

### ***SPOTLIGHT: SPECIAL FAVORS MAKE SPECIAL LOANS***

Legislators and economic policy experts are worried that leaders who oversee the Arizona Commerce Authority utilize its grant funds as special favors to businesses or political officials in exchange for potential campaign donations or local projects.

Their worries increased last year when the ACA's special deals included a \$2 million loan to spare a northeast Arizona railway from the scrapyard.

State law describes the commerce agency's annual \$25 million Arizona Competes Fund as a "deal-closing" grant fund for businesses. However, legislators working with the governor last summer approved a special provision to loan \$2 million in Commerce Authority funds to a county "with more than 100,000 residents but less than 120,000" based on the 2010 census.

Only one place in Arizona fit that description: Navajo County, where a paper mill company, Catalyst Paper Inc., had shuttered in 2012. Catalyst's closure left more than 300 employees jobless. The plant's private rail line, Apache Railway, also faced closure as Catalyst intended to sell its parts to a scrapper.



*The Apache Railway near Snowflake in northeast Arizona employs eight people who repair and maintain box cars, train engines, and the rail.*

Inc., had shuttered in 2012. Catalyst's closure left more than 300 employees jobless. The plant's private rail line, Apache Railway, also faced closure as Catalyst intended to sell its parts to a scrapper.

Rep. Frank Pratt, R-Casa Grande, who was the budget bill's lead sponsor, said he had nothing to do with the special provision. The Navajo County loan was added last-minute to the state budget bill and never heard in committee. "It came, I think, through the governor's office," Pratt said.

The governor's office did not return phone calls seeking comment.

Commerce Authority subsidies are usually awarded as grants to businesses.

Senate president Andy Biggs, R-Gilbert, who opposed the loan, said he wonders if the Navajo County provision in the appropriations bill signaled a new trend in Commerce Authority spending and political abuse.

The ACA fund "is not supposed to be a fund that you would loan out money from," said Biggs, who is a non-voting, ex-officio member on the agency's board of directors. "My recollection is that the fund was supposed to be a 'deal-closing' fund."

The Goldwater Institute sent Commerce Authority officials a letter in the summer, warning that the loan violated the state constitution.

“The Arizona Constitution prohibits the government from bestowing favors on special interest groups or preferred localities,” said Jonathan Riches, an attorney for the institute. “The loan commitment made to the Apache Railway Company is precisely the type of preferential treatment proscribed by our constitution.”

Although Snowflake is in a remote area 175 miles northeast of Phoenix, it is home for some influential business and political leaders who lobbied state officials last year for special legislation to keep the 38-mile Apache Railway open.

The most vocal advocate was Steve Brophy, a businessman and rancher who is the brother of state Rep. Kate Brophy McGee. Steve Brophy also is president of one of Navajo County’s largest landowners, Aztec Land and Cattle Co., which has more than 228,040 acres there and a vested interest in development. A 2011 Aztec master plan for land use in the area in highlighted the short-line rail as a “significant regional resource representing largely untapped potential for inter-modal transportation.” Aztec eventually paid \$160,000 to ensure the paper mill’s new owner, Hackman Capital, would leave the rail intact while Brophy and other rail advocates found other funding opportunities to sustain it.



*Goldwater Institute attorneys believe the legislation for the special loan to the Apache Railway violates the state constitution. Snowflake officials say they believe it will help save their local economy.*

Town manager Paul Watson said Snowflake could not afford to buy the rail. “We have a \$4 million to \$5 million a year operating budget. We have no property tax.”

Brophy had the support of Snowflake City Council members, as well as Hormel Foods Corp.’s PFFJ, LLC hog farm. PFFJ vice president of farm operations, Jose Rojas, in March wrote a letter to state officials in which he offered support for “all efforts to preserve the Apache Railroad in full operation.” The company said it uses up to 90 rail cars per month to ship feed from the Midwest to the hog farm.

Brophy said he then asked ACA officials for their help after he and Snowflake town officials learned that they would need more funds to qualify for a Federal Rail Administration grant. “I talked to my board and they said, ‘We don’t want Aztec associated with a grant. We want a loan,’” Brophy said.



*Supporters of the Apache Railway successfully lobbied state officials last year for a special \$2 million loan to save the railway from closure.*

Agency staff told Brophy they could not offer a loan without special legislation, Commerce Authority chief executive officer Sandra Watson said. However, the agency believes “rail infrastructure is a real important element to economic development in general,” Watson said.

Brophy said he met with officials in the governor’s office and “a bunch of legislators.”

“We talked to whoever would see us in the Senate,” he said.

For years, the only client Apache Railway serviced was Catalyst, the railway’s owner. Since Hackman Capital bought the mill and reached

a deal with Aztec for the rail a year ago, Apache Railway has begun working with a handful of other clients, including Burlington Northern Santa Fe for storage and repair of rail cars, as well as a Mexico-based telephone pole maker.

Shirley Cornett, the Apache Railway superintendent, said she believes the rail has far more potential clients in the future. She and other Snowflake locals predict that the area’s dormant timber industry will revive as the U.S. Forest Service shifts its policy to encourage deforestation as part of wildfire prevention.

The local officials also note that three companies, Passport Potash, HNZ Potash LLC and American West Potash, have said they want to open potash mines near Holbrook that would provide vital ingredients for making fertilizer. However, those proposals have been discussed for several years without a shovel breaking ground.

An Arizona Department of Transportation study set for release in the coming months boasts of the rail’s potential value. “Perhaps the most important transportation asset for the Second Knolls area is the Apache Railway,” ADOT officials wrote in the 119-page draft of the “Second Knolls Development” study.

The study was paid for with \$162,000 in federal transportation funds, said ADOT spokesman Timothy Tait.