

Calendar No. 557

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-270

TO DIRECT THE SECRETARY OF THE INTERIOR TO TAKE CERTAIN LAND
LOCATED IN PINAL COUNTY, ARIZONA, INTO TRUST FOR THE BENEFIT
OF THE GILA RIVER INDIAN COMMUNITY, AND FOR OTHER PURPOSES

SEPTEMBER 24, 2020.—Ordered to be printed

Mr. HOEVEN, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 2912]

[Including cost estimate of the Congressional Budget Office]

The Committee on Indian Affairs, to which was referred the bill (S. 2912) to direct the Secretary of the Interior to take certain land located in Pinal County, Arizona, into trust for the benefit of the Gila River Indian Community, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of this bill is to authorize the Secretary of the U.S. Department of the Interior (Secretary) to take land, located in Pinal County, Arizona, into trust for the benefit of the Gila River Indian Community (GRIC or the Indian Tribe).

BACKGROUND

The GRIC's reservation was originally established through Congressional Action,¹ and later by Executive Order dated August 31, 1876. Over time, the Indian Tribe expanded its reservation to approximately 375,000 acres of land located near the metropolitan area of Phoenix, Arizona.²

The Blackwater Trading Post is surrounded on three sides by GRIC's reservation. The fourth side abuts the frontage of Arizona State Highway 287 (Highway). Constructed in 1926, the Highway

¹ See Act of February 28, 1859, 11 Stat. 401, Chapter LXVI.

² The Tribe's reservation was further expanded by Executive Orders dated October 31, 1876, January 10, 1879, June 14, 1879, May 5, 1882, November 15, 1883, March 22, 1911, May 8, 1911, July 31, 1911, December 6, 1911, June 22, 1913, August 27, 1914, and July 19, 1915.

is the likely reason for the establishment of the first store, which would later become known as the Blackwater Trading Post. The history of the first store and its early proprietors is mostly lost to history, but what is known is the Ellis family owned and operated the Blackwater Trading Post for roughly 60 years. Since at least 1930, the local community, including the Indian Tribe, bought, sold, and traded goods such as basketry, pottery, and other items at the Blackwater Trading Post.

According to a family member, the Ellis family began acquiring artifacts and other items as early as 1944 or 1946. In 2010, the Ellis family sold the Blackwater Trading Post and all items contained therein to the GRIC. After the sale, an inventory was conducted of the Blackwater Trading Post's artifact collection; over 1,000 items were catalogued, including 126 Akimel O'otham baskets. This collection is now housed in GRIC's Huhugam Heritage Center.

The Blackwater Trading Post has been closed since GRIC purchased the land in 2010. At this time, the Indian Tribe is undecided on whether to reopen the Blackwater Trading Post or use the land for another purpose.

SUMMARY OF THE BILL

The bill, S. 2912, authorizes the Secretary to take 55.3 acres of land located in Pinal County, Arizona into trust for GRIC on the condition that GRIC meet four requirements: 1) conveyance of all of its right, title, and interest in and to the land to the Secretary; 2) submission of a request to the Secretary to take the land into trust for the benefit of the Indian Tribe; 3) a survey, if the Secretary determines it be necessary, that determines the exact acreage and legal description of the land to be placed into trust to the satisfaction of the Secretary; and 4) the Indian Tribe pays for all survey costs. A map of the surveyed land will be on file with the appropriate offices of the Secretary and available for public viewing.

Once the Secretary places the land into trust for the Indian Tribe, the land shall be treated as part of GRIC's reservation. Under S. 2912, Class II and Class III gaming will not be allowed at any time on the land to be taken into trust.

LEGISLATIVE HISTORY

On November 20, 2019, Senators Martha McSally (R-AZ) and Kyrsten Sinema (D-AZ) introduced S. 2912, the *Blackwater Trading Post Land Transfer Act*. The Committee on Indian Affairs of the Senate (the Committee) held a legislative hearing on June 24, 2020. At this legislative hearing, Mr. Darryl LaCounte, Director of the Bureau of Indian Affairs, testified in support of S. 2912. The Committee held a duly called business meeting on July 29, 2020, to consider eleven bills, including S. 2912. No amendments were filed to S. 2912. The Committee passed S. 2912, en bloc with three other bills by voice vote, and ordered the bill to be favorably reported.

