

MOAB SUN NEWS

Lawsuit challenges state law that gave Kane Creek developers their own government



The legal fight over Echo Canyon escalated Tuesday with a constitutional challenge to the state law that made the development possible.

Kane Creek Development Watch and Living Rivers filed suit in Seventh District Court challenging [Senate Bill 258](#), which created a process for developers to establish "preliminary municipalities" — entities with zoning and land-use authority but without elected leadership or county oversight.

Echo Canyon, a proposed 176-acre mixed-use development along the Colorado River near Moab, became the first project to use the pathway when Lt. Gov. Deidre Henderson certified it as a preliminary municipality in June 2025. The development as proposed includes 580

homes, 100 lodging units and 72,000 square feet of commercial space, with roughly 70 acres built on floodplain.

A traffic study prepared by the developer's own engineering consultant, SET Engineering, classifies 90% of the homes as "Recreational Homes" under industry-standard trip generation codes and describes the project as a "resort-style planned development" with "private luxury stores" unlikely to "draw consumers from Moab City based on the price point." Developers have publicly described the project as workforce housing.

The lawsuit names Henderson in her official capacity, arguing the certification violated the Utah Constitution by delegating government power to a private developer without democratic accountability. The complaint was filed by attorneys Aaron Lebenta, Nathaniel Broadhurst and Robert DeBirk of Clyde Snow & Sessions.

Second lawsuit targets the project

This is the second lawsuit targeting the Echo Canyon development. The same plaintiffs filed a [water rights forfeiture case](#) in June 2025 alleging the developers misrepresented their water rights during the incorporation process. The plaintiffs argue all eight water rights claimed by the developer have been forfeited through decades of nonuse, including one that permanently expired in 2019 when the developer missed a state filing deadline. The project's feasibility study addresses water supply in two sentences across its 37 pages. That case has a hearing on motions to dismiss scheduled for March 19.

According to a media summary provided by Kane Creek Development Watch, the [constitutional challenge](#) argues that SB 258 "grants extraordinary governmental powers to private developers" including the ability to exercise zoning, land use and taxation authority "without any election, public vote, or meaningful governmental oversight."

The project's required feasibility study also contains an error in its fiscal projections. The consultant reported a five-year average revenue margin of 22.7% — a figure prominently cited in the Lt. Governor's certification — but according to Kane Creek Development Watch, a recalculation of the study's own numbers yields a corrected margin of 15.4%. SB 258 requires only a 5% margin for certification. The plaintiffs said they anticipate filing for a preliminary injunction in the near future.

Five developments have used SB 258 pathway

Echo Canyon is the only project to reach full certification as a preliminary municipality, but four others have entered the process according to the [Lt. Governor's incorporations tracker](#): Nine Springs in Morgan County, Willow in Kane County, Park City Tech in Summit County and Lost Creek — an Ivory Homes project also in Summit County — which applied in January.

The constitutional question — whether the state can delegate municipal powers to unelected private entities — could affect all five.

Legislative repeal efforts have stalled

SB 258 passed in the final hours of the 2024 legislative session. A repeal attempt the following year — HB 540, sponsored by Rep. Mike Kohler — passed the House 59-19 but died in the Senate.

This session, Rep. Tiara Auxier introduced [HB 510](#) on Feb. 6, which would modify but not repeal the preliminary municipality process. The bill remains in committee.

"SB 258 allows private developers to create their own government, zone their own land, and sidestep every check that exists to protect the public interest," the media summary states. "This is not how democracy works in Utah."

Moab Sun News contacted the Echo Canyon development team on Feb. 10 and provided the complaint on Feb. 11 at the request of the developers' public relations firm, Connected Communications. As of publication, the development team had not provided a statement.

Moab Sun News has covered the Kane Creek and Echo Canyon development since 2021. Read our full coverage and access court filings at <https://moabsunnews.com/topic/kane-creek-development/>

This story is part of our kane creek development coverage. [See all 14 stories](#)
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Overview

Echo Canyon — originally known as Kane Creek Preservation and Development — is a proposed luxury resort along the Colorado River south of Moab. The project would build 580 homes, 100 overnight lodging units, and 72,000 square feet of commercial space on 176 acres, roughly 70 of which sit in the floodplain.

In June 2025, Echo Canyon became Utah's first "preliminary municipality" under [Senate Bill 258](#), a law passed in the final hours of the 2024 legislative session. The designation grants the developers zoning and land-use authority without county oversight or elected representation.

Active Legal Challenges



Constitutional challenge to SB 258 — filed Feb. 10, 2026 in Seventh District Court by Kane Creek Development Watch and Living Rivers. Argues the law unconstitutionally delegates government power to private developers. ([Read the complaint](#))



Water rights forfeiture lawsuit — filed June 2025. Alleges the project's water rights were forfeited through decades of nonuse. Hearing on motions to dismiss: March 19, 2026. ([Read the complaint](#))



HB510 (2026 session) — proposed modifications to the preliminary municipality process, introduced by Rep. Auxier. A previous repeal attempt ([HB540](#)) passed the House 59-19 in 2025 but died in the Senate.

Key Facts

- Developer Craig Weston purchased the land ~2018-2019. His entities donated \$41,300 to the AG campaign in 2023.
- The State Engineer red-tagged an unauthorized well on the property in May 2024.
- Grand County has twice denied utility requests from the developers (sewer in 2022, utilities in 2024).
- The developers withdrew their own water rights change application in 2024 after protests from BLM, Living Rivers, and Intrepid Potash.
- Echo Canyon is one of [five developments statewide](#) in the SB 258 process, but the only one to reach full certification.

Related Coverage

- Jun 30 [Moab groups file lawsuit against Kane Creek development over water rights](#)
- Jun 18 [Grand County Commission, June 17, 2025](#)
- May 7 [Kane Springs incorporation rejected by state over technicality, rebranded as "Echo Canyon"](#)
- Apr 2 [Grand County seeks resignation over comments calling Kane Springs development deal 'corrupt'](#)
- Mar 5 [Transcript: Laura Long's statement at the Kane Creek hearing on March 5, 2025](#)

Documents & Sources

-  [filed suit](#) PDF
-  [Senate Bill 258](#)
-  [filed a water rights forfeiture case](#) PDF
-  [HB 510](#)

Resources

From our [kane creek development](#) hub

COURT FILINGS

- [Water rights complaint \(June 2025\)](#)
- [SB 258 constitutional challenge \(Feb. 2026\)](#)

LEGISLATION

- [SB 258 — Preliminary Municipality Act \(2024\)](#)
- [HB510 — Municipal Incorporation Modifications \(2026\)](#)
- [HB540 — Repeal attempt \(2025, died in Senate\)](#)

COMMUNITY & ADVOCACY

- [Kane Creek Development Watch](#)
- [Living Rivers](#)

GOVERNMENT

- [Lt. Governor — Incorporations](#)
- [Grand County Land Use](#)

-  [filed a water rights forfeiture case](#) PDF

-  [HB 510](#)

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GOVERNMENT

- [Lt. Governor — Incorporations](#)
- [Grand County Land Usegrants](#) special privileges to developers.