

Calendar No. 699

115TH CONGRESS
2D SESSION

H. R. 4032

[Report No. 115–399]

IN THE SENATE OF THE UNITED STATES

JULY 18, 2018

Received; read twice and referred to the Committee on Indian Affairs

NOVEMBER 29, 2018

Reported by Mr. HOEVEN, without amendment

AN ACT

To confirm undocumented Federal rights-of-way or easements on the Gila River Indian Reservation, clarify the northern boundary of the Gila River Indian Community's Reservation, to take certain land located in Maricopa County and Pinal County, Arizona, into trust for the benefit of the Gila River Indian Community, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Gila River Indian Com-
3 munity Federal Rights-of-Way, Easements and Boundary
4 Clarification Act”.

5 **SEC. 2. PURPOSES.**

6 The purposes of this Act are to—

7 (1) establish, ratify, document, and confirm the
8 Federal electrical, irrigation, and road rights-of-way
9 and easements that exist within the exterior bound-
10 aries of the Reservation as of the date of the enact-
11 ment of this Act;

12 (2) establish a fixed location of the northern
13 boundary of the Reservation and to provide for the
14 Secretary of the Interior to ensure that the northern
15 boundary is resurveyed and marked in conformance
16 with the public system of surveys;

17 (3) authorize and direct the Secretary to place
18 certain lands into trust for the benefit of the Com-
19 munity;

20 (4) substitute the benefits provided under this
21 Act to the Community, its members and allottees for
22 any claims that the Community, its members and
23 allottees may have had in connection with alleged
24 failures relating to the northern boundary of the
25 Reservation and the documentation and manage-

1 ment of Federal rights-of-way on the Reservation;
2 and

3 (5) authorize the funds necessary for the
4 United States to meet the obligations under this
5 Act.

6 **SEC. 3. DEFINITIONS.**

7 In this Act:

8 (1) ALLOTTEE.—The term “allottee” means a
9 person who holds a beneficial real property interest
10 in an Indian allotment that is—

11 (A) located within the exterior boundaries
12 of the Reservation; and

13 (B) held in trust by the United States.

14 (2) COMMUNITY.—The term “Community”
15 means the Gila River Indian Community, a govern-
16 ment composed of members of the Pima Tribe and
17 the Maricopa Tribe and organized under section 16
18 of the Act of June 18, 1934 (25 U.S.C. 5123).

19 (3) DISPUTED AREA.—The term “Disputed
20 Area” means the land north of the Harrington Sur-
21 vey line and south of the middle of the Salt River
22 (as it currently flows).

23 (4) EXECUTIVE ORDER.—The term “Executive
24 Order” means the Executive order executed by
25 President R.B. Hayes on June 14, 1879.

(5) FEDERAL AND TRIBAL FACILITIES.—The term “Federal and Tribal Facilities” means any and all structures, improvements, and appurtenances associated with roadways, canals, power lines, and other projects constructed for the benefit of the Community and its members. Thus, “Federal and Tribal Facilities” refers to—

(A) Indian Reservation Road (IRR) transportation facilities, including public roads, bridges, drainage structures, culverts, ferry routes, marine terminals, transit facilities, boardwalks, pedestrian paths, trails, and their appurtenances, and other transportation facilities, as designated by the Community and the Secretary and defined in section 170.5 of title 25, Code of Federal Regulations;

(B) Federal irrigation facilities included in the San Carlos Irrigation Project, the irrigation project authorized under the Act of June 7, 1924 (43 Stat. 475), including all structures and appurtenant works within the San Carlos Irrigation Project for the delivery, diversion, and storage of irrigation water, as defined in section 171.100 of title 25, Code of Federal Regulations; and

1 (C) Federal electric distribution facilities
2 included in the San Carlos Irrigation Project—
3 Electric Services, including all structures and
4 appurtenant works for the delivery of electric
5 power on the Reservation that are part of that
6 project.

7 (6) LOWER SONORAN LANDS.—The term
8 “Lower Sonoran Lands” means the approximately
9 3,400 acres of land—

10 (A) owned by the United States and ad-
11 ministered by the Secretary through the Bureau
12 of Land Management that have been identified
13 and designated for disposal by the Bureau of
14 Land Management under the Federal Land
15 Policy and Management Act of 1976 (43 U.S.C.
16 1701 et seq.) in the Lower Sonoran Resource
17 Management Plan (September 2012);

18 (B) located in Sections 1, 2, 3, 11, and 12,
19 Township 2 South, Range 1 West, contiguous
20 to the northwest boundary of the Community’s
21 existing Reservation; and portions of Sections
22 16 and 17, Township 5 South, Range 5 East,
23 contiguous to the southern boundary of the
24 Community’s existing Reservation; and

1 (C) that the Community shall acquire pur-
2 suant to the Federal Land Policy and Manage-
3 ment Act of 1976 (43 U.S.C. 1701 et seq.).

