

**ARIZONA STATE LAND DEPARTMENT  
BOARD OF APPEALS  
AGENDA OF SPECIAL MEETING AND POSSIBLE EXECUTIVE SESSION**

**Thursday, September 26, 2024**

**Location: Arizona State Land Department  
1110 W. Washington, 5<sup>th</sup> Floor  
Room 321  
Phoenix, AZ 85007**

Pursuant to Arizona Revised Statutes (A.R.S.) § 38-431.02, notice is hereby given to the members of the Arizona State Land Department Board of Appeals (“Board”) and to the public that the Board will hold a Special meeting open to the public on Thursday, September 26, 2024, at 8:30 a.m. at the Arizona State Land Department, 1110 West Washington Street, 5<sup>th</sup> Floor, Room 321, Phoenix, AZ 85007.

The meeting will also be held in virtual and telephonic formats. Members of the public may participate virtually and telephonically. Board Members and members of the public can access the meeting telephonically by dialing 1-502-518-3499 followed by the meeting pin- 641 371 469# or virtually, by video conferencing by typing in the following link [meet.google.com/bnp-hmkg-xen](https://meet.google.com/bnp-hmkg-xen). After the start of the meeting, the Board Chairperson and/or staff will request that members of the public place their phones/devices on mute. Members of the public, attending in person, may enter the meeting room at 8:15 a.m., on the day of the meeting.

The agenda for this meeting follows. Any amendments or additions to the agenda will be made available at least twenty-four (24) hours prior to the meeting. The Board may discuss, deliberate, or vote on any item listed on the agenda. Pursuant to A.R.S. § 38-431.03(A)(3), the Board may vote to hold an executive session for consultation with its attorney for legal advice concerning any item on the agenda. Executive sessions are not open to the public. Except for matters listed for a specific time, the Board may take any item on the agenda out of order. Members of the Board may appear by telephone or virtually.

Pursuant to Title II of the Americans with Disabilities Act (ADA), the Board will not discriminate on the basis of disability in admission to and observation of its public meetings. Persons with a disability may request reasonable accommodation such as a sign language interpreter, by contacting the ADA Coordinator at (602) 542-2629 to make their needs known. Requests should be made as early as possible to allow time to arrange the accommodation.

**I. CALL TO ORDER**

Roll call

**II. LITIGATION**

Update, discussion, and potential action regarding *Farmers Investment Co.; Save the Scenic Santa Ritas Association v. Arizona State Land Department Board of Appeals*, CV2024-001259, including consideration of legal options in light of the Court’s September 9, 2024 decision.

Upon a vote of the majority of a quorum, the Board may go into Executive Session, which will not be open to the public, for discussion or consultation for legal advice with the Board’s attorney(s) pursuant to A.R.S. § 38-431.03(A)(3) or for discussion or consultation with the Board’s attorney(s) to consider its position and instruct its attorney(s) regarding pending or contemplated litigation pursuant to A.R.S. § 38-431.03(A)(4).

**III. BOARD ADJOURNS**

STATE LAND DEPARTMENT  
BOARD OF APPEALS



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Nina Monahan, Clerk to the Board  
1110 West Washington Street, Suite #160  
Phoenix, AZ 85007  
Telephone: 602-542-2674

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P. McKinley, Deputy

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ARIZONA SUPERIOR COURT  
MARICOPA COUNTY

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ARIZONA  
STATE LAND  
DEPARTMENT

FARMERS INVESTMENT CO., and  
SAVE THE SCENIC SANTA RITAS  
ASSOC.,

Plaintiffs,

vs.

ARIZONA STATE LAND  
DEPARTMENT BOARD OF APPEALS,

Defendant,

and

COPPER WORLD, INC., an Arizona  
corporation,

Intervenor-Defendant.

