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Lawsuit seeks to void Echo Canyon’s preliminary municipality certification

Plaintiffs argue Utah’s SB 258 is unconstitutional because it shifts zoning authority from elected county officials to developer-appointed boards and seek to halt the law’s implementation. [Click here to read the legal brief.](#)

By Andrew Christiansen

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Two advocacy organizations filed a lawsuit Tuesday, Feb. 10 in Utah’s 7th Judicial District Court seeking to overturn the state’s new “preliminary municipality” law and invalidate the certification of the proposed Echo Canyon development southwest of Moab, formerly known as the Kane Creek development.



Photo caption: Men work on a construction project at the Echo Canyon/Kane Creek development site on Wednesday, Feb. 11. Photo by Doug McMurdo

Plaintiffs argue the law unconstitutionally shifts zoning and land-use authority from elected county officials to a governing board largely appointed by private landowners, creating what they describe as a form of municipal power that lacks voter accountability and grants special legal privileges to developers.

The complaint was filed by Friends of the Abajos, doing business as Kane Creek Development Watch, and the environmental nonprofit Living Rivers. It names Utah Lt. Gov. Deidre M. Henderson in her official capacity, Kane Creek Preservation and Development LLC, the Echo Canyon preliminary municipality and developer Craig Weston — both individually and as incorporation sponsor and governing-board chair — as defendants.

Representatives for the lieutenant governor's office and Echo Canyon did not immediately respond to requests for comment Wednesday afternoon.

At the center of the case is Senate Bill 258, a 2024 Utah law that created a pathway for large developments on unincorporated land to form what the state calls a "preliminary municipality." Echo Canyon, a proposed 176-acre mixed-use development near the Colorado River in the Kane Creek canyon corridor southwest of Moab, became the first project in Utah to receive that designation last June.

Echo Canyon is not the only development to seek preliminary-municipality status. Projects in Summit, Morgan and Kane counties have also applied under SB258.

Under SB258, qualifying landowners may petition the Utah Lieutenant Governor's Office to establish a transitional governing entity with authority to adopt zoning and certain infrastructure decisions within project boundaries while pursuing possible incorporation as a town. The entity cannot levy taxes and must rely on private funding, but it may regulate land use during the transition period.

A preliminary municipality is governed by a five-member board typically composed of four landowner-affiliated members and one county appointee — in Echo Canyon's case, Grand County Commission Chair Melodie McCandless. The status can last up to six years, or four years after the first certificate of occupancy is issued, whichever comes first.

To fully incorporate, the area must reach 100 permanent residents and then hold an election in which voters inside the boundaries decide whether to form a town and elect officials. If those thresholds are not met, authority returns to the county.

In a statement announcing the lawsuit, Kane Creek Development Watch said the statute allows a developer to form an unelected municipal government with zoning authority while bypassing county land-use approvals.

"This law appears to be intended specifically for Echo Canyon," Laura Long of Kane Creek Development Watch said in the statement. "The project faced strong local public opposition

and major obstacles under county review. SB258 sidesteps local land-use laws and cuts residents out of the process.”



An aerial view shows the Echo Canyon development site along the Colorado River southwest of Moab in 2023. Two advocacy groups filed a lawsuit on Feb. 10, challenging the project’s preliminary municipality certification and the state law that enabled it. Photo by Trent Nelson/The Salt Lake Tribune

The plaintiffs contend SB258 violates multiple provisions of the Utah Constitution, including prohibitions on “special laws,” requirements that statutes operate uniformly and limits on delegating governmental authority to unelected commissions. They argue the framework allows creation of a governing entity before any residents exist, applies only in certain lower-population counties and permits board members with financial interests in a development to exercise municipal authority.

The lawsuit further alleges the law reduces residents’ ability to petition elected officials for redress of grievances because land-use decisions shift from county government to a developer-appointed board.

Plaintiffs also argue the statute removes traditional incorporation safeguards such as elections and direct voter oversight, creating what they describe as a parallel form of municipal governance outside standard democratic processes.

The lawsuit also references a separate, ongoing case filed last year by Living Rivers and Kane Creek Development Watch seeking a court ruling that the project's claimed groundwater and Colorado River water rights are invalid. The plaintiffs in that case argue the rights were not put to beneficial use for years and may be subject to forfeiture under Utah law, a claim the developers dispute.

"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," Living Rivers founder and Colorado Riverkeeper John Weisheit said. "This new statute removes basic oversight in favor of a private developer seeking to avoid accountability."

The lawsuit seeks declaratory and injunctive relief, including an order halting implementation of SB258 and voiding Echo Canyon's certification — which would return land-use authority over the project area to Grand County — along with attorney fees and other remedies the court deems appropriate.

Former Utah Sen. Curt Bramble, sponsor of SB258, has said the legislation was necessary because some rural Utah counties were not acting in good faith with developers to address the state's housing shortage.

"If the political subdivisions were sitting down in good faith with developers and looking to find common ground, [this legislation] probably would have never evolved," he told The Salt Lake Tribune last June.

A state-commissioned feasibility study released in January 2025 found the proposed Echo Canyon could generate enough projected tax revenue to cover basic municipal service costs if the project is built as proposed. Under SB258, feasibility studies are required to assume full development occurs and do not evaluate whether a project is appropriate, environmentally sound or likely to succeed.

A public hearing held March 5 at Star Hall drew more than 230 attendees and over 30 public comments, most of which opposed the project. Speakers cited concerns about flood risk along the Colorado River corridor, infrastructure demands, housing affordability and potential financial impacts on Grand County.

According to the same feasibility study, the most recent plans call for about 478 housing units, 102 overnight accommodations and roughly 67,000 square feet of commercial space. Developers have previously said they are pursuing both state and county approval to determine which path allows the project to move forward and have argued the project complies with applicable state law and engineering requirements.

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