

Written Testimony  
Governor Stephen Roe Lewis  
Gila River Indian Community  
House Committee on Natural Resources  
Subcommittee on Indian, Insular and Alaska Native Affairs

**H.R. 4032 - Gila River Indian Community Federal Rights-of-Way, Easements and  
Boundary Clarification Act**

February 6, 2018  
2:00 p.m.

Good afternoon Chairman LaMalfa, Ranking Member Torres, and members of the Subcommittee. Thank you for the opportunity to provide testimony on behalf of the Gila River Indian Community (“Community”) regarding H.R. 4032- the Gila River Indian Community Federal Rights-of-Way, Easements and Boundary Clarification Act.

H.R. 4032 is critical legislation that is necessary to enable the Community to obtain the full benefits of the settlement the Community reached with the United States resolving federal litigation that originated in 2006. Importantly, this legislation will provide a process to document and legitimize existing Federal rights-of-way on the Community’s lands that, once complete, will remove longstanding barriers to housing development and implementation of the Community’s water settlement. In addition, this legislation settles a dispute involving the northwest boundary of the Reservation by fixing it so as to avoid any disputes with land owners to our north, in exchange for placing Federal disposal lands that are culturally important to the Community into trust once the Community purchases these lands from the United States. H.R. 4032 is the product of a great deal of effort, and compromise, by the Community and the United States to successfully settle litigation and provide benefits to the Community that only legislation can accomplish.

**I. Background**

**A. The Community’s Trust Accounting Case**

On December 29, 2006, the Community brought a lawsuit against the United States in the United States District Court for the District of Columbia for an accounting of all of its trust assets and trust funds. *Gila River Indian Community v. Kempthorne, et al.*, Case No. 1:06-CV-02249-TFH (“Gila River Trust Case”). The Community’s suit against the United States sought, among other things, a reconciliation of the Community’s non-monetary trust assets for the alleged mismanagement of these resources by the United States. The Community’s suit included breach of trust claims against the United States for failing to document Federal rights-of-way across the Reservation, and the United States’ failure to accurately survey the Reservation’s Northwestern boundary of the Reservation resulting in illegally patenting of lands to non-Indians.

1. *Failure to Document Rights-of-Way on the Community's Reservation & Trespass*

By various Acts of Congress, commencing with statutes adopted more than a century ago, Congress authorized the Secretary of the Interior to collect income from tribal trust property and to deposit such trust income in the United States Treasury and other depository institutions for the benefit of the tribes.<sup>1</sup> By subsequent statutes, Congress directed that interest be paid on tribal trust funds, and required that such trust funds be invested.<sup>2</sup> Pursuant to this statutory authority, the United States assumed control and management over trust property of the Community. Interior has approved leases, easements and grants of interest in trust lands of the Community, and as the Community's trustee, the United States has assumed responsibility for the collection, deposit and investment of the income generated by trust land of the Community.

As part of its trust obligations, the United States has a duty to ensure that tribal trust property and trust funds are protected, preserved and managed so as to produce a maximum return to the Community consistent with the trust character of the property. Among other duties, the United States must maintain adequate records with respect to the trust property; maintain adequate systems and controls to guard against error or dishonesty; provide regular and accurate accountings to the Community; and refrain from self-dealing or benefiting from the management of the Community's trust property.

In the Gila River Trust Case the Community alleged that the United States failed in these duties to the Community. While the United States controls all the books and records of accounts affecting trust funds and trust property, the United States never rendered an audit or accounting to the Community for its trust property or monies. The Community further alleged that the United States failed to establish any effective system or provision for regular or periodic accounting for the trust property and funds. As a result, the United States kept the Community, as the trust beneficiary, uninformed as to the trust property it owns, what income the trust property produced, and what disposition was made of the income. In the Gila River Trust Case the Community alleged that the United States' mismanagement of the Community's trust property and funds resulted in losses to the Community as the trust beneficiary.

