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

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9 Hualapai Indian Tribe,

No. CV-24-08154-PCT-DJH

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Plaintiff,

ORDER

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v.

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Debra Haaland, et al.,

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Defendants.

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The Court is in receipt of a Motion to Intervene filed by Arizona Lithium Limited (“AZL”) (Doc. 18).¹ AZL is the company operating the Big Sandy Valley Lithium Exploration Project (the “Project”), which is a planned program to conduct exploratory drilling for lithium deposits. AZL seeks to intervene in this action to defend against Defendant United States Bureau of Land Management’s (“Defendant BLM”) decision to approve the Project. AZL represents it engaged in exploratory drilling in Wikieup, Arizona from 2018–2019, applied for Defendant BLM to approve the third phase of the Project in 2019, and obtained Project approval in June 2024. (Docs. 18 at 3–5; 18-4 at ¶¶ 7–16). AZL commenced drilling on August 1, 2024. The next day, Plaintiff Hualapai Indian Tribe (“Plaintiff”) filed a Complaint alleging Defendant BLM violated various

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¹ AZL requested oral argument on the Motion to Intervene and Plaintiff has not yet filed a response. Having reviewed the Motion to Intervene, the briefing on the Motion for TRO, and the record, the Court finds that the facts and issues have been adequately presented and oral argument will not aid the Court’s decision. Accordingly, in the interest of avoiding further delay, the Court will decide the Motion to Intervene without oral argument or Plaintiff’s response. *See* Fed. R. Civ. P. 78(b) (court may decide motions without oral hearings); LRCiv 7.2(f) (same).

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1 provisions of the National Environmental Policy Act and the National Historic
2 Preservation Act when approving the Project. (*See generally* Doc. 1). Plaintiff also filed
3 a Motion for Temporary Restraining Order (“TRO”) (Doc. 11) that would enjoin
4 *inter alia* the Project’s operations because “[t]he Project threatens to destroy a hot
5 spring—Ha’Kamwe’—and the surrounding landscape that [Plaintiff] holds sacred.”
6 (*Id.* at 7). AZL argues they may intervene in this action as a matter of right under Federal
7 Rule of Civil Procedure 24(a)(2), or, alternatively, that the Court should grant it
8 permission to intervene under Rule 24(b)(1)(B).² In light of AZL’s protectable interests
9 in the Project, AZL’s Motion is granted.

10 **I. Legal Standard**

11 Rule 24(a) provides the following:

12 On timely application, the court must permit anyone to intervene
13 who . . . claims an interest relating to the property or transaction that is the
14 subject of the action, and is so situated that disposing of the action may as a
15 practical matter impair or impede the movant’s ability to protect its interest,
unless existing parties adequately represent that party.

16 Fed. R. Civ. P. 24(a)(2). The Ninth Circuit has established a four-part test to assess an
17 intervention under Rule 24(a): “(1) the motion must be timely; (2) the applicant must
18 claim a ‘significantly protectable’ interest relating to the property or transaction which is
19 the subject of the action; (3) the applicant must be so situated that the disposition of the
20 action may as a practical matter impair or impede its ability to protect that interest; and
21 (4) the applicant’s interest must be inadequately represented by the parties to the action.”
22 *Wilderness Soc’y v. U.S. Forest Serv.*, 630 F.3d 1173, 1177 (9th Cir. 2011) (en banc)
23 (quoting *Sierra Club v. EPA*, 995 F.2d 1478, 1481 (9th Cir. 1993)). Generally, these
24 criteria are interpreted broadly in favor of intervention. *Donnelly v. Glickman*, 159 F.3d
25 405, 409 (9th Cir. 1998) (citing *United States ex rel. McGough v. Covington Techs. Co.*,
26 967 F.2d 1391, 1394 (9th Cir. 1992) (“Rule 24(a)(2) is construed broadly in favor of
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28 ²² Unless where otherwise noted, all Rule references are to the Federal Rules of Civil Procedure.

1 proposed intervenors and we are guided primarily by practical considerations.”)). The
2 movant bears the burden to show it satisfies each of the four criteria for intervention as a
3 matter of right. *See Prete v. Bradbury*, 438 F.3d 949, 954 (9th Cir. 2006).

4 **II. Discussion**

5 The Court finds AZL has demonstrated all four intervention criteria:

6 **A. Timeliness**

7 AZL’s Motion is timely under the first criterion as it was filed just three days after
8 Plaintiff applied for a TRO, and less than two weeks after the Complaint was served on
9 Defendants. (*See Docs. 7; 8; 11; 18*).

