

**Statement of
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Deputy Director
Bureau of Indian Affairs
Department of the Interior
House Committee on Natural Resources
Subcommittee on Indian, Insular and Alaska Native Affairs
H.R. 2009, Pascua Yaqui Tribe Land Conveyance Act of 2015
November 4, 2015**

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Michael Smith and I am the Deputy Director for the Bureau of Indian Affairs. Thank you for the opportunity to present the views of the Department of the Interior (Department) on H.R. 2009, the Pascua Yaqui Tribe Land Conveyance Act of 2015. H.R. 2009 provides that 40 acres of land in the Tucson, Arizona, area are declared to be held in trust by the United States for the benefit of the Pascua Yaqui Tribe (Tribe) upon conveyance to the United States of the land covered by the Recreation and Public Purposes (R&PP) Act patent for the lands currently held by the Tucson Unified School District (District). The bill would also convey 13 acres of currently unencumbered public lands to the Tucson Unified School District (District) and eliminates a reversionary interest held by the United States in 27 acres previously patented to the District under the R&PP Act. The Department supports holding the lands in trust for the Tribe, and could support the bill if amended to address the concerns outlined below.

Background

The Pascua Yaqui Tribe's lands are located in Pima County, near Tucson, Arizona, and are a combination of lands held in trust by the United States and lands purchased and held in fee by the Tribe. The District has historically operated the Hohokam School on lands nearby and adjacent to the tribal lands. The District currently holds two parcels of land under separate R&PP patents totaling approximately 67 acres, in which the United States holds reversionary interests enforceable under the R&PP Act. This land consists of a tract of approximately 27 acres on which the Hohokam School currently sits and another tract of approximately 40 acres that is currently undeveloped. The Bureau of Land Management (BLM) also manages an unencumbered tract of approximately 13 acres located between the two parcels patented to the District which have been identified as potentially suitable for disposal in the current Resource Management Plan.

H.R. 2009

H.R. 2009 declares that approximately 40 acres of land, designated in the bill as "Parcel A", are held in trust by the United States for the benefit of the Tribe upon conveyance of these lands to the United States, by the District. In addition, the bill conveys full ownership of the approximately 13 unencumbered acres currently managed by the BLM and designated in the legislation as "Parcel B" to the District. Furthermore, H.R. 2009 eliminates a reversionary interest held by the United States in approximately 27 acres of land also currently patented to the District under the R&PP Act and identified as "Parcel C" in the bill. Both the conveyance to the District and the elimination of the reversionary interests are subject to valid existing rights.

The Department supports holding Parcel A in trust for the Tribe, and does not object to eliminating the reversionary interest of the United States in Parcels A and C. However, as a technical matter, the elimination is properly done not by conveyance of the parcel to the United States, but by relinquishment of the District's interests in parcel A. The interests would thereby merge in the United States, which could then hold them in trust for the Tribe. As with previous similar proposals; we recommend amending the legislation to ensure the payment of fair market value by the District for eliminating the reversionary interest of the United States with respect to Parcel C. We also recommend adding language specifying that Parcel A be taken into trust subject to valid existing rights. The value of the reversionary interest would be established through an appraisal by the Department of the Interior's Office of Valuation Services. Upon receiving that appraisal, the District could make a decision on purchasing the reversionary interest for any or all of the land in question, thus owning the land outright. All costs associated with this conveyance, including the appraisal, should be the responsibility of the District. Similarly, the Department would not object to the conveyance of Parcel B to the District without a reversionary interest if the bill were amended to require the District to pay the fair market value of the land and cover the costs associated with the conveyance

H.R. 2009 references a map titled: "PYT Land Department/2015/BLM Congressional Bill." The BLM would welcome the opportunity to work with the bill sponsor and committee on a BLM land status map to accompany the legislation, as well as assist with technical corrections to the bill.

Finally, the Department notes that section 5 of H.R. 2009 addresses the treatment of water rights that may be associated with the land to be taken into trust for the benefit of the Tribe. The Department has concerns regarding Section 5's restriction on its ability to assert reserved water rights that the Tribe may have or claim on the tract of public land because such a restriction could negatively impact the ability of the Tribe and of the United States, as trustee on behalf of the Tribe, from fully asserting and protecting the water rights. The Department looks forward to working with the Committee to address these concerns.

Conclusion

H.R. 2009 represents an opportunity to improve land use for both the Tribe and the District on these three tracts of land. Thank you for the opportunity to testify. I will be glad to answer any questions.