The United States has provided the Community with records pertaining to various rights-of-way through the Reservation. Based on the records received from the United States, it became apparent that many of the roads across the Reservation do not have legally established rights-of-way. Based on the best information available, as provided by the United States, a total of 3,600 acres of undocumented rights-of-way affect allotted and tribal trust land, which has been in Federal use and possession since 1930. With respect to these 3,600 acres, no documentation of rights-of-way can be found; indeed, such documentation may never have existed. Rent either has not been collected or cannot be accounted for by the United States. In addition to the United States' breach of trust for failure to document rights-of-way across the Reservation, failure to collect rent, and failure to account for the Community's and allottees' trust assets, the Community alleged that the United States was also liable for the Community's

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<sup>1</sup> See e.g., Act of March 3, 1883, ch. 141, 22 Stat. 582, 590.

<sup>2</sup> See e.g., Act of February 12, 1929, ch. 178, 45 Stat. 1164 (codified as amended at 25 U.S.C. § 161b (1930)); Act of June 24, 1938, 52 Stat. 1037 (codified as amended at 25 U.S.C. § 162a (1994)).

and allottees' trespass claims for rights-of-way for federal projects that were not legally documented and as a consequence resulted in loss of rent due to the Community and allottees.

These claims arise as a matter of federal common law.<sup>3</sup> To determine the United States' potential liability with respect to these claims, the Community again examined when each undocumented right-of-way came into use and looked at the current market value of the land at that time and how rent would have been calculated. In particular, the Community looked at the date each undocumented right-of-way began in order to determine which, if any, federal regulations applied to calculate the appropriate compensation. For instance, beginning in 1929, the first set of comprehensive regulations governing right-of-ways provided guidance on calculating appropriate charges which included an appraisal of the value of the land and any damage which would result therefrom.<sup>4</sup> The 1968 regulations further provided that consideration for any right-of-way granted or renewed "shall be not less than the appraised fair market value of the rights granted, plus severance damages, if any, to the remaining estate."<sup>5</sup> Current statutes for right-of-ways require the company to make payment to the Secretary for the benefit of the Tribe, of full compensation for such right-of-way, including all damage to improvements and adjacent lands.<sup>6</sup> Together, these statutes and regulations make clear that had the United States documented these rights-of-way as it was required to do, it should have collected rent based on the fair market value of the land for the benefit of the Community and affected allottees.

## 2. *Failure to Accurately Survey the Reservation's Northwestern Boundary*

In 1867, William Pierce conducted the first significant survey of the area surrounding the confluence of the Salt and Gila Rivers. Pierce was retained to survey a baseline 36 miles to the east of the initial point – which was located at the intersection of the Salt and Gila Rivers – and a meridian 96 miles north of the initial point. The two lines surveyed by Pierce constituted the Gila and Salt River base and meridian and were used in later surveys of the area.

In 1868, Wilfred Ingalls surveyed township lines in the Phoenix area. This work resulted in the first approved Government Land Office ("GLO") plat maps. Ingalls also conducted the first GLO survey of the Salt River channel ("Ingalls Survey"). As a result of the Pierce and Ingalls surveys, a map of Township 1 North, Range 1 East – within which the land at issue in this letter is located – was produced.

The Community's Reservation was first created by statute in 1859 and was subsequently expanded by a series of Executive Orders. President Rutherford B. Hayes signed one of these

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<sup>3</sup> See *Oneida Cty., N.Y. v. Oneida Indian Nation of New York State*, 470 U.S. 226 (1985) (tribal property rights are protected by federal common law). In *Oneida County*, the Supreme Court read *United States v. Santa Fe Pacific R. Co.*, 314 U.S. 339 (1941), as holding that "Indians have a common-law right of action for an accounting of 'all rents, issues and profits against trespassers on their land.'" *Oneida County*, 470 U.S. at 235-36; see also *United States v. Milner*, 583 F.3d 1174, 1182 (9th Cir. 2009) (citing *United States v. Pend Oreille Pub. Util. Dist. No. 1*, 28 F.3d 1544, 1549 n. 8 (9th Cir.1994)) ("Federal common law governs an action for trespass on Indian lands.").

