

Arizona Supreme Court
Civil Petition for Review - Appeal

CV-22-0290-PR

SAN CARLOS v STATE et al/RESOLUTION

Appellate Case Information

Case Filed: 8-Dec-2022
 Case Closed:

Dept/Composition

En Banc
 Hon. Robert Brutinel
 Hon. Ann A. Scott Timmer
 Hon. Clint Bolick
 Hon. John R Lopez
 Hon. James P Beene
 Hon. William G Montgomery
 Hon. Kathryn H. King

Side 1. SAN CARLOS APACHE TRIBE, Appellant

(Litigant Group) SAN CARLOS APACHE TRIBE

- San Carlos Apache Tribe

Attorneys for: Appellant

Alexander Bennett Ritchie, Esq. (AZ Bar No. 19579)
 Justine R Jimmie, Esq. (AZ Bar No. 19148)
 Bernardo M Velasco, Esq. (AZ Bar No. 33746)
 Jana Lynn Sutton, Esq. (AZ Bar No. 32040)

Side 2. STATE OF ARIZONA; ARIZONA WATER QUALITY APPEALS BOARD; ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY, Appellee

(Litigant Group) ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

- Arizona Department of Environmental Quality

Attorneys for: Appellee

Kristin K. Mayes, Esq. (AZ Bar No. 022584)
 Jeffrey D Cantrell, Esq. (AZ Bar No. 17957)

(Litigant Group) ARIZONA WATER QUALITY APPEALS BOARD

- Arizona Water Quality Appeals Board

Attorneys for: Appellee

Side 3. RESOLUTION COPPER MINING, LLC, Intervenor/Appellee

(Litigant Group) RESOLUTION COPPER MINING, LLC

- Resolution Copper Mining LLC

Attorneys for: Intervenor/Appellee

Christopher D Thomas, Esq. (AZ Bar No. 10482)
 Diane M Johnsen, Esq. (AZ Bar No. 7634)
 Janet M Howe, Esq. (AZ Bar No. 34615)
 Andrea Jeanne Driggs, Esq. (AZ Bar No. 23633)

Side 4. AMERICAN EXPLORATION AND MINING ASSOCIATION, NATIONAL MINING ASSOCIATION, ARIZONA MINING ASSOCIATION, AND MONTANA MINING ASSOCIATION, Amicus Curiae

(Litigant Group) AMERICAN EXPLORATION AND MINING ASSOCIATION, NATIONAL MINING ASSOCIATION, ARIZONA MINING ASSOCIATION, AND MONTANA MINING ASSOCIATION

- American Exploration and Mining Association
- National Mining Association
- Arizona Mining Association
- Montana Mining Association

Attorneys for: Amici Curiae

Brian A Cабianca, Esq. (AZ Bar No. 16410)

CASE STATUS

Nov 16, 2023....Submitted	Aug 22, 2023....At Issue
Aug 22, 2023....Oral Argument Granted	Dec 8, 2022.....Pending

PREDECESSOR CASE(S)	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA 1 CA-CV 21-0295					
↪ MAR LC2019-000264-001			Sigmund G Popko, Authoring Judge of Order Comments: (none)		

36 PROCEEDING ENTRIES

1.	8-Dec-2022	FILED: (Non-Compliant - Caption) Joint and Uncontested Motion to Extend Time to File Petition For Review; Certificate of Service (Appellee ADEQ) (Replaced with Compliant Motion Filed 12/14/2022)
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36 PROCEEDING ENTRIES

2. 14-Dec-2022 FILED: Motion for Procedural Order (Joint and Uncontested Motion to Extend Time to File Petition for Review); Certificate of Service (Appellees ADEQ et al.)
3. 15-Dec-2022 A "Motion for Procedural Order (Joint and Uncontested Motion to Extend Time to File Petition for Review)" (Appellees ADEQ, et al.) having been filed on December 14, 2022,