4 (7) HARRINGTON SURVEY.—The term “Har-
5 rington Survey” means the Dependent Resurvey of
6 a Portion of Township 1 North, Range 1 East, Gila
7 and Salt River Meridian, Arizona, Gila River Indian
8 Reservation, conducted by Guy P. Harrington, as
9 shown on the plat and described in the field notes
10 at Book 3384, approved September 2, 1920, and of-
11 ficially filed on November 3, 1920, on file with the
12 Bureau of Land Management.

13 (8) RESERVATION.—The term “Reservation”
14 means the land located within the exterior bound-
15 aries of the reservation created under sections 3 and
16 4 of the Act of February 28, 1859 (11 Stat. 401,
17 chapter LXVI), and Executive orders of August 31,
18 1876, June 14, 1879, May 5, 1882, November 15,
19 1883, July 31, 1911, June 2, 1913, August 27,
20 1914, and July 19, 1915, and any other lands
21 placed in trust for the benefit of the Community.

22 (9) ROW, EASEMENTS, AND FEDERAL AND
23 TRIBAL FACILITIES MAP.—The term “ROW, Ease-
24 ments, and Federal and Tribal Facilities Map”
25 means the map depicting the Federal rights-of-way,

1 easements, and Federal and Tribal facilities that
2 exist within the exterior boundaries of the Reserva-
3 tion on the date of enactment of this Act, which map
4 is submitted to Congress as part of the Congres-
5 sional record accompanying this Act.

6 (10) SECRETARY.—The term “Secretary”
7 means the Secretary of the Interior.

8 **SEC. 4. LAND INTO TRUST FOR BENEFIT OF THE COMMU-**
9 **NITY.**

10 (a) IN GENERAL.—The Secretary shall take the
11 Lower Sonoran Lands into trust for the benefit of the
12 Community, after the Community—

13 (1) conveys to the Secretary all right, title, and
14 interest of the Community in and to the Lower
15 Sonoran Lands;

16 (2) submits to the Secretary a request to take
17 the Lower Sonoran Lands into trust for the benefit
18 of the Community;

19 (3) conducts a survey (to the satisfaction of the
20 Secretary) to determine the exact acreage and legal
21 description of the Lower Sonoran Lands, if the Sec-
22 retary determines a survey is necessary; and

23 (4) pays all costs of any survey conducted
24 under paragraph (3).

1 (b) AVAILABILITY OF LOWER SONORAN LANDS
 2 MAP.—Not later than 180 days after the Lower Sonoran
 3 Lands are taken into trust under subsection (a), the map
 4 shall be on file and available for public inspection in the
 5 appropriate offices of the Secretary.

6 (c) LANDS TAKEN INTO TRUST AS PART OF RES-
 7 ERVATION.—After the date on which the Lower Sonoran
 8 Lands are taken into trust under subsection (a), those
 9 lands shall be treated as part of the Reservation.

10 (d) GAMING.—Class II and class III gaming under
 11 the Indian Gaming Regulatory Act (25 U.S.C. 2701 et
 12 seq.) shall not be allowed at any time on the land taken
 13 into trust under subsection (a).

14 (e) DESCRIPTION.—Not later than 180 days after the
 15 date of enactment of this Act, the Secretary shall cause
 16 the full metes-and-bounds description of the Lower
 17 Sonoran Lands to be published in the Federal Register.
 18 The description shall, on publication, constitute the official
 19 description of the Lower Sonoran Lands.

20 **SEC. 5. ESTABLISHMENT OF FIXED NORTHERN BOUNDARY.**

21 (a) IN GENERAL.—The Northern boundary of the
 22 Reservation created by the Executive Order is hereby
 23 modified in accordance with this section and shall be fixed,
 24 permanent, and not ambulatory.

1 (b) MODIFICATION OF NORTH BOUNDARY.—That
2 portion of the Reservation boundary created by the Execu-
3 tive Order as along the middle of the Salt River shall be
4 modified to be a fixed and permanent boundary as estab-
5 lished by the Harrington Survey of the north boundary
6 of the Reservation, as shown on the plat and described
7 in the field notes.

8 (c) RESURVEY AND MARKING.—Subject to available
9 appropriations, the Secretary shall ensure that the modi-
10 fied Reservation boundary as described in subsection (b)
11 is surveyed and clearly marked in conformance with the
12 public system of surveys.

13 (d) EFFECT.—The Reservation boundary as modified
14 and resurveyed by subsections (b) and (c) shall become
15 the north boundary of the Reservation in all respects and
16 upon all the same terms as if such lands had been included
17 in the Executive Order. No other portion of the Reserva-
18 tion boundary shall be affected by this Act except as spe-
19 cifically set forth in this Act.

20 (e) PUBLICATION.—The Secretary shall publish in
21 the Federal Register this modification and the resurvey
22 of the Community's reservation boundary, as set forth in
23 subsections (b) and (c), which shall constitute the fixed
24 northern boundary of the Reservation.