<sup>4</sup> See DEP'T OF THE INTERIOR, REGULATIONS CONCERNING RIGHTS OF WAY OVER INDIAN LANDS, at § 78 (1929) (available at <https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/T-22078.pdf>).

<sup>5</sup> 33 Fed. Reg. 19803, 19807 (Dec. 27, 1968) (codified at 25 C.F.R. § 161.12 (1968)).

<sup>6</sup> See 25 U.S.C. §§ 314, 319.

Executive Orders on June 14, 1879, which established the northwesterly corner and expanded the northern boundary of the Community's Reservation to the Salt River as follows:

Beginning at the northwest corner of the old Gila Reservation; thence by a direct line running northwesterly until it strikes Salt River 4 miles east from the intersection of said river with the Gila River; thence down and along the middle of said Salt River to the mouth of the Gila River; thence up and along the middle of said Gila River to its intersection with the northwesterly boundary line of the old Gila Reservation; thence northwesterly along said last described boundary line to the place of beginning. (Emphasis added).

In 1895, the United States employed Lewis Wolfley to survey the northern boundary of the Reservation. Wolfley was erroneously instructed to establish the boundary at the "left bank" of the Salt River – the Reservation side of the river. This error would be the first in a series of errors committed by the government with regard to surveying and marking the northern boundary of the Reservation. In 1898, following its completion, the Wolfley survey was rejected by the federal government because the northern boundary of the Reservation had been marked at the left bank of the Salt River, rather than the "middle of the . . . Salt River" as called for in President Hayes' Executive Order of 1879. As a result, the GLO Commissioner ordered the Surveyor General to have the northern boundary resurveyed.

Between 1910 and 1912, Guy P. Harrington was assigned to survey the entire Reservation for the purpose of preparing the land to be divided into individual allotments. Harrington surveyed 23 full or fractional townships within the Community. On July 29, 1919, the GLO sent a letter ("The 1919 Letter") to the Surveyor General for Arizona approving certain portions of Harrington's survey, providing detailed instructions for correcting certain problems with the survey, and containing directives for new work to be performed on land since added to the Reservation.

The GLO, in order to prevent further encroachment on the Community's land, instructed the Land Office in Phoenix to cease the disposal of land immediately adjacent to the Reservation. In The 1919 Letter, the GLO explained that the encroachment upon the Community's land resulted from the failure to timely survey the Reservation's boundaries in the wake of President Hayes' 1879 Executive Order.

To remedy these prior mistakes, the GLO ordered the Surveyor General to resurvey the area once more, with specific instructions to set the Reservation's northern boundary at the middle of the old channel of the Salt River as it existed on June 14, 1879. This project was assigned to Harrington, one of the men responsible for the partially approved and partially rejected (as erroneous) 1910-1912 surveys. Harrington was furnished with a copy of the Ingalls Survey and instructed to interview old settlers in the area. Although Harrington allegedly made a "concerted" effort to establish the position of the river as it existed in 1879, he completed the survey in just two months. The Commissioner accepted the new Harrington survey on November 3, 1920 ("Harrington Survey").<sup>7</sup>

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<sup>7</sup> By 1919 when the Harrington Survey was conducted and over time since then the middle of the Salt River has moved northward. Also, in June 1914, C.R. Olberg oversaw a table-top survey of the northern boundary of the

However, in performing his survey Harrington ignored the directives of the GLO contained within the 1919 Letter. As a result Harrington, *inter alia*, inaccurately surveyed the mid-point of the Salt River and failed to take into account the northerly accretion of the river.<sup>8</sup> Thus, the Community believes that as a result of the Harrington Survey errors and the further northward movement of the Salt River since that time, the Community has lost land on the northern portion of its Reservation due to accretion.

