

115TH CONGRESS
1ST SESSION

H. R. 4032

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.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 2017

Mr. O'HALLERAN (for himself, Mr. BIGGS, Mr. FRANKS of Arizona, Mr. GALLEGOS, Mr. GOSAR, and Mr. SCHWEIKERT) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

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. FINDINGS.**

6 Congress finds as follows:

7 (1) The Community has filed suit against the
8 United States for an accounting of its Tribal trust
9 resources and Tribal trust funds in Gila River In-
10 dian Community v. Jewell, No. 06–2249 (D.D.C.
11 filed Dec. 29, 2006).

12 (2) The United States and the Community en-
13 tered into a settlement for certain of the claims en-
14 compassed in this suit.

15 (3) The Bureau of Indian Affairs has indicated
16 its support for this Act providing non-monetary re-
17 lief regarding certain allegedly undocumented Fed-
18 eral rights-of-way on the Reservation, confirming the
19 northern boundary of the Reservation, providing
20 trust status for certain identified lands, and any
21 other matters that the Community and the United
22 States deem to be appropriate.

23 (4) Lands to be taken into trust pursuant to
24 this Act are of historic and cultural significance to
25 the Community, its members, and allottees.

1 (5) The uncertainty created by the inability to
2 locate legal documentation to substantiate numerous
3 Federal rights-of-way or easements on the Reserva-
4 tion is creating obstacles to the Community's ability
5 to fulfill its obligations under the Arizona Water
6 Settlements Act and to plan for and undertake eco-
7 nomic development on the Reservation.

8 (6) There is benefit to the Community, its
9 members, and allottees by establishing legal docu-
10 mentation to substantiate numerous Federal rights-
11 of-way on the Reservation.

12 (7) There is benefit to both the Community and
13 non-Indian owners of land adjacent to the Reserva-
14 tion by providing a fixed boundary for the northern
15 boundary of the Reservation.

16 **SEC. 3. PURPOSES.**

17 The purposes of this Act are to—

18 (1) establish, ratify, document, and confirm the
19 Federal electrical, irrigation, and road rights-of-way
20 and easements that exist within the exterior bound-
21 aries of the Reservation as of the date of the enact-
22 ment of this Act;

23 (2) establish a fixed location of the northern
24 boundary of the Reservation and to provide for the
25 Secretary of the Interior to ensure that the northern

1 boundary is resurveyed and marked in conformance
2 with the public system of surveys;

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

6 (4) substitute the benefits provided under this
7 Act to the Community, its members and allottees for
8 any claims that the Community, its members and
9 allottees may have had in connection with alleged
10 failures relating to the northern boundary of the
11 Reservation and the documentation and manage-
12 ment of Federal rights-of-way on the Reservation;
13 and

14 (5) authorize the funds necessary for the
15 United States to meet the obligations under this
16 Act.

17 **SEC. 4. DEFINITIONS.**

18 In this Act:

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

22 (A) located within the exterior boundaries
23 of the Reservation; and

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

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

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

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

13 (5) FEDERAL AND TRIBAL FACILITIES.—The
14 term “Federal and Tribal Facilities” means any and
15 all structures, improvements, and appurtenances as-
16 sociated with roadways, canals, power lines, and
17 other projects constructed for the benefit of the
18 Community and its members. Thus, “Federal and
19 Tribal Facilities” refers to—

20 (A) Indian Reservation Road (IRR) trans-
21 portation facilities, including public roads,
22 bridges, drainage structures, culverts, ferry
23 routes, marine terminals, transit facilities,
24 boardwalks, pedestrian paths, trails, and their
25 appurtenances, and other transportation facili-

ties, 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

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

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

(A) owned by the United States and administered by the Secretary through the Bureau of Land Management that have been identified and designated for disposal by the Bureau of

1 Land Management under the Federal Land
2 Policy and Management Act of 1976 (43 U.S.C.
3 1701 et seq.) in the Lower Sonoran Resource
4 Management Plan (September 2012);

