

COLORADO RIVER INDIAN RESERVATION BOUNDARY CORRECTION ACT

SEPTEMBER 28, 2004.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 2941]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2941) to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE, FINDINGS, PURPOSES.

(a) **SHORT TITLE.**—This Act may be cited as the “Colorado River Indian Reservation Boundary Correction Act”.

(b) **FINDINGS.**—Congress finds the following:

(1) The Act of March 3, 1865, created the Colorado River Indian Reservation (hereinafter “Reservation”) along the Colorado River in Arizona and California for the “Indians of said river and its tributaries”.

(2) In 1873 and 1874, President Grant issued Executive Orders to expand the Reservation southward and to secure its southern boundary at a clearly recognizable geographic location in order to forestall non-Indian encroachment and conflicts with the Indians of the Reservation.

(3) In 1875, Mr. Chandler Robbins surveyed the Reservation (hereinafter “the Robbins Survey”) and delineated its new southern boundary, which included approximately 16,000 additional acres (hereinafter “the La Paz lands”), as part of the Reservation.

(4) On May 15, 1876, President Grant issued an Executive Order that established the Reservation’s boundaries as those delineated by the Robbins Survey.

(5) In 1907, as a result of increasingly frequent trespasses by miners and cattle and at the request of the Bureau of Indian Affairs, the General Land Office of the United States provided for a resurvey of the southern and southeastern areas of the Reservation.

(6) In 1914, the General Land Office accepted and approved a resurvey of the Reservation conducted by Mr. Guy Harrington in 1912 (hereinafter the “Har-

rington Resurvey”) which confirmed the boundaries that were delineated by the Robbins Survey and established by Executive Order in 1876.

(7) On November 19, 1915, the Secretary of the Interior reversed the decision of the General Land Office to accept the Harrington Resurvey, and upon his recommendation on November 22, 1915, President Wilson issued Executive Order No. 2273 “. . . to correct the error in location said southern boundary line . . .”—and thus effectively excluded the La Paz from the Reservation.

(8) Historical evidence compiled by the Department of the Interior supports the conclusion that the reason given by the Secretary in recommending that the President issue the 1915 Executive Order—“to correct an error in locating the southern boundary”—was itself in error and that the La Paz lands should not have been excluded from the Reservation.

(9) The La Paz lands continue to hold cultural and historical significance, as well as economic development potential, for the Colorado River Indian tribes, who have consistently sought to have such lands restored to their Reservation.

(c) **PURPOSES.**—The purposes of this Act are:

(1) To correct the south boundary of the Reservation by reestablishing such boundary as it was delineated by the Robbins Survey and affirmed by the Harrington Resurvey.

(2) To restore the La Paz lands to the Reservation, subject to valid existing rights under Federal law and to provide for continued reasonable public access for recreational purposes.

(3) To provide for the Secretary of the Interior to review and ensure that the corrected Reservation boundary is resurveyed and marked in conformance with the public system of surveys extended over such lands.

SEC. 2. BOUNDARY CORRECTION, RESTORATION, DESCRIPTION.

(a) **BOUNDARY.**—The boundaries of the Colorado River Indian Reservation are hereby declared to include those boundaries as were delineated by the Robbins Survey, affirmed by the Harrington Survey, and described as follows: The approximately 15,375 acres of Federal land described as “Lands Identified for Transfer to Colorado River Indian Tribes” on the map prepared by the Bureau of Land Management entitled “H.R. 2981, Colorado River Indian Reservation Boundary Correction Act, and dated May 14, 2004”, (hereinafter referred to as the “Map”).

(b) **MAP.**—The Map shall be available for review at the Bureau of Land Management.

(c) **RESTORATION.**—Subject to valid existing rights under Federal law, all right, title, and interest of the United States to those lands within the boundaries declared in subsection (a) that were excluded from the Colorado River Indian Reservation pursuant to Executive Order No. 2273 (November 22, 1915) are hereby restored to the Reservation and shall be held in trust by the United States on behalf of the Colorado River Indian Tribes.

(d) **EXCLUSION.**—Excluded from the lands restored to trust status on behalf of the Colorado River Indian Tribes that are described in subsection (a) are 2 parcels of Arizona State Lands identified on the Map as “State Lands” and totaling 320 acres and 520 acres.

SEC. 3. RESURVEY AND MARKING.

The Secretary of the Interior shall ensure that the boundary for the restored lands described in section 2(a) is surveyed and clearly marked in conformance with the public system of surveys extended over such lands.

SEC. 4. WATER RIGHTS.

The restored lands described in section 2(a) and shown on the Map shall have no Federal reserve water rights to surface water or ground water from any source.

SEC. 5. PUBLIC ACCESS.

Continued access to the restored lands described in section (2)(a) for hunting and other existing recreational purposes shall remain available to the public under reasonable rules and regulations promulgated by the Colorado River Indian Tribes.

SEC. 6. ECONOMIC ACTIVITY.

(a) **IN GENERAL.**—The restored lands described in section (2)(a) shall be subject to all rights-of-way, easements, leases, and mining claims existing on the date of the enactment of this Act. The United States reserves the right to continue all Reclamation projects, including the right to access and remove mineral materials for Colorado River maintenance on the restored lands described in section (2)(a).