As a result of the foregoing, the Community alleged the northern boundary of the Reservation is actually located north of the boundary inaccurately relied upon by the City of Phoenix and others. The Community further contended that the United States, in accepting the erroneous and fixed boundary, and issuing patents for land based on the Harrington Survey, transferred the Community's Reservation lands to various parties in violation of the law, including, but not limited to, the Non-Intercourse Act, 25 U.S.C. § 177.

In addition, since the time of the Harrington Survey the middle of the River has moved north and the United States, as trustee, failed to adequately protect and enforce the Community's boundary. This resulted in potential boundary disputes with the City of Phoenix<sup>9</sup> and private individuals who own land adjacent to the Salt River in Maricopa County, which the Community asserted encroaches on land rightfully granted to and owned by the Community.

## **B. Gila River Trust Case Settlement Agreement**

Rather than litigate the case in Federal Court, the Community entered into settlement negotiations with the United States. The settlement discussions resulted in a global settlement that includes the Joint Stipulation of Settlement, BLM land transfer, BIA letter, and settlement legislation (H.R. 4032) discussed below.

### *1. Joint Stipulation of Settlement*

The Joint Stipulation of Settlement is a settlement agreement between the Community and the United States that resolves and settles the Community's claims in the Gila River Trust Case. Under the Joint Stipulation of Settlement the Community waived its claims against the United States through the date of entry of the Joint Stipulation for its failure to provide a historical accounting, the United States' mismanagement of the Community's non-monetary trust assets or resources, the United States' mismanagement of the Community's trust funds and the

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Reservation. This survey accurately depicted the location of the middle of the main channel of the Salt River but was not used by Harrington.

<sup>8</sup> "Accretion" is the "[t]he gradual accumulation of land by natural forces . . . ." *Accretion*, BLACK'S LAW DICTIONARY (7th Ed. 1999). The doctrine of accretion provides that the grantee of land bounded by a body of water gains ownership of any land that is uncovered by the gradual and imperceptible movement of the body of water. *Bonelli Cattle Co. v. Arizona*, 414 U.S. 313, 325-326 (1973), *overruled on other grounds by Oregon ex rel. State Land Bd. v. Corvallis Sand & Gravel Co.*, 429 U.S. 363, 371 (1977).

<sup>9</sup> For example, due to the United States' survey errors the City of Phoenix constructed a wastewater treatment plant, which has been and is currently discharging effluent and the materials contained within such effluent onto land rightfully granted to and owned by the Community. Moreover, the City of Phoenix is causing twice-treated effluent to enter the Reservation through recharge of the aquifer underlying the Community's northern boundary.

United States' failure to perform trust duties related to the management of trust funds and non-monetary trust assets or resources. In particular, the Community waived its claims against the United States for its failure to document Federal rights-of-way (roads, electric, and irrigation) across the Reservation. The Community also waived its claims against the United States related to the boundary dispute for the Northern boundary of the Reservation.

Under the Settlement, the Community explicitly retained all future claims of any kind, as well as its claims related to water rights, federal law hunting, fishing, trapping and gathering rights, federal laws of general application for the protection of the environment and the Community's claims related to the United States' failure to perform investment duties for the Lower Colorado River Basin Development Fund.

In exchange for waiving these claims and dismissing the Gila River Trust Case with prejudice, the United States paid the Community \$12,500,000.00 (Twelve Million and Five Hundred Thousand Dollars). Further, pursuant to the Settlement the Community accepted as accurate the balances of all of the Community's trust fund accounts based upon the most recent Statements of Performance issued by the Office of the Special Trustee. The United States will continue to provide periodic Statements of Performance as it has been doing since 1995.

