

## **SIX COUNTY INFRASTRUCTURE COALITION TALKING POINTS**

**At the September 3, 2014 CIB meeting, the CIB allocated the following funds to the Six County Infrastructure Coalition** (Items IV.19 and V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>):

- \$5 million for an infrastructure study project to “identify and plan for, procure the funding for, permit, secure rights-of-way, and assess the infrastructure assets of the entire area.”
- \$50 million dollars for a Railroad Loan Reserve Trust Fund for the rail line project through Indian Canyon to transport hydrocarbons out of the Uinta Basin to the main rail line in Carbon County (Uinta Basin Rail). <http://www.udot.utah.gov/uintabasinrail/index.html>

### **FUNDING THE RAIL LINE PROJECT**

- The Coalition is seeking a \$2-3 billion loan from the Federal Railroad Administration’s TIFIA program (<http://www.fhwa.dot.gov/ipd/tifia/>) for this project and will have 35 years post construction to pay it off. (<http://www.castlecountryradio.com/pages/19907082.php?>)
- The TIFIA program requires prepaying a loan loss reserve fee of 5-7% of the face of the loan - between \$100 million and \$210 million (starting at about 1:10:00 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib0903b.mp3>). The Coalition was allocated \$50,000,000 to begin funding that requirement (Item V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>).
- The CIB is also considering allocating any surplus funds remaining at the end of each funding cycle to the railroad reserve fund until the loan loss reserve fee is met. If the project does not move forward, the money will go back into the CIB’s fund (<http://etv10news.com/seven-county-infrastructure-coalition-voice-concerns-over-cib-funding/>).
- The CIB justifies large sums of money being allocated to the Coalition, because they believe it will increase overall CIB funds that will be available for projects statewide. They believe that the large infrastructure projects that the Coalition plans to pursue will be revenue producing and will increase take-out capacity for extractive industries, which in turn, will increase mineral lease royalties returned to the State and given to the CIB (starting at about 11:50 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>) (Item V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>).
- Increased royalties will not be realized from the Uinta Basin Rail project until several years in the future. The project will not be completed for many years and the permitting process is estimated to take 2 1/2 to 3 years after which the application for federal funding will occur. (Item V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>).

**CIB MONEY IS NOT INTENDED TO BE USED TO EXPAND THE OIL AND GAS INDUSTRY.**

- CIB funds are intended for planning, construction and maintenance of public facilities, and provision of public services in communities that are impacted directly or indirectly by mineral resource development on federal lands. Using these funds to expand mineral resource development will only increase impacts. This directly contradicts how these funds should be allocated (R990-8-1. Purpose; R990-8-2. Eligibility; and R990-8-3. Application Requirements.I and J. <http://www.rules.utah.gov/publicat/code/r990/r990-008.htm#E1>) (Project Overview and Project Eligibility <http://jobs.utah.gov/housing/cib/cib.html>).

**THERE WAS NO COMPELLING REASON FOR THE CIB TO SUSPEND ITS RULES AND FUND THESE TWO PROJECTS.** The CIB agreed to suspend their rules and allocated the \$55,000,000 to the Coalition outside of a funding meeting and prior to the Coalition holding a public hearing on these funding requests. The feasibility study for the rail road project is not completed yet and the EIS study will not be done until 2016 (<http://www.udot.utah.gov/uintabasinrail/process-schedule.html>). The permitting process is estimated to take 2 1/2 to 3 years after which the application for federal funding will occur. (Item V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>)

While the information on-line regarding CIB rules may be partial, it does say the following (<http://jobs.utah.gov/housing/cib/documents/programsummary.pdf>):

***Public Hearing***

The CIB requires all applicants to have a vigorous public participation effort. All applicants shall hold a formal public hearing to solicit comment concerning the size, scope and nature of any funding request to be submitted to the CIB. At the public hearing, the public shall be advised the CIB may provide financing in the form of a loan, even if the application requests a grant.

Complete and detailed information shall be given to the public regarding the proposed project and it's financing. The information shall include the expected financial impact to the public as user fees, special assessments, or property taxes if the financing is in the form of a loan. The CIB may require further public hearings if it determines the applicant did not adequately disclose to the public the impact of the financial assistance.

***Requests for Special Consideration***

In instances of bona fide public safety or health emergencies or for other compelling reasons, the CIB may suspend its rules and procedures and accept, process, review and authorize funding of an application on an expedited basis.