IT IS ORDERED granting a first extension of time to file the petition for review on or before January 17, 2023. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the petition for review is not filed by January 17, 2023. (Tracie K. Lindeman, Clerk)
4. 17-Jan-2023 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Opinion (Intervenor/Appellee Resolution Copper Mining LLC)
5. 17-Jan-2023 FILED: Appendix to Petition for Review; Certificate of Service (Intervenor/Appellee Resolution Copper Mining LLC)
6. 17-Jan-2023 FILED: Petition for Review; Certificate of Service; Certificate of Compliance; Petition for Review Appendix Vol. I; Petition for Review Appendix Vol. II (Appellee ADEQ)
7. 17-Jan-2023 FILED: Motion to Accept Petition for Review Exceeding Word Limit; Certificate of Service (Appellee ADEQ)
8. 26-Jan-2023 RECEIVED: Record from CofA: Electronic Record
9. 26-Jan-2023 Appellee Arizona Department of Environmental Quality (ADEQ) filed a "Motion to Accept Petition for Review Exceeding Word Limit" on January 17, 2023. Pursuant to Arizona Rules of Civil Appellate Procedure, Rule 6(b), a motion for a procedural order must include a statement by the moving party of whether the other parties consent to, or object to, the entry of the order that is sought; or why the moving party was unable to contact the other parties before filing the motion, and the caption of a motion for procedural order must include the words, "Motion for Procedural Order." Therefore,

IT IS ORDERED the motion is denied without prejudice to Appellee's ability to file a motion in compliance with ARCAP 6(b). This matter is subject to dismissal if a compliant motion or petition for review is not filed by February 1, 2023. (Tracie K. Lindeman, Clerk)
10. 27-Jan-2023 FILED: Motion For Procedural Order To Exceed Word Limit; Certificate of Service (Appellee ADEQ)
11. 30-Jan-2023 RECEIPT No.: 2023-00095 ; \$280.00 Applied to: RESOLUTION COPPER MINING, LLC - Class A Filing Fee (\$280.00) Paid for: RESOLUTION COPPER MINING, LLC - By nCourt LLC Portal (Memo: 747C01FC-5722-4745-9447-F971CE7CDAB4)
12. 31-Jan-2023 A "Motion For Procedural Order To Exceed Word Limit" (Appellee ADEQ) having been filed with a 3,591 word count petition for review, and the Clerk of the Court having been authorized by the Supreme Court to enter orders granting or denying requests for extended word count,

IT IS ORDERED granting Appellee's request to exceed the thirty five hundred word count limitation stated in Rules 4(b) and 23(g)(2), Arizona Rules of Civil Appellate Procedure by 91 words. (Tracie K. Lindeman, Clerk)
13. 3-Feb-2023 FILED: Motion for Procedural Order--Uncontested Motion to Extend Time to File Response to Petitions for Review; Certificate of Service (Appellant San Carlos Apache Tribe)
14. 14-Feb-2023 A "Motion for Procedural Order--Uncontested Motion to Extend Time to File Response to Petitions for Review" (Appellant San Carlos Apache Tribe) having been filed on February 3, 2023,

IT IS ORDERED granting a first extension of time to file the response to petition for review on or before April 17, 2023. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman, Clerk)
15. 17-Apr-2023 FILED: Brief in Opposition to ADEQ's Petition for Review; Certificate of Service; Certificate of Compliance (Appellant San Carlos Apache Tribe)
16. 17-Apr-2023 FILED: Opposition to Resolution Copper Mining, LLC's Petition for Review; Certificate of Service; Certificate of Compliance (Appellant San Carlos Apache Tribe)
17. 18-Apr-2023 FILED: Brief of Amici Curiae American Exploration and Mining Association, National Mining Association, Arizona Mining Association, and Montana Mining Association in Support of Petitioners; Certificate of Service; Certificate of Compliance (Amici American Exploration et al.)
18. 18-Apr-2023 FILED: Motion to File Brief of Amici Curiae American Exploration and Mining Association, National Mining Association, Arizona Mining Association and Montana Mining Association in Support of Petitioners(Amici American Exploration et al.)
19. 19-Apr-2023 "Motion to File Brief of Amici American Exploration and Mining Association, National Mining Association, Arizona Mining Association and Montana Mining Association in Support of Petitioners" and the brief of amicus curiae were filed on April 18, 2023. After consideration,