The Community and the United States approved the Joint Stipulation of Settlement and filed the fully executed Joint Stipulation of Settlement with the D.C. District Court on June 22, 2016. The Court granted the Joint Stipulation of Settlement that same day by minute order. On March 20, 2017 the Community and the United States filed a Joint Stipulation to Dismiss the Gila River Trust Case with prejudice.

## 2. *BLM Land Transfer*

As part of the overarching global settlement, the Community pursued the transfer of approximately 3,400 acres of BLM land to the Community as replacement for lands lost due to the Community agreeing to a fixed boundary along the Salt River. As part of its authority under the Federal Land Policy and Management Act ("FLPMA") BLM completed the Lower Sonoran Resource Management Plan Record of Decision ("Lower Sonoran RMP") for management of over 930,200 acres of Federal lands in Maricopa, Gila, Pima, Pinal and Yuma Counties in central and southern Arizona.<sup>10</sup> The Lower Sonoran RMP identified lands for disposal and provided legal descriptions for such lands available for disposal.<sup>11</sup>

During the public comment period of the Lower Sonoran RMP process, the Community requested that a number of parcels of BLM land be considered for disposal in the Lower Sonoran RMP.<sup>12</sup> BLM made a determination that certain parcels met the requirements in 43 U.S.C. 1713

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<sup>10</sup> DEP'T OF THE INTERIOR, LOWER SONORAN RECORD OF DECISION & APPROVED RESOURCE MANAGEMENT PLAN, at V-VI (2012) (Letter from Emily Garber, Field Manager) (available at [https://eplanning.blm.gov/epl-front-office/projects/lup/11856/40127/42156/01-LSDA\\_ROD-ARMP\\_FINAL\\_2012-09-19\\_web-with-Links\\_sans-map-pages.pdf](https://eplanning.blm.gov/epl-front-office/projects/lup/11856/40127/42156/01-LSDA_ROD-ARMP_FINAL_2012-09-19_web-with-Links_sans-map-pages.pdf)).

<sup>11</sup> See *id.*, at Appendix C.

<sup>12</sup> See Letter from Gila Governor Williams Rhodes to Emily Garber, Field Manager, BLM (July 30, 2009) and Letter from Gila Governor William Rhodes to Emily Garber, Field Manager, BLM (April 27, 2010).

and included such parcels in the final Lower Sonoran RMP, some of which included the lands the Community had requested and identified for disposal.<sup>13</sup> BLM's identification of such lands for disposal as part of the Lower Sonoran RMP explicitly allowed for the sale of such parcels.<sup>14</sup>

During the settlement negotiations, and as an essential component of the overall settlement, the Community met with BLM officials and indicated the Community's continued interest to purchase the specific parcels that were contiguous to the Reservation and that included a number of highly significant cultural resources and cultural sites throughout the tracts.<sup>15</sup>

In June of 2015 the BLM agreed to work with the Community to transfer the identified BLM disposal land to the Community. Since that time the Community agreed to provide funds in a Contributed Funds Agreement in order to facilitate the BLM perform the necessary work to effectuate the land transfer. In coordination with the Office of General Office, Tribal Historic Preservation Office, Cultural Resources and Community Department of Environmental Quality, the Community has been working with BLM to finalize the notice of realty land transfer and to complete the necessary cultural and environmental review needed to finalize the transfer. Upon completion of the environmental and cultural review and publication of the notice of realty, along with a relevant public comment period, the Community will purchase the BLM land using funds from the settlement. H.R. 4032 authorizes the land, once transferred, to be placed into trust on behalf of the Community.