- **The Coalition held a public hearing on September 12, 2014, after the CIB had allocated \$55 million to the Coalition, for the above two projects.**

(<http://www.utah.gov/pmn/sitemap/notice/231471.html>)

(<http://www.castlecountrypedia.com/pages/19907082.php?>)

<http://etv10news.com/seven-county-infrastructure-coalition-voice-concerns-over-cib-funding/>

### **SIGNIFICANT VOTING BLOCK OF CIB BOARDMEMBERS AND CONFLICT OF INTEREST.**

- Two Coalition Board members (who can get paid for serving on the Coalition board according to how the Agreement is currently worded - Section 5.4.G. <http://www.grandcountyutah.net/DocumentCenter/Home/View/2388>) also serve as CIB Board members - Mike McKee and Bruce Adams (<http://www.utah.gov/pmn/sitemap/notice/233649.html>). Coalition architect Jeff Holt, Duchesne County Commissioner Kent Peatross, and Carbon County Commissioner Jae Potter also serve as CIB Board members (<http://jobs.utah.gov/housing/cib/documents/cibboardmembers.pdf>).
- Grand County Commission Chair Lynn Jackson apparently knew about this voting block prior to the Coalition being officially formed. A recent GRAMA request produced a document written by Chairman Jackson on August 12, 2014, analyzing some of the issues surrounding the SCIC. This document was sent to other County Council members (document titled, “August 24, 2014 GRAMMA Request” page 106, “11 Reasons to join this Coalition”).

"CIB money will virtually disappear if we don't join this Coalition. The Coalition is looking at CIB for their primary funding sources. Between elected leaders in our seven counties, we have four CIB board members. This Coalition will have virtually unlimited power when seeking CIB funding."

### **UNRESOLVED ISSUES AND QUESTIONS**

- **The Coalition indicated at the September CIB meeting that \$5,000,000 would not be enough to complete the infrastructure study and more money would be needed** (starting at about 53:00 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib0903b.mp3>).
- **In early 2013, the Utah State Legislature allocated \$3 million to initiate the EIS study for the Uinta Basin Rail project. In 2014, the Utah Transportation Commission apportioned \$5.2 million to continue the study.** The EIS process will be conducted by the Surface Transportation Board ([www.stb.dot.gov](http://www.stb.dot.gov)), the federal agency charged with reviewing proposed railways. Assisting STB will be a consulting team from Burns & McDonnell ([www.burnsmcd.com](http://www.burnsmcd.com)). The project applicant is the newly formed Six-County Infrastructure Coalition. UDOT is providing technical expertise and support for the project, providing research and analysis in construct-ability, environmental impacts, geotechnical data and other study elements (“How much state money is committed to the project?” <http://www.udot.utah.gov/uintabasinrail/faq.html>).

- **Is the Coalition reimbursing UDOT the 5.2 million for the money it apportioned?** At the Coalition’s September 12 meeting one item on the agenda was “Consideration of a ‘Reimbursement Agreement’ SCIC & UDOT” and approval of a memorandum of understanding. (<http://www.utah.gov/pmn/sitemap/notice/231471.html>)
- **What kind of stipulations does the Railroad Loan Reserve Trust Fund have on it?** Does the Coalition have to wait for the EIS, feasibility study, and other permitting processes to be completed first before being able to use this money?
- **Who will own the Uinta Basin Rail Line?** “At this point, it is too early for any decisions to be made about the financing, construction or ownership of a potential rail line. UDOT and the Coalition are evaluating the feasibility of constructing the rail line and are exploring possible alternative routes, how the rail line would operate, and potential future funding opportunities. Formal decisions about the actual construction, maintenance and operation of the rail line would be made at a later date if it is determined that a feasible route can be approved through NEPA and other permitting processes.” (“Will the state build the rail line?” <http://www.udot.utah.gov/uintabasinrail/faq.html>)
- **The TIFIA program requires that the project be government owned. The state is at 85% of its borrowing capacity and cannot take out the loan.** "Utah Transportation Commission Co-Chair Jeff Holt told the group that UDOT is working on the permitting process for the line, but the Governor is firm in his position that the proposed rail line would not be a state public works project. The state is at 85% of it’s borrowing capacity now and this project would not go on the state's balance sheet.” (<http://www.castlecountrysradio.com/pages/19907082.php?>)

**HIGHEST AMOUNT ALLOCATED AS A GRANT-ONLY WITH NO MATCHING FUNDS REQUIRED** The Coalition received the highest amount of funds in the form of a grant-only (\$50,000,000) with no matching funds required since fiscal year 2007.