10 **B. Significant Protectable Interest**

11 To demonstrate a protectable interest under the second intervention criterion, AZL
12 must establish its “interest is protectable under some law and that there is a relationship
13 between the legally protected interest and the claims at issue.” *Citizens for Balanced Use*
14 *v. Montana Wilderness Ass’n*, 647 F.3d 893, 897 (9th Cir. 2011). The latter requirement
15 is met “only if the resolution of the plaintiff’s claims actually will affect the [intervenor]
16 applicant.” *Donnelly*, 159 F.3d at 410 (citations omitted).

17 The Court finds AZL has shown a protectable interest because, as the Project
18 operator, AZL was authorized by Defendant BLM to conduct lithium and poly metal
19 mineral exploration in the Wikieup region. (Doc. 18 at 8). Moreover, AZL’s ability to
20 exercise that interest is directly at issue in Plaintiff’s Motion for a TRO.
21 (*See generally* Doc. 11).

22 **C. Impaired ability to protect an interest.**

23 Under the third intervention criterion, AZL must show that the disposition of this
24 action “may as a practical matter impair or impede [its] ability to protect its interest.”
25 Fed. R. Civ. P. 24(a)(2). In other words, “[i]f an absentee would be substantially affected
26 in a practical sense by the determination made in an action, [it] should, as a general rule,
27 be entitled to intervene.” *See also* Fed. R. Civ. P. 24 advisory comm. notes (Am. 1966).

28 Here, Plaintiff seeks a TRO that would “enjoin implementation of Defendants’

1 approval of the Big Sandy, Inc. Sandy Valley Lithium Exploration Project (Phase 3) []
2 pending adjudication of the Tribe’s challenge to that approval.” (Doc. 11 at 7). Having
3 found that AZL has a significantly protectable interest in the Project, it follows that
4 granting the relief Plaintiff seeks would impair that interest.

5 **D. Adequacy of Representation**

6 Courts examine three factors when assessing adequacy of representation under the
7 fourth criterion: “(1) whether the interest of a present party is such that it will
8 undoubtedly make all of a proposed intervenor’s arguments; (2) whether the present party
9 is capable and willing to make such arguments; and (3) whether a proposed intervenor
10 would offer any necessary elements to the proceeding that other parties would neglect.”
11 *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947, 952 (9th Cir. 2009) (citing
12 *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003)). AZL’s point is well taken
13 that Defendant BLM may not adequately represent its interests due to its responsibilities
14 as a government agency to represent the public interest. (Doc. 18 at 9–11). Indeed, the
15 Ninth Circuit has recognized that “the government’s representation of the public interest
16 may not be ‘identical to the individual parochial interest’ of a particular group just
17 because ‘both entities occupy the same posture in the litigation.’ ” *Citizens for Balanced*
18 *Use*, 647 F.3d at 899 (quoting *WildEarth Guardians v. U.S. Forest Serv.*, 573 F.3d 992,
19 996 (10th Cir. 2009)). AZL seeks to protect their contractual rights and financial
20 investments in the Project, which differ in scope from Defendant BLM’s interest.
21 *See e.g. Klamath Siskiyou Wildlands Ctr. v. United States BLM*, 2020 WL 1052518, at *3
22 (D. Or. March 4, 2020) (granting a motion to intervene because the proposed intervenor
23 had “a specific private interest in protecting its contract rights and ability to purchase
24 future timber sale offerings from [the defendant] BLM,” which differed from the
25 defendant BLM’s “more general interest in following and enforcing regulations and
26 defending agency actions”).

27 **III. Conclusion**

28 In sum, AZL has met all four intervention criteria. The Court will permit AZL to

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intervene and defend against this action, especially in light of the Ninth Circuit’s policy that the four intervention criteria be broadly interpreted in favor of intervention. *See Donnelly*, 159 F.3d at 409; *Citizens for Balanced Use*, 647 F.3d at 897. The Court need not reach AZL’s alternative arguments to conclude the Motion for Intervene should be granted.

Accordingly,

IT IS ORDERED that Arizona Lithium Limited’s Motion to Intervene (Doc. 18) is **GRANTED**. Arizona Lithium Limited’s Motion for Leave to Appear at the August 19, 2024, TRO Hearing (Doc. 19) is also **GRANTED**.

Dated this 19th day of August, 2024.



Honorable Diane J. Humetewa
United States District Judge