### 3. *BIA Letter*

As part of the settlement negotiations, the Community and the United States discussed the need for federal legislation and the Administration's support of such legislation, in order to provide non-monetary relief regarding the undocumented rights-of-way on the Reservation, the northwesterly boundary of the Community's Reservation and the BLM land transfer. The Bureau of Indian Affairs issued a letter agreeing to work with the Community in a good-faith manner to prepare, introduce, and support the Community's legislative proposal in the 114<sup>th</sup>, 115<sup>th</sup> and 116<sup>th</sup> Congresses.<sup>16</sup>

### 4. *Settlement Legislation*

As discussed more fully below, federal legislation was needed to effectuate the benefits under the Settlement. Specifically, the Community needed to have a mechanism to legally establish the rights-of-way on the Reservation. Since the rights-of-ways all traverse some allottee lands, allottees would have to have consented to the rights-of-ways, and the United States was unable to provide the consent itself on behalf of allottees. Congress, through federal legislation, however, can provide the legal basis to establish the rights-of-ways in an efficient manner. Thus, H.R. 4032 is an innovative solution to solve the thorny problem of undocumented

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<sup>13</sup> See Lower Sonoran RMP, supra note 12 at Appendix C.

<sup>14</sup> See also 43 C.F.R. 2710.0-6.

<sup>15</sup> See Gila River Indian Reservation and Lands to be Taken into Trust Status Map included as an attachment to this testimony. The Map identifies the BLM disposal land that is of cultural significance to the Community. There are approximately 3,185 acres located in the Estrellas that are contiguous to the Northwest portion of the Reservation and approximately 200 acres adjacent to the southern boundary of the Reservation.

<sup>16</sup> See BIA Letter included as an attachment to this testimony.

rights-of-way that plagues much of Indian Country. The legislation also importantly establishes the Northwest Reservation boundary and authorizes and directs the placement of the BLM lands into trust status for the Community, all of which requires Congressional action.<sup>17</sup>

## **II. H.R. 4032: Settlement Legislation**

In addition to the Settlement Agreement that was filed in Federal court, federal legislation is also necessary for the Community to effectuate the settlement terms agreed to by the Community and the United States. Importantly, H.R. 4032 will:

- (1) establish, ratify, document, and confirm the Federal electrical, irrigation, and road rights-of-way and easements that exist within the exterior boundaries of the Reservation as of the date of the enactment of the Act;
- (2) establish a fixed location of the northern boundary of the Reservation and to provide for the Secretary of the Interior to ensure that the northern boundary is resurveyed and marked in conformance with the public system of surveys;
- (3) authorize and direct the Secretary to place certain lands into trust for the benefit of the Community;
- (4) substitute the benefits provided under this Act to the Community, its members and allottees for any claims that the Community, its members and allottees may have had in connection with alleged failures relating to the northern boundary of the Reservation and the documentation and management of Federal rights-of-way on the Reservation; and
- (5) authorize the funds necessary for the United States to meet the obligations under this Act.<sup>18</sup>

### **Section 5. Land Into Trust For the Benefit of the Community**

H.R. 4032 provides the mechanism to place the Lower Sonoran lands, approximately 3,400 acres of BLM disposal land, into trust on behalf of the Community once the lands are transferred through the FLPMA disposal process. As discussed above, the Community is working with the BLM to finalize this process and expects that the process will be completed later this year. The Community will use the Settlement funds to purchase the disposal lands from the BLM for fair market value. Once the transfer is finalized, H.R. 4032 authorizes and directs the Secretary to place such lands into trust status for the benefit of the Community.

Given the cultural significance and remoteness of these lands, the Community does not plan to develop these lands. Rather, the Community plans to protect these lands in order to preserve the documented cultural properties such as plant, animal and raw material resource

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<sup>17</sup> Section 210 of the Gila River Indian Community Water Rights Settlement Act of 2004 explicitly provides that “[t]he Community may seek to have legal title to additional land in the State located outside the exterior boundaries of the Reservation taken into trust by the United States for the benefit of the Community pursuant *only to an Act of Congress enacted after the date of enactment of this Act specifically authorizing the transfer for the benefit of the Community.*” Gila River Indian Community Water Rights Settlement Act, Pub. L. 108-451, 118 Stat.3523 (2004) (emphasis added).