1 **SEC. 6. SATISFACTION AND SUBSTITUTION OF CLAIMS.**

2 (a) INTENT OF CONGRESS.—It is the intent of Con-
3 gress to provide to the Community, its members, and
4 allottees benefits that are equivalent to or exceed the
5 claims the Community, its members, and allottees may
6 possess as of the date of the enactment of this Act, taking
7 into consideration—

8 (1) the potential risks, cost, and time delay as-
9 sociated with litigation;

10 (2) the cultural and historic significance of the
11 Lower Sonoran Lands to the Community, its mem-
12 bers, and allottees;

13 (3) the benefit to the Community, its members,
14 and allottees associated with having a fixed northern
15 boundary of the Reservation;

16 (4) the benefits that will accrue to the Commu-
17 nity, its members, and allottees resulting from the
18 legal confirmation of Federal electrical, irrigation,
19 and road rights-of-way as provided under this Act;
20 and

21 (5) the availability of appropriations under this
22 Act.

23 (b) IN GENERAL.—The benefits realized by the Com-
24 munity, its members, and allottees under this Act shall
25 be in complete replacement of and substitution for, and
26 full satisfaction of all claims that the Community, its

1 members, and allottees may have had against the United
2 States—

3 (1) relating to the United States alleged failure
4 to legally establish and document Federal rights-of-
5 way on the Reservation through the date of enact-
6 ment of this Act; and

7 (2) for the United States alleged failure to es-
8 tablish, maintain and defend the Community's
9 northern boundary of the Reservation through the
10 date of the enactment of this Act.

11 (c) EFFECTIVE DATE.—This section shall become ef-
12 fective on the later of the date on which the Secretary—

13 (1) publishes in the Federal Register the notice
14 required under section 4(e);

15 (2) publishes in the Federal Register the notice
16 required under section 5(e); and

17 (3) completes the surveys for the Federal
18 rights-of-way required under this Act.

19 **SEC. 7. FEDERAL RIGHTS-OF-WAY.**

20 (a) ESTABLISHED, RATIFIED, AND CONFIRMED.—All
21 of the rights-of-way depicted in the ROW, Easements, and
22 Federal and Tribal Facilities Map accompanying this Act
23 are hereby established, ratified, and confirmed. The spe-
24 cific position and dimensions of such rights-of-way are to

1 be determined following a survey conducted in accordance
2 with section 8.

3 (b) RECORDATION.—All of the rights-of-way estab-
4 lished, ratified, and confirmed in subsection (a) shall be
5 recorded with the Land Titles and Records Office fol-
6 lowing each survey conducted in accordance with section
7 8.

8 (c) GRANTEE OR APPLICANT.—The Federal Govern-
9 ment shall be considered the grantee or applicant for any
10 and all rights-of-way established pursuant to this Act.

11 (d) CANCELLATION.—Any rights-of-way established
12 by this Act may be cancelled pursuant to sections 404–
13 409 of title 25, Federal Code of Regulations, or upon writ-
14 ten request by the Community to the Secretary to remove
15 the rights-of-way from the ROW, Easements, and Federal
16 and Tribal Facilities Map subject to otherwise applicable
17 law regarding rights-of-way on the Reservation. Any re-
18 quest for cancellation action by the Community shall be
19 formally documented by tribal resolution.

20 (e) OTHER INTERESTS IN LAND.—Notwithstanding
21 any law, the granting of any rights-of-way or easement
22 other than those depicted in the ROW, Easements, and
23 Federal and Tribal Facilities Map accompanying this Act,
24 or any future additions, expansions or modifications of any
25 of the rights-of-way or easement established, ratified, and

1 confirmed in subsection (a), may only be done in accord-
2 ance with all applicable laws and regulations. All other
3 rights-of-ways or easements on the Reservation shall be
4 valid only to the extent that they have been established
5 in accordance with applicable Federal statute and regula-
6 tion specifically governing rights-of-ways or easements on
7 Indian lands.

8 **SEC. 8. SURVEY.**

9 (a) COMPLETION AND PUBLICATION.—Not later than
10 6 years after the date of the enactment of this Act, the
11 Bureau of Indian Affairs shall undertake and complete a
12 survey of each of the Federal rights-of-way established
13 under this Act. A retroactive grant of easement shall be
14 required upon completion of each survey of each of the
15 Federal rights-of-way established under this Act. The Bu-
16 reau of Indian Affairs shall cause the surveys undertaken
17 pursuant to this Act to be published in the Federal Reg-
18 ister.

19 (b) CONTRACT.—The Bureau of Indian Affairs is au-
20 thorized, subject to appropriations, to contract for the sur-
21 vey of all Federal rights-of-way established pursuant to
22 this Act to the Community or a third party.

23 (c) DELETIONS.—Upon completion of the surveys au-
24 thorized and undertaken pursuant to subsection (a), the
25 Community and the Bureau of Indian Affairs may deter-

1 mine that anomalies exist with respect to certain Federal
2 rights-of-way such that deletion of such Federal right-of-
3 way from the ROW, Easements, and Federal and Tribal
4 Facilities Map is appropriate and such Federal right-of-
5 way may be removed from the ROW, Easements, and Fed-
6 eral Tribal Facilities Map.

7 **SEC. 9. HUNT HIGHWAY.**

8 Nothing in this Act shall establish, terminate, or oth-
9 erwise impact any right-of-way or easement associated
10 with Hunt Highway in Pinal County, Arizona, including
11 the portion of Hunt Highway that traverses the Reserva-
12 tion.

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