NO. CV2024-001259

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

Assigned to the Hon. Scott A. Blaney

Pursuant to the Court's Minute Order dated June 13, 2024, Plaintiffs Farmers  
Investment Co. and Save the Scenic Santa Ritas respectfully submit the following proposed  
findings of fact and conclusions of law:

Rec'd September 12, 2024  
By: *Trinity Keelberg*  
BOARD OF APPEALS  
STATE LAND DEPARTMENT

1 **FINDINGS OF FACT**

2 1. This special action pursuant to the Arizona Open Meetings Law, A.R.S. §  
3 38-431 *et seq.*, involves a right-of-way over Arizona state trust land that is part of the Santa  
4 Rita Experimental Range (the "Range"), which is managed for ecological and rangeland  
5 research purposes by the University of Arizona.

6 2. The intended use of the right-of-way is for infrastructure serving a proposed  
7 open-pit copper mine on privately owned land in the Santa Rita Mountains being developed  
8 by a subsidiary of Hudbay Minerals, Inc., a Canadian mining company. The agenda and  
9 minutes for the meeting at which the right-of-way's valuation was discussed and approved  
10 failed to disclose to Plaintiffs and the public that one of the intended uses of the right-of-  
11 way was a mine tailings, or waste, pipeline.

12 3. Plaintiff Farmers Investment Co. ("FICO"), an Arizona corporation located  
13 in Sahuarita, Arizona, is one of the world's largest growers and processors of pecans. FICO  
14 is a prominent opponent of the proposed copper mine, which is near the company's pecan  
15 farms.

16 4. Plaintiff Save the Scenic Santa Ritas Assoc. ("SSSR") is an Arizona non-  
17 profit organization whose volunteers aim to protect the scenic, aesthetic, recreational,  
18 environmental and wildlife values of the Santa Rita Mountains and surrounding areas.  
19 SSSR also is a prominent opponent of the proposed copper mine.

20 5. Defendant Arizona State Land Department Board of Appeals (the "Board")  
21 consists of five members, each appointed by the Governor and confirmed by the Arizona  
22 State Senate for six-year terms. A.R.S. § 37-213. Board members must be "experienced  
23 in the classification and appraisal of all types of real estate." *Id.* § 37-213(B). The Board  
24 ordinarily holds its meetings in Maricopa County, Arizona.

25 6. At the time of the events relevant to this special action, Rosemont Copper  
26 Company was the Arizona subsidiary of Hudbay Minerals developing the proposed mine  
27 ("Rosemont Copper"). Rosemont Copper has since changed its name to Copper World,  
28

1 Inc. For ease of reference, the Court refers to the company as “Rosemont Copper.”

2 7. This Court granted Rosemont Copper’s unopposed motion to intervene as a  
3 defendant in this action in a minute entry filed on February 7, 2024.

4 8. Arizona state trust lands consist of more than 9 million acres of state-owned  
5 land held in trust to benefit public schools and universities. *See Our Agency & Mission,*  
6 *Ariz. St. Land Dep’t*, <https://land.az.gov/our-agency-mission>. With certain exceptions, the  
7 Arizona State Land Department (the “Department”) is the state agency charged with  
8 controlling all lands owned by, belonging to and under the control of the state, including  
9 state trust land. *See* A.R.S. § 37-102. The Arizona State Land Commissioner (the  
10 “Commissioner”) is head of the Department and is appointed by the governor and  
11 confirmed by the state senate. A.R.S. § 37-131.

12 9. On April 14, 2022, Rosemont Copper applied to the Department for a right-  
13 of-way across a portion of the Range adjacent to its property (the “Rosemont Copper  
14 ROW”). Rosemont Copper stated in the application that it would use the right-of-way for  
15 an access road, a fresh water pipeline, a tailings pipeline, a process water return pipeline,  
16 an electric transmission line and a telecommunications line.

17 10. Mine tailings are a waste product of ore processing and consist of finely  
18 ground rock, water and other byproducts of the copper extraction process. Copper mine  
19 tailings often contain arsenic, lead and other heavy metals.

20 11. The Department may grant rights-of-way over state trust land without an  
21 auction for not more than 50 years, subject to terms and conditions it imposes. A.R.S. §  
22 37-461.