(b) **ADDITIONAL RIGHTS-OF-WAY.**—Notwithstanding any other provision of law, the Secretary, in consultation with the Tribe, shall grant additional rights-of-way, expansions, or renewals of existing rights-of-way for roads, utilities, and other accom-

modations to adjoining landowners or existing right-of-way holders, or their successors and assigns, if—

- (1) the proposed right-of-way is necessary to the needs of the applicant;
 - (2) the proposed right-of-way acquisition will not cause significant and substantial harm to the Colorado River Indian Tribes; and
 - (3) the proposed right-of-way complies with the procedures in part 169 of title 25, Code of Federal Regulations consistent with this subsection and other generally applicable Federal laws unrelated to the acquisition of interests on trust lands, except that section 169.3 of those regulations shall not be applicable to expansions or renewals of existing rights-of-way for roads and utilities.
- (c) FEES.—The fees charged for the renewal of any valid lease, easement, or right-of-way subject to this section shall not be greater than the current Federal rate for such a lease, easement, or right-of-way at the time of renewal if the holder has been in substantial compliance with all terms of the lease, easement, or right-of-way.

SEC. 7. GAMING.

The Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) shall not apply to the restored lands described in section (2)(a).

PURPOSE OF THE BILL

The purpose of H.R. 2941 is to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2941, the “Colorado River Indian Reservation Boundary Correction Act,” restores certain federal lands in Arizona to the Colorado River Indian Reservation.

The Colorado River Indian Reservation, comprising approximately 270,000 acres along the Colorado River in the States of Arizona and California, was established by an Act of Congress on March 3, 1865. President Grant issued Executive Orders to expand the boundary of the Reservation to prevent encroachment by non-Indians. In 1875, a Mr. Chandler Robbins surveyed the Reservation and delineated a new southern boundary, which included 16,000 acres in Arizona known as the “La Paz” lands. To address trespass by outsiders, the government accepted and approved a resurvey of the Robbins Survey by a Mr. Guy Harrington in 1912.

In 1915 the Secretary of Interior reversed the findings of the Robbins and Harrington surveys. As a result, President Wilson that same year issued an Executive Order excluding the La Paz lands from the reservation.

Historical evidence gathered over the years indicates the exclusion of the La Paz lands from the Reservation was done in error or with the purpose of preventing the tribe from acquiring the lands. At present, virtually no one disagrees with the objective of returning the La Paz to the tribe’s reservation. In 1980 and 1981, Senator Barry Goldwater introduced bills (S. 2317 and S. 1652), to restore La Paz lands to the reservation. Hearings were held in the Senate on S. 1652 but no further substantive congressional action occurred on this issue until now.

H.R. 2941 corrects the south boundary of the reservation by placing the La Paz lands in trust for the benefit of the Colorado River Indian Tribes and drawing the boundary of the reservation around these lands. The restoration excludes a 320-acre parcel of land owned by the State of Arizona. The bill provides that no water rights issues are affected by this bill. Valid existing rights, including public recreational access subject to reasonable tribal rules, are preserved.

On April 21, 2004, the full committee held a hearing on H.R. 2941. Witnesses representing the Interior Department and the tribe testified. Both were supportive of the bill, however, the Administration raised concerns relating to rights-of-way and leaseholder interests. Subsequent to the hearing, the Committee was informed that two utilities have right-of-way interests on a portion of the La Paz lands.

In the Committee markup of H.R. 2941, an amendment in the nature of a substitute was adopted to address these issues. To describe the La Paz lands, the amendment references a map on file with the Bureau of Land Management instead of the tediously lengthy written description in the underlying bill. It also clarifies the protection of valid interests in the lands transferred to the tribe, including rights-of-way held by two utilities. The amendment also adds a new section 7 to H.R. 2941 which provides that the Indian Gaming Regulatory Act does not apply to the restored lands.

COMMITTEE ACTION

H.R. 2941 was introduced on July 25, 2003, by Congressman Raúl Grijalva (D-AZ). The bill was referred to the Committee on Resources. On April 21, 2004, the Full Resources Committee held a hearing on the bill. On September 15, 2004, the Full Committee met to consider the bill. Mr. Grijalva offered an amendment in the nature of a substitute. It was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enacting H.R. 2941 could affect direct spending (including offsetting receipts), but it estimates that any such effects would be negligible.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

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CBO estimates that implementing H.R. 2941 would have no significant impact on the Federal budget. Enacting the bill could affect direct spending (including offsetting receipts), but we estimate that any such efforts would be negligible. The legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act. Enacting this bill would benefit the Colorado River Indian Tribes and would have no significant impact on the budgets of State, local, or tribal governments.

H.R. 2941 would direct the Secretary of the Interior to convey, for no consideration, 15,375 acres of Federal land in Arizona to the Colorado River Indian Reservation, to be held in trust by the United States on behalf of the Colorado River Indian Tribes. According to the Department of the Interior, the land to be conveyed currently includes several rights of way that could be affected. The department currently collects a few thousand dollars a year for those rights of way. Hence, CBO estimates that conveying the land would not significantly affect offsetting receipts (a credit against direct spending). Based on information from the Department of the Interior, the administrative costs of the conveyance, which would be subject to appropriation, would be negligible.

The CBO staff contact for this estimate is Mike Waters. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

