

BLACKWATER TRADING POST LAND TRANSFER ACT

SEPTEMBER 8, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 3160]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3160) 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 OF THE BILL

The purpose of H.R. 3160 is 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.

BACKGROUND AND NEED FOR LEGISLATION ¹

H.R. 3160 authorizes and requires the United States to place 55.3 acres of land, commonly referred to as the Blackwater Trading Post, into trust for the benefit of the Gila River Indian Community of Arizona. The land is contiguous to the exterior boundaries of the Community's reservation. Legislation is required, as the Commu-

¹Also see generally *Hearing Before the Subcomm. for Indigenous Peoples of the U.S. of the H. Comm. on Nat. Res.*, 116th Cong. (2019) (not printed) (written testimony of Stephen Roe Lewis, Governor, Gila River Indian Community), <https://docs.house.gov/meetings/II/II24/20191016/110080/HHRG-116-II24-Wstate-LewisS-20191016.pdf>, of which the above text is largely excerpts.

nity's water settlement, which Congress passed in 2004,² explicitly requires that any lands located outside the Community's existing reservation boundaries be taken into trust through congressional action.³

The Gila River Indian Community was congressionally authorized by statute in 1859⁴ and formally established by Executive Order in 1876,⁵ and its lands currently encompass approximately 375,000 acres. The Community is comprised of the Akimel O'odham (Pima) and the Pee Posh (Maricopa) people. They are the largest Indian Community in the Phoenix metropolitan area, with an enrolled population of over 22,000.⁶

Part of the Community's history involves the Blackwater Trading Post. The land on which the Trading Post sits is surrounded on three sides by the Community's reservation, with the frontage road of SR-287 bordering the fourth side. The Trading Post most likely began operation shortly after the highway was built in 1926, and it first appeared on maps starting in 1937.⁷ Before its closure, the Blackwater Trading Post had been selling and buying goods with the people of the Community since at least 1930 and was owned and operated by the Ellis family for roughly 60 years.

In 2010, the Ellis family sold the Blackwater Trading Post to the Gila River Indian Community. The Community then closed the Trading Post in order to conduct an inventory and to evaluate whether the Trading Post needed rehabilitation in order to continue operating. At the time of the inventory, the commercial portion of the Trading Post occupied a single building consisting of a grocery, a tack shop, a deli, a walk-in cooler/freezer, a store, and a museum. The museum collection contained more than 1,000 items, including 126 Akimel O'odham baskets. Because the Community was able to purchase the Blackwater Trading Post and all of the items within the museum, this collection of artifacts is now within the Community's Huhugam Heritage Center.

The Community is unsure whether it will ever reopen the Blackwater Trading Post, but they would like to take the land into trust to ensure that it always be preserved as an important piece of Community history. H.R. 3160 will bring this historically and culturally significant land into trust status as part of the Community's reservation.

The Community has already performed a Phase I and Phase II environmental site assessment, and no significant environmental hazards were found. There is also explicit language in the legislation to preclude gaming on the land.

² Gila River Indian Community Water Rights Settlement Act of 2004, Pub. L. No. 108-451, tit. II, 118 Stat. 3499 (2004), <https://uscode.house.gov/statviewer.htm?volume=118&page=3499> (codified at various, see https://uscode.house.gov/table3/108_451.htm).

³ *Id.* at § 210(a), 118 Stat. at 3523, <https://uscode.house.gov/statviewer.htm?volume=118&page=3523> (not codified).

⁴ Act of Feb. 28, 1859, ch. LXVI, §§ 3-4, 11 Stat. 388, 401 (1859), <https://uscode.house.gov/statviewer.htm?volume=11&page=401>.

⁵ Exec. Order of Aug. 31, 1876, *reprinted in* GPO, EXECUTIVE ORDERS RELATING TO INDIAN RESERVES, FROM MAY 14, 1855, TO JULY 1, 1902, at 11 (1902), available at <http://lcweb2.loc.gov/service/gdc/scd0001/2012/20120509002ex/20120509002ex.pdf> (permalink: <https://ccn.loc.gov/34008449>). See generally H.R. REP. NO. 115-817, at 2 (2018) <https://www.congress.gov/115/crpt/hrpt817/CRPT-115hrpt817.pdf> (definition of "RESERVATION"); *id.* at 5.

⁶ TILLER'S GUIDE TO INDIAN COUNTRY (Veronica E. Velarde Tiller ed., 3rd ed. 2015).

⁷ A depiction of Pinal County in 1937 showed a building in the correct location along the north edge of SR-87.

COMMITTEE ACTION

H.R. 3160 was introduced on June 6, 2019, by Representative Tom O'Halleran (D-AZ). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee for Indigenous Peoples of the United States. On October 16, 2019, the Subcommittee held a hearing on the bill. On January 15, 2020, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 3160: legislative hearing by the Subcommittee for Indigenous Peoples of the United States held on October 16, 2019.

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 Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND
CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

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

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3160, 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.

H.R. 3160, Blackwater Trading Post Land Transfer Act			
As ordered reported by the House Committee on Natural Resources on January 15, 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.			

H.R. 3160 would direct the Department of the Interior (DOI) to take into trust approximately 55 acres of land in Pinal County, Arizona, 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 H.R. 3160 would not be significant.

H.R. 3160 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 S. 2912, the Blackwater Trading Post Land Transfer Act, as ordered reported by the Senate Committee on Indian Affairs on July 29, 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 Brandon Lever (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are 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.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e),

9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to CBO, H.R. 3160 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. CBO estimates 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. CBO's full analysis is reproduced above.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

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

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS

None.