

Union Calendar No.

115TH CONGRESS
2^D SESSION

H. R. 4032

[Report No. 115-]

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. GALLEG0, Mr. GOSAR, and Mr. SCHWEIKERT) introduced the following bill; which was referred to the Committee on Natural Resources

MAY --, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 12, 2017]

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,*

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. PURPOSES.**

8 *The purposes of this Act are to—*

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

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

19 (3) *authorize and direct the Secretary to place*
20 *certain lands into trust for the benefit of the Commu-*
21 *nity;*

22 (4) *substitute the benefits provided under this*
23 *Act to the Community, its members and allottees for*
24 *any claims that the Community, its members and*
25 *allottees may have had in connection with alleged*

1 *failures relating to the northern boundary of the Res-*
2 *ervation and the documentation and management of*
3 *Federal rights-of-way on the Reservation; and*
4 *(5) authorize the funds necessary for the United*
5 *States to meet the obligations under this 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 in*
10 *an Indian allotment that is—*

11 *(A) located within the exterior boundaries of*
12 *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 the*
17 *Maricopa Tribe and organized under section 16 of the*
18 *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 (as*
22 *it currently flows).*

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

1 (5) *FEDERAL AND TRIBAL FACILITIES.*—*The*
2 *term “Federal and Tribal Facilities” means any and*
3 *all structures, improvements, and appurtenances asso-*
4 *ciated with roadways, canals, power lines, and other*
5 *projects constructed for the benefit of the Community*
6 *and its members. Thus, “Federal and Tribal Facili-*
7 *ties” refers to—*

8 (A) *Indian Reservation Road (IRR) trans-*
9 *portation facilities, including public roads,*
10 *bridges, drainage structures, culverts, ferry*
11 *routes, marine terminals, transit facilities,*
12 *boardwalks, pedestrian paths, trails, and their*
13 *appurtenances, and other transportation facili-*
14 *ties, as designated by the Community and the*
15 *Secretary and defined in section 170.5 of title*
16 *25, Code of Federal Regulations;*

17 (B) *Federal irrigation facilities included in*
18 *the San Carlos Irrigation Project, the irrigation*
19 *project authorized under the Act of June 7, 1924*
20 *(43 Stat. 475), including all structures and ap-*
21 *purtenant works within the San Carlos Irriga-*
22 *tion Project for the delivery, diversion, and stor-*
23 *age of irrigation water, as defined in section*
24 *171.100 of title 25, Code of Federal Regulations;*
25 *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 “Lower*
8 *Sonoran Lands” means the approximately 3,400*
9 *acres of land—*

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

18 (B) *located in Sections 1, 2, 3, 11, and 12,*
19 *Township 2 South, Range 1 West, contiguous to*
20 *the northwest boundary of the Community’s ex-*
21 *isting Reservation; and portions of Sections 16*
22 *and 17, Township 5 South, Range 5 East, con-*
23 *tiguous to the southern boundary of the Commu-*
24 *nity’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 a*
6 *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 at*
10 *Book 3384, approved September 2, 1920, and offi-*
11 *cially filed on November 3, 1920, on file with the Bu-*
12 *reau of Land Management.*

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

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

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

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

10 **(d) GAMING.**—*Class II and class III gaming under the*
11 *Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)*
12 *shall not be allowed at any time on the land taken into*
13 *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 the*
16 *full metes-and-bounds description of the Lower Sonoran*
17 *Lands to be published in the Federal Register. The descrip-*
18 *tion shall, on publication, constitute the official description*
19 *of the Lower Sonoran Lands.*

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

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

1 **(b) MODIFICATION OF NORTH BOUNDARY.**—*That por-*
2 *tion of the Reservation boundary created by the Executive*
3 *Order as along the middle of the Salt River shall be modi-*
4 *fied to be a fixed and permanent boundary as established*
5 *by the Harrington Survey of the north boundary of the Res-*
6 *ervation, as shown on the plat and described in the field*
7 *notes.*

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

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

20 **(e) PUBLICATION.**—*The Secretary shall publish in the*
21 *Federal Register this modification and the resurvey of the*
22 *Community's reservation boundary, as set forth in sub-*
23 *sections (b) and (c), which shall constitute the fixed north-*
24 *ern 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 claims*
5 *the Community, its members, and allottees may possess as*
6 *of the date of the enactment of this Act, taking into consid-*
7 *eration—*

8 (1) *the potential risks, cost, and time delay asso-*
9 *ciated 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 be*
25 *in complete replacement of and substitution for, and full*

1 *satisfaction of all claims that the Community, its members,*
2 *and allottees may have had against the United 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 enactment*
6 *of this Act; and*

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

11 *(c) EFFECTIVE DATE.—This section shall become effec-*
12 *tive 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 rights-*
18 *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 specific*
24 *position and dimensions of such rights-of-way are to be de-*

1 *terminated following a survey conducted in accordance with*
2 *section 8.*

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

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

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

19 (e) *OTHER INTERESTS IN LAND.*—*Notwithstanding*
20 *any law, the granting of any rights-of-way or easement*
21 *other than those depicted in the ROW, Easements, and Fed-*
22 *eral and Tribal Facilities Map accompanying this Act, or*
23 *any future additions, expansions or modifications of any*
24 *of the rights-of-way or easement established, ratified, and*
25 *confirmed in subsection (a), may only be done in accord-*

1 *ance with all applicable laws and regulations. All other*
2 *rights-of-ways or easements on the Reservation shall be*
3 *valid only to the extent that they have been established in*
4 *accordance with applicable Federal statute and regulation*
5 *specifically governing rights-of-ways or easements on In-*
6 *dian lands.*

7 **SEC. 8. SURVEY.**

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

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

21 (c) *DELETIONS.*—*Upon completion of the surveys au-*
22 *thorized and undertaken pursuant to subsection (a), the*
23 *Community and the Bureau of Indian Affairs may deter-*
24 *mine that anomalies exist with respect to certain Federal*
25 *rights-of-way such that deletion of such Federal right-of-*

1 *way from the ROW, Easements, and Federal and Tribal*
2 *Facilities Map is appropriate and such Federal right-of-*
3 *way may be removed from the ROW, Easements, and Fed-*
4 *eral Tribal Facilities Map.*

5 **SEC. 9. HUNT HIGHWAY.**

6 *Nothing in this Act shall establish, terminate, or other-*
7 *wise impact any right-of-way or easement associated with*
8 *Hunt Highway in Pinal County, Arizona, including the*
9 *portion of Hunt Highway that traverses the Reservation.*