatives from the seven counties privately forged an interlocal agreement in recent months, defining the goals of the coalition and obligations of its members.

"The coalition, through the broad participation of the members and the communities can enjoy increased capability to secure governmental, foundation and other financial support for projects, and other activities benefitting the region," the agreement states.

Philosophical split • While the proposed association generated little controversy in most participating counties, Moab residents began asking tough questions when the deal became public in July.

Who will own, operate and maintain completed projects? How will costs be apportioned between the counties? Who's on the hook when things go wrong? Will Grand County be able to veto projects that aren't in its best interest? Why the lack of transparency?

County Attorney Andrew Fitzgerald weighed in, questioning whether it's a good idea for Grand to give up some of its authority and yoke its future to counties with far different visions for economic development.

"Grand County citizens highly value the natural landscapes of Grand County not only for the scenic values but also for the tourist dollars that fuel the local economy," Fitzgerald wrote in a formal legal opinion. "Council members should be cognizant of the vast and biologically diverse ecosystem that makes up the Bookcliff region, which is arguably on par with Yellowstone National Park."

He noted that Grand County would have a better chance of tapping funding streams as a coalition member, as well as reaping financial rewards stemming from coalition projects.



Brian Maffly | The Salt Lake Tribune An oil jack pulls crude from a well in Lake County in Duchesne County, one of six eastern Utah counties that have joined an "infrastructure coalition" to develop projects, such as a \$3 billion rail spur, to serve extractive industries.

Council chairman Lynn Jackson said Grand County, which is dominated by federal land ownership, has very little authority to lose. Entities wishing to run utility corridors or roads across the county would most likely deal with the Bureau of Land Management and the state and not even have to consult the county.

“The practical thing to do is to join and be at the table and have some influence over where they’re going,” he said. “These six counties aren’t waiting at our boundaries with their bulldozers waiting to devastate our county.”

The intercounty agreement gives members veto authority over projects entirely within their borders, although not over those that cross more than one county.

Jackson, a pro-coalition member on Grand’s seven-member council, is not sure when the council will make a decision whether to join the group.

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100 miles of track and a tunnel • Commissioners for Uintah, Duchesne, Emery, Carbon, Daggett and San Juan, meanwhile, have approved their counties’ membership in the association, which has already started marshaling substantial funding from the Utah Community Impact Fund as a six-county coalition.

Last month the Community Impact Board (CIB) awarded \$5 million to inventory all the coalition members’ civil infrastructure and another \$50 million for a “loan reserve trust fund” to secure favorable interest rates for federal loans toward the proposed Uinta Basin Rail.

A February 2013 UDOT report concluded that without the rail route or alternatives such as new pipelines or freeways, \$30 billion in Uinta Basin oil and gas may remain undeveloped over the next 30 years because of transportation constraints.

Six-county coalition members believe the massive rail project could fix that.

Estimated to cost between \$2 and 3 billion, the 100-mile, “municipal railroad project” would run track through Indian Canyon and along U.S. Highway 191, tunnel under Indian Pass and tie into Union Pacific tracks up-canyon from Helper. The federal Surface Transportation Board will launch an environmental impact statement in the next few months.

Moab’s coalition critics point to the costly rail project as exhibit A in their case against Grand County’s joining the group.

Christina Sloan, a lawyer specializing in contracts and special districts, says the county could wind up ceding power and authority over regional projects, and inviting liability.

“There is simply no net benefit to Grand County,” Sloan wrote in a letter last month to the County Council. “We can participate in the same infrastructure projects on a case-by-case basis, and the Agreement is so deficient in essential terms that it subjects our County to great liability.”

She suspects that the rail grant may be an illegal use of CIB money, which comes from oil and gas revenue off federal leases. By law it should be invested in “public facilities and services,” infrastructure that governments traditionally provide.

Typical CIB-funded projects include water and sewer lines and treatment plants, fire stations, road upgrades, municipal buildings and even playgrounds.

An oil-moving railroad hardly fits that mold, but proponents say it serves a critical public need and will ultimately grow the CIB fund by enabling greater oil production.

Non-coalition counties worry that the rail project will monopolize CIB grants, leaving fewer dollars for their communities.

Jackson is not too concerned.

“There may be a short term blip while they bank enough money to go after low-interest federal loans,” he said. “In the long term, it will enhance CIB funding.”

But Sloan predicts legal trouble.

“I would expect that a citizen group or governmental entity that needs that same CIB funding for their own community project sues the CIB, the Seven County Infrastructure Coalition, and possibly every member county separately for this application of funds,” she wrote to the Grand County Council. “If we are a member of the coalition, while we may be able to ultimately defend ourselves successfully in the lawsuit, we will spend county resources to do so.”

She noted Gov. Gary Herbert has stated the proposed rail spur does not qualify as a public works project eligible for state tax dollars.

Baird, who is running for a seat on the Grand County Council, was even less charitable.

CIB grants are “supposed to be used to offset impacts from oil and gas development and in this case they are taking the money and handing it right back to the companies. It is not being used for its intended use,” Baird said.

And, he noted, by the time such a massive project is completed, the Uinta Basin’s oil boom may already be over.

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