<sup>18</sup> See H.R. 4032, Section 3.

gathering areas, sites of ideological and religious significance (i.e. rock art, rock shelters, and shrine sites) and trail systems and transportation routes that entail ideological and religious significance with historic and prehistoric Community settlements.

While the Community has no plans to develop the lands, H.R. 4032 provides an explicit prohibition of gaming on the Lower Sonoran BLM disposal lands that shall be placed in trust in order to clarify that no gaming will take place on these lands. In particular, Section 5(d) provides that “Class II and class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall not be allowed at any time on the land taken into trust under subsection (a).

### **Section 6. Establishment of Fixed Northern Boundary**

Section 6 of H.R. 4032 establishes the Northwestern boundary of the Reservation along the Salt River to settle the boundary dispute by the Community relinquishing land that is currently part of the Reservation in order to avoid a title dispute with the City of Phoenix and private land owners.<sup>19</sup> The Community’s Northwestern boundary of the Reservation will be modified to be a fixed and permanent boundary as established by the Harrington Survey, as shown on the plat and described in the field notes. Subject to available appropriations, the modified Reservation boundary will be surveyed and clearly marked. The Secretary of the Department of the Interior will be required to publish the modified survey in the Federal Register. This shall constitute a final resolution of the Community’s Northwest Reservation boundary dispute.

### **Section 7. Satisfaction and Substitution of Claims**

Section 7 confirms that the benefits provided to the Community, its members, and allottees are equivalent to or exceed the claims the Community, its members, and allottees may possess as of the date of enactment of the Act.

### **Section 8. Federal Rights-of-Way**

Section 8 of H.R. 4032 establishes, ratifies and confirms all of the rights-of-way on the Reservation. The specific location and dimensions of the rights-of-way will be determined through surveys conducted by the Bureau of Indian Affairs, or its subcontractor. The legislation provides specific language to allow for termination of rights-of-way pursuant to 25 C.F.R. 169.20 or by written request by the Community. However, once the rights-of-way are established, ratified and confirmed, all other rights-of-ways or easements on the Reservation shall be considered valid only to the extent that they have been established in accordance with applicable Federal statute and regulation specifically governing rights-of-ways or easements on Indian lands.

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<sup>19</sup> See Gila River Indian Reservation and Lands to be Taken into Trust Status Map included as an attachment to this testimony. The Map shows where the Northwestern boundary at issue is located.

### **Section 9. Survey**

Section 9 of H.R. 4032 provides six (6) years after enactment of the Act, for the Bureau of Indian Affairs to complete a survey of each of the Federal rights-of-way established under the Act and to publish those rights-of-way surveys to be published in the Federal Register. The Bureau of Indian Affairs is authorized to complete the surveys itself or contract with the Community or a third party to complete the surveys.

### **Section 10: Authorization of Appropriations**

Section 10 provides that subject to available appropriations, there are authorized appropriations for: (1) the Secretary to take actions required or authorized by the legislation; and (2) for the Secretary or the Bureau of Indian Affairs to undertake the surveys authorized for all electrical, road and irrigation rights-of-ways and easements depicted on the ROW, Easements, and Federal and Tribal Facilities Map.

### **III. Conclusion**

H.R. 4032 is a non-controversial, bi-partisan piece of legislation that is absolutely critical to achieve the settlement terms that the Community agreed to in exchange for settling its federal trust accounting case against the United States. The legislation represents a compromise and savings to the United States' resources that would otherwise have been required if the Community further litigated the Gila River Trust Case. Moreover, the legislation provides a groundbreaking solution to the problem of undocumented Federal rights-of-way that is not unique to the Community and which could serve as a template for other tribes that are experiencing similar problems. Finally, H.R. 4032 provides certainty and eliminates the possibility of further litigation regarding the Northwestern boundary of the Reservation while restoring culturally significant lands to the Reservation.

The Community thanks the Subcommittee for holding a hearing on this important piece of legislation and we look forward to seeing the bill move through full Committee consideration and eventual passage.