23 12. The Commissioner’s statutory duties include appraising all state lands for  
24 grants of rights-of-way, among other purposes. A.R.S. § 37-132(A)(5). Pursuant to her  
25 statutory and fiduciary duties to the trust, the Commissioner must ensure that the rental  
26 amount charged to the grantee of a right-of-way is no less than the true, appraised value of  
27 the interest granted. *Ariz. Const. art. 10, § 4; A.A.C. R12-5-801(D)(2).*

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1           13. To fulfill those duties, the Commissioner has requested that the Board review  
2 and approve the assessed valuations of rights-of-way. *See, e.g.,* Ariz. St. Land Dept. Bd.  
3 of Appeals' Mot. to Dismiss Special Action Compl. at 5 (citing Commissioner's authority  
4 pursuant to A.R.S. § 37-132(A)(5)).

5           14. On November 21, 2022, the Department's Rights of Way Project Leader  
6 Michael Romero signed a Department Right of Way Section Recommendation form  
7 regarding the Rosemont Copper ROW. The form listed the appraised value of the right-of  
8 way as \$64,089 and its purpose as "Access Road; OH 138kV electric transmission line;  
9 one 24-count fiber optic communication line; [and] two aboveground 24" water  
10 transmission lines." The form did *not* mention or reference a waste tailings pipeline.

11           15. The pre-printed portion of the form included a space for a signature of the  
12 Board's chairperson under the heading, "BOARD OF APPEALS APPROVAL."

13           16. According to public records that are incorporated into the record in this  
14 special action, on November 28, 2022, Rosemont Copper Land Manager Robin Barnes sent  
15 an email to Romero expressing concern that the right-of-way recommendation form did  
16 not refer to the tailings pipeline Rosemont Copper planned to install. Barnes wrote:

17           "The description does not match the current projected use of the right of way.  
18 Our application provides for 3 above-ground pipelines and we expect to have  
19 3 above-ground pipelines for tailings, sand, reclaimed water and other uses.  
Do these need to be included in the recommendation to the Board?"

20           17. Romero replied a few minutes later: "No, the Board only reviews the value.  
21 I can change the description in our system."

22           18. On December 6, 2022, Romero emailed Barnes that he would "correct the  
23 water line numbers in our system," but "[s]ince the number of water lines does not affect  
24 the value, we're ok," because the Board's only purpose "is to approve the valuation."

25           19. In response, Barnes admitted that "[t]he current no. of pipelines is 6."

26           20. The Board issued a notice and agenda for its December 8, 2022 meeting on  
27 or about December 6, 2022, in compliance with the Open Meetings Law. *See* A.R.S. §  
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1 389-431.02(C). The agenda stated that the meeting would include “[r]eview, discussion  
2 and possible legal action regarding” the Rosemont Copper ROW and two other rights-of-  
3 way on the consent agenda. The consent agenda described the Rosemont Copper ROW’s  
4 purpose as “Access Road; OH 138kV electric transmission line; one 24-count fiber optic  
5 communication line; [and] two aboveground 24” water transmission lines.” There was no  
6 mention of or reference to the waste tailings pipeline.

7 21. The Board unanimously approved the consent agenda, including the  
8 valuation of the Rosemont Copper ROW, at its December 8, 2022 meeting.

9 22. The minutes of that meeting include as an addendum a copy of the  
10 recommendation form for the Rosemont Copper ROW signed by the Board’s chairperson.  
11 That form contained the same description of the right-of-way as the one signed by Romero  
12 on November 21, 2022: “Access Road; OH 138kV electric transmission line; one 24-count  
13 fiber optic communication line; [and] two aboveground 24” water transmission lines.”  
14 Once again, there was no mention of or reference to the waste tailings pipeline.

15 23. There is no evidence in the record that any member of the Board was aware  
16 of the inaccuracies in the descriptions of the Rosemont Copper ROW in the agenda and  
17 minutes.

18 24. On January 24, 2023, Department Deputy Commissioner Jim Perry asked  
19 Romero for an update on the status of the Rosemont Copper ROW.