IT IS ORDERED the motion is granted. The brief shall be filed as of April 18, 2023. (Hon. Clint Bolick)

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20. 2-Jun-2023 ORDERED: Petition for Review (Intervenor/Appellee Resolution Copper Mining LLC) = CONTINUED.
FURTHER ORDERED: Petition for Review (Appellee ADEQ) = CONTINUED.
21. 22-Aug-2023 ORDERED: Petition for Review (Intervenor/Appellee Resolution Copper Mining LLC) = GRANTED.
FURTHER ORDERED: Petition for Review (Appellee ADEQ) = GRANTED as to issues number one and two only.
FURTHER ORDERED: The case shall be set for oral argument.
FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than 20 days from the date of this Court's Minute Letter. Any amicus briefs are due on or before September 26, 2023 and any responses to amicus briefs are due on or before October 16, 2023. Any amicus briefs or responses may not exceed 20 pages in length.
22. 25-Aug-2023 RECEIVED: Record from CofA: Electronic Record
23. 29-Aug-2023 NOTICE OF ORAL ARGUMENT: Set for Thursday, November 16, 2023 at 9:30 A.M. at Coconino High School, Flagstaff [twenty (20) minutes per side]
24. 29-Aug-2023 FILED: Notice of Acknowledgment of Oral Argument (Alexander Ritchie wil argue) (Appellant San Carlos Apache Tribe)
25. 29-Aug-2023 FILED: Notice of Acknowledgment of Oral Argument (Christopher D. Thomas will argue) (Intervenor/Appellee Resolution Copper Mining LLC)
26. 31-Aug-2023 FILED: Notice of Acknowledgment of Oral Argument (Jeffrey D. Cantrell will argue) (Appellee ADEQ)
27. 1-Sep-2023 FILED: (Additional) Notice of Acknowledgment of Oral Argument (Alexander Ritchie will argue) (Appellant San Carlos Tribe)
28. 12-Sep-2023 FILED: Supplemental Brief of Plaintiff/Appellant San Carlos Apache Tribe; Certificate of Service; Certificate of Compliance (Appellant San Carlos Tribe)
29. 12-Sep-2023 FILED: Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee ADEQ)
30. 12-Sep-2023 FILED: Intervenor Appellee Resolution Copper Mining, LLC's Supplemental Brief; Certificate of Service; Certificate of Compliance (Intervenor/Appellee Resolution Copper Mining LLC)
31. 12-Sep-2023 FILED: Supplemental Appendix to Supplemental Brief of Intervenor/Appellee Resolution Copper Mining, LLC; Certificate of Service (Intervenor/Appellee Resolution Copper Mining LLC)
32. 26-Sep-2023 FILED: Brief of Amici Curiae American Exploration and Mining Association, National Mining Association, Arizona Mining Association, and Montana Mining Association in Support of Intervenor/Appellee Resolution Copper Mining, LLC (Amici American Exploration et al.)
33. 16-Oct-2023 FILED: Plaintiff/Appellant San Carlos Apache Tribe's Response to Brief of Amici Curiae American Exploration and Mining Association, National Mining Association, Arizona Mining Association, and Montana Mining Association; Certificate of Service; Certificate of Compliance (Appellant San Carlos Apache Tribe)
34. 3-Nov-2023 SENT: Letter to Parties Re: Parking for Oral Argument Participants
35. 16-Nov-2023 ORAL ARGUMENT - Submitted for decision en banc (Attorneys who argued: Christopher D. Thomas, Jeffrey D. Cantrell, Bernardo M Velasco)
36. 20-Mar-2024 FILED: Notice of Change of Address; Certificate of Service (Intervenor/Appellee Resolution Copper Mining LLC)