

109TH CONGRESS
1ST SESSION

S. 1291

To provide for the acquisition of subsurface mineral interests in land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2005

Mr. MCCAIN introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To provide for the acquisition of subsurface mineral interests in land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe.

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 “Pascua Yaqui Mineral
5 Rights Act of 2005”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

1 (2) STATE.—The term “State” means the State
2 of Arizona.

3 (3) TRIBE.—The term “Tribe” means the
4 Pascua Yaqui Tribe.

5 **SEC. 3. ACQUISITION OF SUBSURFACE MINERAL INTER-**
6 **ESTS.**

7 (a) IN GENERAL.—Not later than 180 days after the
8 date of enactment of this Act, the Secretary, in coordina-
9 tion with the Attorney General of the United States and
10 with the consent of the State, shall acquire through emi-
11 nent domain the following:

12 (1) All subsurface rights, title, and interests
13 (including subsurface mineral interests) held by the
14 State in the following tribally-owned parcels:

15 (A) Lot 2, sec. 13, T. 15 S., R. 12 E., Gila
16 and Salt River Meridian, Pima County Arizona.

17 (B) Lot 4, W¹/₂SE¹/₄, sec. 13, T. 15
18 S., R. 12 E., Gila and Salt River Base & Merid-
19 ian, Pima County, Arizona.

20 (C) NW¹/₄NW¹/₄, N¹/₂NE¹/₄NW¹/₄,
21 SW¹/₄NE¹/₄NW¹/₄, sec. 24, T. 15 S., R. 12 E.,
22 Gila and Salt River Base & Meridian, Pima
23 County Arizona.

1 (D) Lot 2 and Lots 45 through 76, sec.
 2 19, T. 15 S., R. 13 E., Gila and Salt River
 3 Base & Meridian, Pima County, Arizona.

4 (2) All subsurface rights, title, and interests
 5 (including subsurface mineral interests) held by the
 6 State in the following parcels held in trust for the
 7 benefit of Tribe:

8 (A) Lots 1 through 8, sec. 14, T. 15 S.,
 9 R. 12 E., Gila and Salt River Base & Meridian,
 10 Pima County, Arizona.

11 (B) NE¹/₄SE¹/₄, E¹/₂NW¹/₄SE¹/₄,
 12 SW¹/₄NW¹/₄SE¹/₄, N¹/₂SE¹/₄SE¹/₄,
 13 SE¹/₄SE¹/₄SE¹/₄, sec. 14, T. 15 S., R. 12 E.,
 14 Gila and Salt River Base & Meridian, Pima
 15 County, Arizona.

16 (b) CONSIDERATION.—Subject to subsection (c), as
 17 consideration for the acquisition of subsurface mineral in-
 18 terests under subsection (a), the Secretary shall pay to
 19 the State an amount equal to the market value of the sub-
 20 surface mineral interests acquired, as determined by—

21 (1) a mineral assessment that is—

22 (A) completed by a team of mineral spe-
 23 cialists agreed to by the State and the Tribe;
 24 and

1 (B) reviewed and accepted as complete and
2 accurate by a certified review mineral examiner
3 of the Bureau of Land Management;

4 (2) a negotiation between the State and the
5 Tribe to mutually agree on the price of the sub-
6 surface mineral interests; or

7 (3) if the State and the Tribe cannot mutually
8 agree on a price under paragraph (2), an appraisal
9 report that is—

10 (A)(i) completed by the State in accord-
11 ance with subsection (d); and

12 (ii) reviewed by the Tribe; and

13 (B) on a request of the Tribe to the Bu-
14 reau of Indian Affairs, reviewed and accepted
15 as complete and accurate by the Office of the
16 Special Trustee for American Indians of the
17 Department of the Interior.

18 (c) CONDITIONS OF ACQUISITION.—The Secretary
19 shall acquire subsurface mineral interests under sub-
20 section (a) only if—

21 (1) the payment to the State required under
22 subsection (b) is accepted by the State in full consid-
23 eration for the subsurface mineral interests ac-
24 quired;

1 (2) the acquisition terminates all right, title,
2 and interest of any party other than the United
3 States in and to the acquired subsurface mineral in-
4 terests; and

5 (3) the Tribe agrees to fully reimburse the Sec-
6 retary for costs incurred by the Secretary relating to
7 the acquisition, including payment to the State for
8 the acquisition.

9 (d) DETERMINATION OF MARKET VALUE.—Notwith-
10 standing any other provision of law, unless the State and
11 the Tribe otherwise agree to the market value of the sub-
12 surface mineral interests acquired by the Secretary under
13 this section, the market value of those subsurface mineral
14 interests shall be determined in accordance with the Uni-
15 form Appraisal Standards for Federal Land Acquisition,
16 as published by the Appraisal Institute in 2000, in co-
17 operation with the Department of Justice and the Office
18 of Special Trustee for American Indians of the Depart-
19 ment of Interior.

20 (e) ADDITIONAL TERMS AND CONDITIONS.—The
21 Secretary may require such additional terms and condi-
22 tions with respect to the acquisition of subsurface mineral
23 interests under this section as the Secretary considers to
24 be appropriate to protect the interests of the United
25 States and any valid existing right.

1 **SEC. 4. INTERESTS TAKEN INTO TRUST.**

2 (a) LAND TRANSFERRED.—Subject to subsections
 3 (b) and (c), notwithstanding any other provision of law,
 4 not later than 180 days after the date on which the Tribe
 5 makes the payment described in subsection (c), the Sec-
 6 retary shall take into trust for the benefit of the Tribe
 7 the subsurface rights, title, and interests, formerly re-
 8 served to the United States, to the following parcels:

9 (1) E¹/₂NE¹/₄, SW¹/₄NE¹/₄, sec. 14, T. 15 S.,
 10 R. 12 E., Gila and Salt River Base & Meridian,
 11 Pima County, Arizona.

12 (2) W¹/₂SE¹/₄, SW¹/₄, sec. 24, T. 15 S., R. 12
 13 E., Gila and Salt River Base & Meridian, Pima
 14 County, Arizona.

15 (b) EXCEPTIONS.—The parcels taken into trust
 16 under subsection (a) shall not include—

17 (1) NE¹/₄SW¹/₄, sec. 24, except the southerly
 18 4.19 feet thereof;

19 (2) NW¹/₄SE¹/₄, sec. 24, except the southerly
 20 3.52 feet thereof; or

21 (3) S¹/₂SE¹/₄, sec. 23, T. 15 S., R. 12 E., Gila
 22 and Salt River Base & Meridian, Pima County, Ari-
 23 zona.

24 (c) CONSIDERATION AND COSTS.—The Tribe shall
 25 pay to the Secretary only the transaction costs relating
 26 to the assessment, review, and transfer of the subsurface

1 rights, title, and interests taken into trust under sub-
2 section (a).

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