20 25. Romero informed Perry that Rosemont Copper had requested changes to the  
21 right-of-way, and that Paul Peterson, the Department’s Administrative Counsel, had  
22 approved those changes.

23 26. On or about January 24, 2023, Department staff materially changed the  
24 recommendation form approved by the Board and signed by its chairperson at the  
25 December 8, 2022 meeting. Handwritten notations marked with the initials “RO” changed  
26 the description of the purpose of the right-of-way to increase the number of pipelines from  
27 two to six and delete the word “water” from the phrase, “water transmission lines.” *See*  
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1 Pls.' Resp. in Opp. to Intervenor-Def. Copper World, Inc.'s Mot. to Dismiss Special Action  
2 Compl. Ex. 1.

3 27. On January 30, 2023, the Department granted the revised Rosemont Copper  
4 ROW, with the document executed by Bradley LeVasseur as "Commissioner for the Land  
5 Department." However, LeVasseur's title, as listed on his email signature, is "Contract  
6 Management Specialist III."

7 28. The Rosemont Copper ROW crosses a portion of the Santa Rita  
8 Experimental Range and abuts federal land managed by the U.S. Bureau of Land  
9 Management.

10 29. Plaintiffs reside, own real property and engage in outdoor recreational  
11 activities in and around the area of Rosemont Copper's proposed mine. Plaintiffs'  
12 opposition to the mine arises from their concerns that the mine would scar the scenic  
13 landscape, deplete and potentially contaminate groundwater in the area, lower their  
14 property values, harm their business, interfere with the University of Arizona's ongoing  
15 research, and otherwise severely degrade the quality of life for themselves and others who  
16 live, work and recreate in and around the Santa Rita Mountains. Compl. ¶ 36; Declaration  
17 of Thomas Nelson ("Nelson Decl.") ¶¶ 2-4; Declaration of Nan S. Walden ("Walden  
18 Decl.") ¶¶ 2-4, 7-8.

19 30. Plaintiffs regularly monitor the Department's activities, including by  
20 reviewing the Board's agendas for upcoming public meetings, and have voiced concerns  
21 about other legal actions contemplated by the Department that Plaintiffs view as potentially  
22 detrimental to the environment and public health. Compl. ¶ 37; Nelson Decl. ¶ 5; Walden  
23 Decl. ¶ 5.

24 31. For example, in the spring of 2023, Plaintiffs saw an item on a Board meeting  
25 agenda involving the proposed sale of two parcels of state trust land to Rosemont Copper  
26 for use as tailings dumps. SSSR sent a letter to the Department objecting to the proposed  
27 sale, arguing that the mine project would decrease the value of nearby state land, deplete  
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1 groundwater in the area and harm the environment. The sale of those parcels was  
2 subsequently removed from the agenda. Compl. ¶¶ 39-42; Nelson Decl. ¶¶ 7-9 & Ex. B.

3 32. If Plaintiffs had been reasonably and accurately informed about the purpose  
4 of the Rosemont Copper ROW, they would have had the opportunity to communicate their  
5 concerns to other stakeholders, the Board and the Department, as they have done in other  
6 instances.

7 **CONCLUSIONS OF LAW**

8 33. The Arizona Open Meetings Law provides that “[a]ll meetings of any public  
9 body shall be public meetings,” and “[a]ll legal action of public bodies shall occur during  
10 a public meeting.” A.R.S. § 38-431.01(A). The Open Meetings Law is designed “to open  
11 the conduct of the business of government to the scrutiny of the public and to ban decision-  
12 making in secret.” *Welch v. Cochise Cty. Bd. of Supervisors*, 251 Ariz. 519, 526 ¶ 25  
13 (2021) (citation omitted).

14 34. Arizona law mandates that in this special action, the Court “shall construe  
15 [the Open Meetings Law] in favor of open and public meetings.” A.R.S. § 38-431.09(A).  
16 The enforcement provisions of the Open Meetings Law must be read “broadly to effectuate  
17 the legislature’s purpose in enacting them.” *Welch*, 251 Ariz. at 526 ¶ 24 (citation omitted).