5 (B) located in Sections 1, 2, 3, 11, and 12,
6 Township 2 South, Range 1 West, contiguous
7 to the northwest boundary of the Community's
8 existing Reservation; and portions of Sections
9 16 and 17, Township 5 South, Range 5 East,
10 contiguous to the southern boundary of the
11 Community's existing Reservation; and

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

15 (7) HARRINGTON SURVEY.—The term “Har-
16 rington Survey” means the Dependent Resurvey of
17 a Portion of Township 1 North, Range 1 East, Gila
18 and Salt River Meridian, Arizona, Gila River Indian
19 Reservation, conducted by Guy P. Harrington, as
20 shown on the plat and described in the field notes
21 at Book 3384, approved September 2, 1920, and of-
22 ficially filed on November 3, 1920, on file with the
23 Bureau of Land Management.

24 (8) RESERVATION.—The term “Reservation”
25 means the land located within the exterior bound-

aries of the reservation created under sections 3 and 4 of the Act of February 28, 1859 (11 Stat. 401, chapter LXVI), and Executive orders of August 31, 1876, June 14, 1879, May 5, 1882, November 15, 1883, July 31, 1911, June 2, 1913, August 27, 1914, and July 19, 1915, and any other lands placed in trust for the benefit of the Community.

(9) ROW, EASEMENTS, AND FEDERAL AND TRIBAL FACILITIES MAP.—The term “ROW, Easements, and Federal and Tribal Facilities Map” means the map depicting the Federal rights-of-way, easements, and Federal and Tribal facilities that exist within the exterior boundaries of the Reservation on the date of enactment of this Act, which map is submitted to Congress as part of the Congressional record accompanying this Act.

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

SEC. 5. LAND INTO TRUST FOR BENEFIT OF THE COMMUNITY.

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

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

4 (2) submits to the Secretary a request to take
5 the Lower Sonoran Lands into trust for the benefit
6 of the Community;

7 (3) conducts a survey (to the satisfaction of the
8 Secretary) to determine the exact acreage and legal
9 description of the Lower Sonoran Lands, if the Sec-
10 retary determines a survey is necessary; and

11 (4) pays all costs of any survey conducted
12 under paragraph (3).

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

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

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

1 (e) DESCRIPTION.—Not later than 180 days after the
2 date of enactment of this Act, the Secretary shall cause
3 the full metes-and-bounds description of the Lower
4 Sonoran Lands to be published in the Federal Register.
5 The description shall, on publication, constitute the official
6 description of the Lower Sonoran Lands.

7 **SEC. 6. ESTABLISHMENT OF FIXED NORTHERN BOUNDARY.**

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

12 (b) MODIFICATION OF NORTH BOUNDARY.—That
13 portion of the Reservation boundary created by the Execu-
14 tive Order as along the middle of the Salt River shall be
15 modified to be a fixed and permanent boundary as estab-
16 lished by the Harrington Survey of the north boundary
17 of the Reservation, as shown on the plat and described
18 in the field notes.

19 (c) RESURVEY AND MARKING.—Subject to available
20 appropriations, the Secretary shall ensure that the modi-
21 fied Reservation boundary as described in subsection (b)
22 is surveyed and clearly marked in conformance with the
23 public system of surveys.

24 (d) EFFECT.—The Reservation boundary as modified
25 and resurveyed by subsections (b) and (c) shall become

1 the north boundary of the Reservation in all respects and
2 upon all the same terms as if such lands had been included
3 in the Executive Order. No other portion of the Reserva-
4 tion boundary shall be affected by this Act except as spe-
5 cifically set forth in this Act.

6 (e) PUBLICATION.—The Secretary shall publish in
7 the Federal Register this modification and the resurvey
8 of the Community’s reservation boundary, as set forth in
9 subsections (b) and (c), which shall constitute the fixed
10 northern boundary of the Reservation.

