

1 **WO**

2

3

4

5

6

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

7

8

9	Center for Biological Diversity; Grand Canyon Trust; Sierra Club; and Kaibab Band of Paiute Indians,	)	No. CV-09-8207-PCT-DGC
10		)	<b>ORDER</b>
11	Plaintiffs,	)	
12	vs.	)	
13	Ken Salazar, Secretary of the Interior; and U.S. Bureau of Land Management,	)	
14		)	
15	Defendants.	)	

16 Arizona 1 Mine is a uranium mine located near Grand Canyon National Park.  
17 Plaintiffs seek a declaration that Defendants have violated environmental laws in connection  
18 with Arizona 1 Mine, and request an injunction directing mine operations to cease. Dkt. #17.

19 Denison Arizona Strip, LLC and Denison Mines (USA) Corp. (collectively,  
20 “Denison”) own unpatented claims at Arizona 1 Mine and conduct operations pursuant to a  
21 plan issued by Defendant BLM. Denison has filed a motion to intervene in this action  
22 pursuant to Rule 24 of the Federal Rules of Civil Procedure. Dkt. #19. The motion is fully  
23 briefed. Dkt. ##20, 24, 27, 30. No party has requested oral argument. For reasons that  
24 follow, the Court will grant the motion.

25 This Circuit has established a four-part test for intervention under Rule 24(a). This  
26 test requires a proposed intervenor (1) to have a significantly protectable interest in  
27 the property or transaction that is the subject of the action, (2) to be situated so that  
28 the disposition of the action may impair that party’s ability to protect that interest, (3) to

1 demonstrate that its interests are not adequately represented by other parties, and (4) to move  
2 to intervene in a timely manner. *Arakaki v. Cayetano*, 324 F.3d 1078, 1083 (9th Cir. 2003).  
3 In determining whether intervention is appropriate, the Court is “guided primarily by  
4 practical and equitable considerations,” not technical distinctions. *Donnelly v. Glickman*,  
5 159 F.3d 405, 409 (9th Cir. 1998); *Sw. Ctr. for Biological Diversity v. Berg*, 268 F.3d 810,  
6 818 (9th Cir. 2001). The Court must “interpret the requirements broadly in favor of  
7 intervention.” *Donnelly*, 159 F.3d at 409; *see Berg*, 268 F.3d at 818 (“[W]e construe Rule  
8 24(a) liberally in favor of potential intervenors.”); *Wash. State Bldg. & Const. Trades*  
9 *Council v. Spellman*, 684 F.2d 627, 630 (9th Cir. 1982) (“Rule 24 traditionally has received  
10 a liberal construction in favor of applicants for intervention.”).

11 In a similar action brought by Plaintiffs, *Center for Biological Diversity v. Salazar*,  
12 No. CV-08-8117-PCT-NVW, Judge Wake permitted certain mining companies to intervene  
13 as a matter of right pursuant to Rule 24(a) (*see id.*, Dkt. #44). Denison urges the Court to  
14 follow Judge Wake’s order and allow intervention in this case. Dkt. #27 at 6.

15 In both this action and the one before Judge Wake, Plaintiffs assert violations of the  
16 Federal Land Policy Management Act and the National Environmental Policy Act. *See*  
17 Dkt. #17, No. CV-09-8207; Dkt. #1, No. CV-08-8117. The arguments made in opposition  
18 to intervention are similar. *See* Dkt. #24, No. CV-09-8207; Dkt. #37, No. CV-08-8117. The  
19 Court finds Judge Wake’s order granting intervention to be well-reasoned and applicable to  
20 the intervention issues raised in this case. The Court will follow Judge Wake’s order and  
21 grant Denison’s motion to intervene pursuant to Rule 24(a).

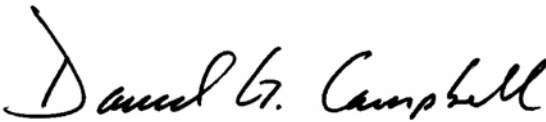
22 Plaintiffs assert that, to the extent intervention is permitted, Denison either should be  
23 limited to the remedy phase of the case or should be required to join in Defendants’ briefing  
24 on the merits. Dkt. #24 at 2. The role of Denison will be determined at the Case  
25 Management Conference set for April 9, 2010 (*see* Dkt. #26).

26 **IT IS ORDERED:**

- 27 1. Denison Arizona Strip, LLC and Denison Mines (USA) Corp.’s motion to  
28 intervene as defendants (Dkt. #19) is **granted**.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. The Clerk is directed to file the lodged proposed answer (Dkt. #28).  
DATED this 24th day of March, 2010.



---

David G. Campbell  
United States District Judge