18 35. Plaintiffs have standing to bring this special action based on their interests in  
19 government accountability and transparency. *Id.* at 522 ¶ 1; *see also* Compl. ¶¶ 1-2. They  
20 have standing as persons “affected by” the Board’s alleged violations of the Open Meetings  
21 Law. A.R.S. § 38-431.07(A).

22 36. The Board acknowledges that it is a “public body” as defined by A.R.S. § 38-  
23 431(6), and therefore is subject to the Open Meetings Law.

24 37. The Commissioner has the statutory and fiduciary duty to determine the  
25 reasonable value of uses of state land such as rights-of-way. *See* A.R.S. §§ 37-132(A)(5),  
26 37-461(A). Because no statutory or constitutional provision specifies a method of  
27 appraisal, the Commissioner may use any “reasonable rather than random determination”  
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1 to calculate such values. *Northeast Phoenix Holdings v. Winkleman*, 219 Ariz. 82, 86, ¶  
2 17 (App. 2008).

3 38. The Arizona Administrative Code provisions governing rights-of-way  
4 permit the Department to employ any policy or procedure that does not otherwise conflict  
5 with the Code, which is silent regarding any procedure for appraisals of rights-of-way. *See*  
6 A.A.C. § R12-5-801(B)(2).

7 39. The Commissioner thus has discretion to seek the Board's assessment  
8 expertise in approving the Department's valuation recommendations. By relying on the  
9 Board's approval authority, the Commissioner exercises her statutory and fiduciary duties  
10 to appraise the value of rights-of-way across state lands.

11 40. "Legal action" for purposes of the Open Meetings Law is "a collective  
12 decision, commitment or promise made by a public body pursuant to the constitution, the  
13 public body's charter, bylaws or specified scope of appointment and the laws of this state."  
14 A.R.S. § 38-431(3). Further, "deliberations by a majority of a public body in respect to a  
15 matter that foreseeably could come to a vote by that body constitute[] 'legal action' for  
16 purposes of the" Open Meetings Law. *Valencia v. Cota*, 126 Ariz. 555, 556-57 (App.  
17 1980) (emphasis added); *see also Prescott v. Chino Valley*, 166 Ariz. 480, 484 n.3 (1990)  
18 (noting the Court of Appeals' approval of this definition of "legal action"); A.R.S. § 38-  
19 431(4) (defining "meeting" to include the gathering of a quorum of a public body at which  
20 "deliberations" with respect to legal action occur).

21 41. When acting at the Commissioner's request to review and approve valuations  
22 of rights-of-way, the Board discusses and decides on a matter within the scope of its lawful  
23 authority, and therefore takes "legal action" pursuant to the Open Meetings Law. *See*  
24 A.R.S. ¶ 38-431(3).

25 42. The Open Meetings Law mandates that public bodies must give notice of  
26 public meetings, including an agenda of the "specific matters to be discussed, considered  
27 or decided at the meeting," at least 24 hours before the meeting. A.R.S. § 38-431.02(A)(1),  
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1 (G)-(H). The notice and agenda must “contain such information as is reasonably necessary  
2 to inform the public of the matters to be discussed or decided.” *Id.* § 38-431.09(A).

3 43. Although the notice and agenda for a public meeting need not provide “every  
4 detail of the recommended decision on which a vote is about to occur,” the public body  
5 must convey sufficient information for the public to “discover and investigate further the  
6 background or specific facts of the decision.” *Karol v. Bd. of Educ. Trs.*, 122 Ariz. 95, 98  
7 (1979). The notice and agenda must be accurate because any “misleading element inherent  
8 in the notice given” for a public meeting violates the Open Meetings Law. *Thurston v. City*  
9 *of Phoenix*, 157 Ariz. 343, 345 (App. 1988); *Carefree Improvement Ass’n v. Scottsdale*,  
10 133 Ariz. 106, 112 (App. 1982).

11 44. Here, interpreting the Open Meeting Law’s requirements broadly in favor of  
12 open meetings leads to the conclusion that the notice and agenda for the December 8, 2022  
13 meeting were materially inaccurate and misleading and therefore violated the Open  
14 Meetings Law.

