

## Calendar No. 186

109TH CONGRESS  
1ST SESSION**S. 1291****[Report No. 109–116]**

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.

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## 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

JULY 29, 2005

Reported by Mr. MCCAIN, without amendment

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**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”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) SECRETARY.—The term “Secretary” means  
4 the Secretary of the Interior.

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

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

9 **SEC. 3. ACQUISITION OF SUBSURFACE MINERAL INTER-**  
10 **ESTS.**

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

16 (1) All subsurface rights, title, and interests  
17 (including subsurface mineral interests) held by the  
18 State in the following tribally-owned parcels:

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

21 (B) Lot 4, W $\frac{1}{2}$ SE $\frac{1}{4}$ , sec. 13, T. 15 S., R.  
22 12 E., Gila and Salt River Base & Meridian,  
23 Pima County, Arizona.

24 (C) NW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
25 SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , sec. 24, T. 15 S., R. 12 E.,

1 Gila and Salt River Base & Meridian, Pima  
 2 County Arizona.

3 (D) Lot 2 and Lots 45 through 76, sec.  
 4 19, T. 15 S., R. 13 E., Gila and Salt River  
 5 Base & Meridian, Pima County, Arizona.

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

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

13 (B)  $NE\frac{1}{4}SE\frac{1}{4}$ ,  $E\frac{1}{2}NW\frac{1}{4}SE\frac{1}{4}$ ,  
 14  $SW\frac{1}{4}NW\frac{1}{4}SE\frac{1}{4}$ ,  $N\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}$ ,  
 15  $SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$ , sec. 14, T. 15 S., R. 12 E.,  
 16 Gila and Salt River Base & Meridian, Pima  
 17 County, Arizona.

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

23 (1) a mineral assessment that is—

1 (A) completed by a team of mineral spe-  
2 cialists agreed to by the State and the Tribe;  
3 and

4 (B) reviewed and accepted as complete and  
5 accurate by a certified review mineral examiner  
6 of the Bureau of Land Management;

7 (2) a negotiation between the State and the  
8 Tribe to mutually agree on the price of the sub-  
9 surface mineral interests; or

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

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

15 (ii) reviewed by the Tribe; and

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

21 (c) CONDITIONS OF ACQUISITION.—The Secretary  
22 shall acquire subsurface mineral interests under sub-  
23 section (a) only if—

24 (1) the payment to the State required under  
25 subsection (b) is accepted by the State in full consid-

1       eration for the subsurface mineral interests ac-  
2       quired;

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

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

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

22      (e) ADDITIONAL TERMS AND CONDITIONS.—The  
23     Secretary may require such additional terms and condi-  
24     tions with respect to the acquisition of subsurface mineral  
25     interests under this section as the Secretary considers to

1 be appropriate to protect the interests of the United  
2 States and any valid existing right.

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

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

11 (1) E<sup>1</sup>/<sub>2</sub>NE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>, sec. 14, T. 15 S.,  
12 R. 12 E., Gila and Salt River Base & Meridian,  
13 Pima County, Arizona.

14 (2) W<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, SW<sup>1</sup>/<sub>4</sub>, sec. 24, T. 15 S., R. 12  
15 E., Gila and Salt River Base & Meridian, Pima  
16 County, Arizona.

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

19 (1) NE<sup>1</sup>/<sub>4</sub>SW<sup>1</sup>/<sub>4</sub>, sec. 24, except the southerly  
20 4.19 feet thereof;

21 (2) NW<sup>1</sup>/<sub>4</sub>SE<sup>1</sup>/<sub>4</sub>, sec. 24, except the southerly  
22 3.52 feet thereof; or

23 (3) S<sup>1</sup>/<sub>2</sub>SE<sup>1</sup>/<sub>4</sub>, sec. 23, T. 15 S., R. 12 E., Gila  
24 and Salt River Base & Meridian, Pima County, Ari-  
25 zona.

1       (c) CONSIDERATION AND COSTS.—The Tribe shall  
2 pay to the Secretary only the transaction costs relating  
3 to the assessment, review, and transfer of the subsurface  
4 rights, title, and interests taken into trust under sub-  
5 section (a).

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