- The next highest amount allocated (since fiscal year 2007) as a grant by the CIB was in fiscal year 2014 in the amount of \$14,950,000 to Duchesne Water Conservancy District for the Victory Pipeline (highway 40). The CIB also allocated a matching loan at 1 1/2 % interest for this project and the applicant contributed \$5,000,000.
- The next highest amount allocated as a grant-only by the CIB (since fiscal year 2007) was to Helper City in the amount of \$7 million for a storm drain construction project in fiscal year 2012. No loan was given and no matching funds were required by the applicant.

**CIB FINANCIAL REPORT LINKS SUPPORTING PROJECTS LISTED ABOVE:**

- [http://jobs.utah.gov/housing/cib/documents/CIB\\_Legislative\\_Report\\_2014.pdf](http://jobs.utah.gov/housing/cib/documents/CIB_Legislative_Report_2014.pdf)
- <http://jobs.utah.gov/housing/cib/documents/2013legislativeportcib.pdf>
- <http://www.sixcountyplanning.com/uploads/3/1/4/4/3144757/emery35.pdf>
- <http://jobs.utah.gov/housing/cib/documents/2011LEGISLATIVEREPORT.pdf>

## **THE COALITION WAS NOT HELD TO THE SAME SCRUTINY AS OTHER**

**APPLICANTS.** Other applications have been questioned by the CIB for various reasons according to CIB rules (<http://www.rules.utah.gov/publicat/code/r990/r990-008.htm#E1>). The Coalition was not held to these same standards (Items IV. 19 and V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>). Some examples include the following:

- **Lack of clarity with regard to which municipality or special service district will own the project and who will operate it** (R990-8-3. Application Requirements.I. and J. <http://www.rules.utah.gov/publicat/code/r990/r990-008.htm#E1>) This standard was not applied to the \$50,000,000 allocated to the Coalition. It is not clear if the Coalition or UDOT will own it. They are also seeking a possible public-private partnership and have formally put forth a Solicitation of Interest in Public-Private Partnerships. (<http://www.utah.gov/pmn/sitemap/notice/233649.html>).

“The applicant stated that other funding may also be offered and encouraged as the project proceeds and the railroad would be owned by whoever participates in funding.” (Item V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>)

- **Planning, study or design requests require a fifty percent cash contribution from the applicant** (R990-8-3. Application Requirements.D. <http://www.rules.utah.gov/publicat/code/r990/r990-008.htm#E1>). No cash contribution was required from the Coalition (Item IV. 19 <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>).
- **Lack of adequate planning** (starting at about 2:01:45 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>). The Coalition has not completed the Feasibility Study or the EIS for the Uinta Basin Rail yet (<http://www.udot.utah.gov/uintabasinrail/process-schedule.html>).
- **The applicant will not need funding for their project right away and are a year or more out from when the project will start** (starting at about 31:04 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>). It will take 2 1/2 to 3 years before the application for federal funding can occur for the Uinta Basin Rail (Item V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>).
- **Applicants are asked to apply for a loan/grant combination** (starting at about 1:48:40 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>). The Coalition was given \$55,000,000 as a grant. They were not required to take any funding in the form of a loan (Items IV.19 and V. <http://jobs.utah.gov/housing/cib/documents/090314minutes.pdf>).
- **Lack of public discussion or input.** The Coalition held a public hearing after the \$55,000,000 was already allocated (<http://www.utah.gov/pmn/sitemap/notice/231471.html>).

**SEPTEMBER CIB MEETING** At their September meeting, the CIB indicated that high-priced Coalition projects determined to be more beneficial (such as the railroad), will receive preferential consideration over other funding requests. CIB Chairman stated the following at the September 3 meeting (starting at about 1:16:00 - 1:35:17 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib0903b.mp3>):

“We don’t have enough money to fund a railroad reserve fund and do every project that comes in and so what I’ve been saying to some of you is that there will be a gratification deferral in order to do this and do it successfully....there are some projects that will have to be put on the back burner and they’d be funded at some other time. It’s not that they’re not good projects, but there would have to be a winnowing project and we can get to that if you agree to do the fund and set aside the money so that it’s there when we need it....at some point in time we need to create a mechanism by which we can defer gratification into the future.”