15 45. Well before the December 8, 2022 meeting, Rosemont Copper had notified  
16 Michael Romero, the Department official responsible for the ROW application, that the  
17 description of the proposed use being provided to the Board was inaccurate. The company  
18 told Romero that to be accurate, the description needed to list three pipelines, not two, used  
19 “for tailings, sand, reclaimed water and other uses,” not just water. Two days before the  
20 meeting, before the 24-hour window to issue an accurate notice and agenda, Rosemont  
21 Copper notified Romero that its plans actually called for six pipelines, not the two listed in  
22 the inaccurate description.

23 46. Romero told Rosemont Copper that he would adjust the description of the  
24 purpose of the right-of-way in the Department’s systems but chose not to correct the  
25 information provided to the Board and the public.

26 47. Using a right-of-way for three or six pipelines rather than two is a substantial  
27 and material difference. Whether or not they can be properly termed “toxic,” mine tailings  
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1 are substantially and materially different from water, as they contain waste products from  
2 ore processing. A tailings pipeline, therefore, is substantially and materially different from  
3 a water line.

4 48. Neither the Board nor the public could accurately evaluate whether \$64,089  
5 was a reasonable valuation for the Rosemont Copper ROW without knowing that its uses  
6 would include up to six pipelines, not two, that would carry mine tailings and other  
7 substances, not only water. Even if the Board agreed that the additional pipelines and  
8 inclusion of mine tailings did not affect the assessed valuation, the public could not  
9 evaluate the decision without that material information. Moreover, Plaintiffs have shown  
10 that they are specifically concerned about mine tailings, and therefore the omission of any  
11 mention of tailings from the agenda was material to their understanding of the ROW's  
12 valuation.

13 49. The agenda thus violated the Open Meetings Law by withholding  
14 information reasonably necessary to inform the public about the issue to be discussed and  
15 decided, A.R.S. § 38-431.09(A), and by including an inherently misleading element,  
16 *Thurston*, 157 Ariz. at 345, specifically, an inaccurate number and description of the  
17 proposed pipelines.

18 50. The minutes of the December 8, 2022 meeting also were materially  
19 inaccurate and misleading in violation of the Open Meetings Law.

20 51. Public bodies are required to record minutes of public meetings that include  
21 “[a]n accurate description of all legal actions proposed, discussed or taken” at each  
22 meeting. A.R.S. § 38-431.01(C)(4). The Board’s minutes violated this statutory  
23 requirement by inaccurately describing the scope and purpose of the Rosemont Copper  
24 ROW, as set forth above.

25 52. Because of these two violations, the Board’s approval of the valuation of the  
26 Rosemont Copper ROW is null and void by operation of law. A.R.S. § 38-431.05(A);  
27 *Welch*, 251 Ariz. at 529 ¶ 34.

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1           53.    The Board and Rosemont Copper urge this Court to hold that because the  
2 agenda and minutes accurately reflected the information the Department provided and the  
3 Board considered, there was no Open Meetings Law violation. However, the Board's lack  
4 of knowledge of these material inaccuracies, and the Department staff's responsibility for  
5 them, are irrelevant to the legal consequences of the Board's actions. The Open Meetings  
6 Law lacks a state-of-mind requirement, and this Court cannot read into the statute a  
7 provision that is not there. *Roberts v. State*, 253 Ariz. 259, 266 ¶ 20 (2022).

8           54.    To the contrary, the statute sets forth a separate mechanism to remedy  
9 knowing violations that is available only to the Arizona Attorney General, not the general  
10 public. A.R.S. § 38-431.07(A) (providing that the Attorney General may file suit in  
11 Superior Court "against an individual member of a public body for a knowing violation"  
12 of the Open Meetings Law, "and in such a suit the court may impose a civil penalty against  
13 each person who knowingly violates this article or knowingly aids, agrees to aid or attempts  
14 to aid in violating this article").