A companion bill in the House of Representatives, H.R. 3160, the *Blackwater Trading Post Land Transfer Act*, was introduced by Representatives Tom O'Halleran (D-AZ-1), David Schweikert (R-AZ-6), Ruben Gallego (D-AZ-7), Ann Kirkpatrick (D-AZ-2), Greg

Stanton (D–AZ–9), Debbie Lesko (R–AZ–8), Paul A. Gosar (R–AZ–4), and Andy Biggs (R–AZ–5) on June 6, 2019. H.R. 3160 was referred to the Committee on Natural Resources of the House of Representatives. On June 20, 2019, the bill was further referred to the Subcommittee on Indigenous Peoples of the United States (the Subcommittee) of the Committee on Natural Resources. On October 16, 2019, the Subcommittee held a hearing on the bill. The Subcommittee discharged H.R. 3160 and the Committee on Natural Resources considered the bill during a mark-up session held on January 15, 2020. On the same day, the Committee on Natural Resources of the House of Representatives ordered the bill to be reported by unanimous consent. The House of Representatives passed H.R. 3160 on September 22, 2020 under suspension of the rules.

NEED FOR LEGISLATION

Placing the land that houses the Blackwater Trading Post into trust for GRIC will preserve a historical and cultural site that is significant to the Indian Tribe. Under the term of GRIC’s water settlement, which was signed into law under the *Arizona Water Settlements Act* in 2004, Congress must authorize the Secretary to take land located outside GRIC’s existing reservation boundaries into trust; GRIC is prohibited from utilizing the administrative land into trust process for such acquisitions.³

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 states that the Act may be cited as the “Blackwater Trading Post Land Transfer Act.”

Sec. 2. Definitions

Section 2 provides definitions used throughout the bill, including Blackwater Trading Post, Community, Map, Reservation, and Secretary.

Sec. 3. Land taken into trust for benefit of the Gila River Indian Community

Subsection (a) instructs the Secretary to take Blackwater Trading Post into trust for the benefit of the Gila River Indian Community, after the Indian Tribe—

- (1) Conveys all right, title, and interest in and to the Blackwater Trading Post from the Gila River Indian Community to the Secretary;
- (2) Submits to the Secretary a request to take the Blackwater Trading Post land into trust for the benefit of the Indian Tribe;
- (3) Conducts a survey, if the Secretary determines one is necessary and to their satisfaction, to determine the exact acreage and legal description of the Blackwater Trading Post land; and
- (4) Pays for all costs related to any surveying conducted under paragraph (3).

³ See Arizona Water Settlements Act, Pub. L. No. 108–451, 118 Stat. 3523 (2004).

Subsection (b) requires that not later than 180 days after the Blackwater Trading Post land is taken into trust, a map will be placed on file and available to the public for viewing with the appropriate offices of the Secretary.

Subsection (c) treats the land, once placed in trust, as part of the Gila River Indian Community's reservation.

Subsection (d) provides that Class II and Class III gaming under the *Indian Gaming Regulatory Act* will not be allowed at any time on the land taken into trust under subsection (a).

Subsection (e) requires that not later than 180 days after the date of enactment of this Act, the Secretary will provide a full metes-and-bounds description of the Blackwater Trading Post land to be published in the Federal Register. This description will be considered the official description of the trust land.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated September 1, 2020, was prepared for S. 2912:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 1, 2020.

Hon. JOHN HOEVEN,
*Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2912, the Blackwater Trading Post Land Transfer Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jon Sperl.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

Bill #, Blackwater Trading Post Land Transfer Act			
As [Manager] on July 29, 2020			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	No
* = between zero and \$500,000			

S. 2912 would direct the Department of the Interior (DOI) to take into trust approximately 55 acres of land in Pinal County, Ari-

zona, owned by the Gila River Indian Community. Under the bill, DOI would hold title to that land for the benefit of the tribe. The bill would require the tribe to fulfill reporting and surveying requirements in order for DOI to take the land into trust, and would prohibit certain types of gaming on those lands. Using information provided by DOI, CBO estimates that the administrative costs to implement S. 2912 would not be significant.

S. 2912 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by prohibiting state and local governments from taxing land taken into trust for the Gila River Indian Community. Information from Pinal County about taxes and other receipts associated with the land indicates that those foregone revenues would total less than \$20,000 annually, which is far below the annual threshold established in UMRA (\$84 million in 2020, adjusted annually for inflation).

The bill contains no private-sector mandates.

On September 1, 2020, CBO transmitted a cost estimate for H.R. 3160, the Blackwater Trading Post Land Transfer Act, as ordered reported by the House Committee on Natural Resources on January 15, 2020. The two bills are similar, and CBO's estimates of their budgetary effects are the same.

The CBO staff contacts for this estimate are Jon Sperl (for federal costs) and Rachel Austin (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes S. 2912 will have minimal impact on regulatory or paperwork requirements.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 2912.

CHANGES IN EXISTING LAW

On February 6, 2019, the Committee unanimously approved a motion to waive subsection 12 of rule XXVI of the Standing Rules of the Senate. In the opinion of the Committee, it is necessary to dispense with subsection 12 of rule XXVI of the Standing Rules of the Senate to expedite the business of the Senate.