In regard to Castle Dale’s Special Service District’s upcoming funding request for an Interagency Office building, the CIB Chair stated, “Unless Jacob is on the street, we can defer that office building and use that money into the reserve fund rather than build a nice office building for Jacob.”

“If you are successful, to go with this motion (allocating \$50,000,000 to the railroad reserve fund) that there will be projects that we turn down or that we push off into the future. I’m not talking 60 days or 90 days. We are talking about periods of time.”

In regard to the City of Roosevelt’s upcoming funding request for an aquatic center, Duchesne County Commissioner and CIB Board member was told, “Commissioner Peatross has to make a decision. Do I want a swimming pool or do I want a railroad? And that seriously is the question.”

**CIB WILL REVIEW FUNDING POLICIES AND CONSIDER SIGNIFICANT CHANGES AND CLARIFICATIONS AT THEIR NOVEMBER MEETING.** At their October meeting, they stated that they plan to have a more thorough policy discussion at their next meeting, November 6, at Red Cliff’s Lodge near Moab, Utah.

- **They are proceeding more carefully than what they indicated at their September meeting.** The Chairman stated that they were trying to “get in front of this” and that State Senators and the press had approached him (starting at about 13:15 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>). The Chairman continued to emphasize throughout the meeting that they will always fund projects for rural communities that have no other means of securing funding (starting at about 3:44:45 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>). They plan to list, on the agenda for the November meeting, proposed policy funding changes designed to allow the CIB to look at projects more critically (starting at about 14:20 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>).
- **At the October meeting, all projects on the prioritization list were approved and seven of the ten new projects were approved.** One of the approved projects - South Vernal Truck Route, Phase 1 for Uintah Transportation Special Service District - was asked to reduce their funding request by \$1,716,000 so that the CIB would have enough funds to cover the other

approved projects (starting at about 3:45:30 - 3:50:10 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>). Vernal has, arguably, some of the highest impacts from extractive industries. 37% of the traffic on Main Street is industrial. 90% of that industrial traffic is hazardous and flammable. This is creating a significant health and safety issue in their downtown area (starting at about 1:19:00 - 1:29:00 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>).

- **Stricter level of scrutiny will not be applied to future Coalition funding requests.** The CIB indicated that they plan to review their policies in a way that allows them to be more critical of other applicants in order to be able to fund the Railroad Loan Reserve Trust Fund. At the October meeting, the CIB Chairman stated:

“Since we have made some proposals during this Trimester of funding for set asides for major, major projects, big projects that totally impact the scenery within the State. Part of the problem in making that change is that sometimes there is a deferred gratification.....The CIB has the opportunity of shepherding these funds and growing them so that we are at a point now where we can literally make it possible and available to really all parts of the state to grow.” (starting at about 11:00 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>)

“We need to make clarification to our policy next meeting and go through and review policies very, very carefully, because we are on a threshold of moving into some very significant territory that can have some very long term impact upon the State and particularly upon the rural communities and how funding comes to the rural communities.....The Board, at some point in time, is going to be having to look at these projects with perhaps a little closer eye as to what you want and actually making the decisions that are the best....Projects will not be deferred...but we will be looking at projects and seeing if they need to be done now or whether they can wait for a while..... What we are trying to do is make sure that we dispel all rumors and deal with reality.....There are some policies that are a little slidey right now and that’s what we want to look at.” (starting at about 14:00 - 27:00 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib100214.mp3>)

- **In the meantime, CIB funding allocated to the Coalition will not be available for legitimate CIB projects.** High-cost Coalition projects will be favored over projects that need funding now:

Commissioner Claudia Jarrett stated, “I don’t get a railroad, I’m not even in the line, but I have a fairground that’s got a grandstand that’s failing and it gives me shivers every time we have a rodeo because I’m afraid it’s going to fail....But I’m just saying by next fair time I’m going to go into cardiac arrest again hoping that the grandstand holds up and I kind of need to know if it’s going to be funded or not.” The CIB Chairman responded, “(In) Two or three years, one of two outcomes is going to happen. One outcome is that we get a railroad, and the railroad is a tremendous creator of opportunity, or we don’t get a railroad. If we don’t get a railroad there’s boo quo bucks, you could almost have gold plated seats.” Jarrett replied, “If it will wait that long.” (starting at about 1:59:30 on the meeting recording <http://jobs.utah.gov/media/housing/cib/cib0903b.mp3>).