15           55.    Regardless of who was responsible, the fact remains that the purposes of the  
16 right-of-way described in the Board's materials were materially different from those  
17 described in the Department's systems and in its communications with Rosemont Copper.  
18 In other words, the right-of-way whose valuation the Board approved at the December 8,  
19 2022 meeting was not the actual right-of-way that would be issued by the Department.

20           56.    The Board and Rosemont Copper also argue that Plaintiffs are not entitled to  
21 any relief because any violation was technical and Plaintiffs were not harmed because they  
22 could not have made comments at the December 8, 2022 meeting in any event. Those  
23 arguments are unavailing.

24           57.    The violations at issue here were not merely technical. As discussed above,  
25 they involved materially misleading information provided to the public.

26           58.    Moreover, the fact that Plaintiffs could not speak at the meeting does not  
27 mean they were not harmed. Representatives of the Plaintiffs avowed in their declarations  
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1 that the violations denied them the opportunity to voice their concerns about the tailings  
2 pipeline in the Rosemont Copper ROW to the Board, Department, other government  
3 officials, their neighbors, local nonprofits and American Indian tribal governments.

4 59. The violations also injured Plaintiffs' interests in government accountability  
5 and transparency. *See Welch*, 251 Ariz. at 530 ¶ 41 (public's interests in transparency and  
6 accountability of public bodies "exist independently of one's active involvement in or  
7 attendance of government meetings, and they are affected even when there is nobody there  
8 to witness the violation").

9 60. For the foregoing reasons, the Court finds that Plaintiffs have met their  
10 burden to show that the Board's notice and agenda for and minutes of the December 8,  
11 2022 meeting were materially inaccurate and misleading in violation of the Open Meetings  
12 Law. Consequently, all legal action transacted by the Board during its December 8, 2022  
13 meeting held in violation of the Open Meetings Law's notice and agenda requirements is  
14 "null and void." A.R.S. § 38-431.05(A).

15 61. Nevertheless, now that the Board is on judicial notice of these violations,  
16 the Open Meetings Law provides a remedy, should the Board elect to exercise it, by which  
17 its prior actions in violation of the law may be ratified. *See* A.R.S. § 38-431.05(B). This  
18 Order does not address whether the Board should ratify such null and void actions, but  
19 merely recognizes that the law provides a mechanism by which the Board may ratify such  
20 actions within 30 days of the issuance of this ruling.

21 The Court therefore **GRANTS** Plaintiffs' Application for an Order to Show Cause  
22 and **DENIES** the Motions to Dismiss of Defendant Arizona State Land Department Board  
23 of Appeals and Intervenor-Defendant Copper World, Inc.

24 The Court **DECLARES** that the Board's December 8, 2022 meeting was held in  
25 violation of the Open Meetings Law because the notice and agenda for the meeting and the  
26 minutes of the meeting were materially inaccurate and misleading.

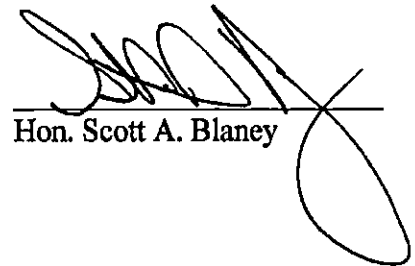
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1 The Court further **DECLARES** that the Board's approval of the valuation of the  
2 Rosemont Copper ROW is null and void. Should the Board wish to ratify the legal action  
3 taken at the December 8, 2022 meeting, it shall follow the procedures set forth in A.R.S. §  
4 38-431.05.

5 The Court **CLARIFIES** that it was not asked to determine – and specifically does  
6 not determine herein – whether any of the proposed pipelines will carry toxic substances.  
7 The Court did not receive sufficient facts or evidence to make such a determination.

8 The Court further **ORDERS** that Plaintiffs shall submit an application for an award  
9 of their reasonable attorneys' fees and costs pursuant to A.R.S. § 38-431.07(A) within 30  
10 days of the date of this Order.

11 DATED this 9<sup>th</sup> day of September, 2024.

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Hon. Scott A. Blaney