11 **SEC. 7. SATISFACTION AND SUBSTITUTION OF CLAIMS.**

12 (a) INTENT OF CONGRESS.—It is the intent of Con-
13 gress to provide to the Community, its members, and
14 allottees benefits that are equivalent to or exceed the bene-
15 fits the Community, its members, and allottees may pos-
16 sess as of the date of the enactment of this Act, taking
17 into consideration—

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

20 (2) the cultural and historic significance of the
21 Lower Sonoran Lands to the Community, its mem-
22 bers, and allottees;

23 (3) the benefit to the Community, its members,
24 and allottees associated with having a fixed northern
25 boundary of the Reservation;

1 (4) the benefits that will accrue to the Commu-
2 nity, its members, and allottees resulting from the
3 legal confirmation of Federal electrical, irrigation,
4 and road rights-of-way as provided under this Act;
5 and

6 (5) the availability of appropriations under this
7 Act.

8 (b) IN GENERAL.—The benefits realized by the Com-
9 munity, its members, and allottees under this Act shall
10 be in complete replacement of and substitution for, and
11 full satisfaction of all claims that the Community, its
12 members, and allottees may have had against the United
13 States—

14 (1) relating to the United States alleged failure
15 to legally establish and document Federal rights-of-
16 way on the Reservation through the date of enact-
17 ment of this Act; and

18 (2) for the United States alleged failure to es-
19 tablish, maintain and defend the Community's
20 northern boundary of the Reservation through the
21 date of the enactment of this Act.

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

24 (1) publishes in the Federal Register the notice
25 required under section 5(a)(4);

1 (2) publishes in the Federal Register the notice
2 required under section 6(e); and

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

5 **SEC. 8. FEDERAL RIGHTS-OF-WAY.**

6 (a) ESTABLISHED, RATIFIED, AND CONFIRMED.—All
7 of the rights-of-way depicted in the ROW, Easements, and
8 Federal and Tribal Facilities Map accompanying this Act
9 are hereby established, ratified, and confirmed. The spe-
10 cific position and dimensions of such rights-of-way are to
11 be determined following a survey conducted in accordance
12 with section 9.

13 (b) GRANTEE OR APPLICANT.—The Federal Govern-
14 ment shall be considered the grantee or applicant for any
15 and all rights-of-way established pursuant to this Act.

16 (c) TERMINATION.—Any rights-of-way established by
17 this Act may be terminated pursuant to section 169.20
18 of title 25, Federal Code of Regulations, or upon written
19 request by the Community to the Secretary to remove the
20 rights-of-way from the ROW, Easements, and Federal and
21 Tribal Facilities Map subject to otherwise applicable law
22 regarding rights-of-way on the Reservation.

23 (d) OTHER INTERESTS IN LAND.—Notwithstanding
24 any law, the granting of any rights-of-way or easement
25 other than those depicted in the ROW, Easements, and

1 Federal and Tribal Facilities Map accompanying this Act,
2 or any future additions, expansions or modifications of any
3 of the rights-of-way or easement established, ratified, and
4 confirmed in subsection (a), may only be done in accord-
5 ance with all applicable laws and regulations. All other
6 rights-of-ways or easements on the Reservation shall be
7 valid only to the extent that they have been established
8 in accordance with applicable Federal statute and regula-
9 tion specifically governing rights-of-ways or easements on
10 Indian lands.

11 **SEC. 9. SURVEY.**

12 (a) COMPLETION AND PUBLICATION.—Not later than
13 6 years after the date of the enactment of this Act, the
14 Bureau of Indian Affairs shall undertake and complete a
15 survey of each of the Federal rights-of-way established
16 under this Act. The Bureau of Indian Affairs shall cause
17 the surveys undertaken pursuant to this Act to be pub-
18 lished in the Federal Register.

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. 10. AUTHORIZATION OF APPROPRIATIONS.**

8 Subject to available appropriations, there are author-
9 ized to be appropriated such sums as are necessary for
10 the Secretary to—

11 (1) take actions required or authorized by this
12 Act; and

13 (2) undertake the surveys authorized herein of
14 all Federal electrical, road, and irrigation rights-of-
15 ways and easements depicted on the ROW, Ease-
16 ments, and Federal and Tribal Facilities Map ac-
17 companying this Act.

18 **SEC. 11. HUNT HIGHWAY.**

19 Nothing in this Act shall establish, terminate, or oth-
20 erwise impact any right-of-way or easement associated
21 with Hunt Highway in Pinal County, Arizona, including
22 the portion of Hunt Highway that traverses the Reserva-
23 tion.

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