

Peter Yucupicio

Chairman

The Pascua Yaqui Tribe

Testimony on H.R. 4222

April 16, 2012

My name is Peter Yucupicio and I am the Chairman of the Pascua Yaqui Tribe, a federally recognized Indian Tribe, located on the outskirts of Tucson, Arizona.

I am testifying in support of HR 4222. HR 4222 is a very short bill. It would authorize the United States convey two 10 acre parcels of land under its control to the Pascua Yaqui Tribe for inclusion into the Tribe's Reservation. HR 4222 would also instruct the Secretary of the Interior (the "Secretary") to take the two 10 acre parcels into trust for the benefit of the Pascua Yaqui Tribe as part of the Pascua Yaqui Reservation.

The two 10 acre parcels that are the subject of HR 4222 are both completely surrounded by either the Tribe's reservation or by fee lands owned by the Tribe. With this testimony I am submitting a map that shows the Tribe's reservation, fee lands the Tribe owns just to the west of its Reservation, and these two parcels in color. It is attached as Exhibit 1 to my testimony.

THE TUCSON UNIFIED SCHOOL DISTRICT PARCEL (PARCEL 1)

The first of the two parcels that the U.S. would convey to the Tribe by this bill is the northerly of the two parcels, and is shown in green on Exhibit 1 ("Parcel 1"). Parcel 1 is currently owned by the Tucson Unified School District. Tucson Unified School District received title to Parcel 1 from the United States under the Recreation and Public Purposes Act of 1926 on September 14, 1981 by U.S. Patent No. 02-81-0020. A copy of the Tucson Unified School District patent is attached as Exhibit 2.

As the Committee is aware, land that a recipient receives from the United States under the Recreation and Public Purposes Act is required by the Recreation and Public Purposes Act to be used only for the purpose for which the land was given. Under the Recreation and Public Purposes Act land not used for the stated purpose reverts back to the United States. In this case, the purpose for which the U.S. gave this 10 acre parcel to Tucson Unified School District was for

a School Site. Specifically, Patent 02-81-0020 states that the lands conveyed are “for the construction, operation, and maintenance of a public elementary school and related facilities”.

After Tucson Unified School District received Parcel 1, time and events have changed the entire physical landscape of this area.

First, the Pascua Yaqui Tribe acquired the land surrounding Parcel 1 on the North, East and South, and the United States then took that land into Trust status for the Tribe on March 3, 1997.

Then, on November 28, 2008, the Tribe acquired the parcels to the West of Parcel 1. The Pascua Yaqui Tribe has submitted an application to the BIA for the United States to take these parcels into Trust for the benefit of the Tribe as part of its Reservation, and action on that application is pending. That area is shown by dotted lines on Exhibit 1.

In addition, three major construction projects have impacted Parcel 1. First, , between 2001 to 2003 the Pascua Yaqui Tribe built its Casino del Sol, which is shown on Exhibit 1. The Casino del Sol is approximately one-quarter mile north of Parcel 1. Second, in 2010 through 2011 the Pascua Yaqui Tribe built a Resort Hotel/Convention Center immediately adjacent to the Casino del Sol. Third, the Tribe is now building a golf course that, at the present time, surrounds Parcel 1 on its North, East, and South sides. In the very near future the Tribe will begin construction on the golf course along the West side of Parcel 1 as well, thus surrounding Parcel 1 on all sides with the golf course.

Finally, Tucson Unified School District has never had a legal right of ingress or egress to or from Parcel 1.

In light of these facts, Tucson Unified School District never built a school on Parcel 1, and does not intend to do so in the future. Tucson Unified School District has now taken official action, at its Governing Board meeting of February 14, 2012, to authorize a re-conveyance of its interest in Parcel 1 to the United States, as required by the Recreation and Public Purposes Act at the request of the Tribe. I received official confirmation of that action in a letter from Tucson Unified School District Governing Board President Mark Stegeman, dated March 27, 2012, which I am attaching to my testimony as Exhibit 3.

As I indicated, this Parcel 1 is literally right in the middle of the Tribe’s golf course which is already under construction. It is a matter of some necessity that if at all possible the Tribe acquire Parcel 1 so that it can be used to augment the golf course. Parcel 1 is not absolutely necessary for the construction of the golf course, but if the Tribe does not acquire and use Parcel 1, it will be an orphan parcel that will then be of no use to either the Tribe or to the United States. On the other hand, since the golf course is still under construction, the Tribe’s architect and construction company have an alternate golf course layout that would include development on

Parcel 1 as part of the proposed golf course layout. If the Tribe can acquire Parcel 1, and thereby include it into the golf course layout while the course is still under construction, there would be significant aesthetic and commercial benefit to the Tribe and to the golf course. This would offer the Tribe more assistance in meeting its goals of self-sufficiency, and would also be a beneficial act of the U.S. in fulfilling its trust obligation to foster tribal self-sufficiency of the Pascua Yaqui Tribe.

In addition as is mentioned in Exhibit 3, while Tucson Unified School District does not want to build on Parcel 1, it does have a pressing need for a Regional Transportation Center on the West side of the Tucson Metropolitan Area in the vicinity of the Pascua Yaqui Reservation. Prior to the time that Tribe came to Tucson Unified School District about a possible re-conveyance of Parcel 1 to the United States for eventual conveyance to the Tribe, Tucson Unified School District had independently ruled out Parcel 1 as a site for its proposed Regional Transportation Center. However, to assist Tucson Unified School District, and as thanks for Tucson Unified School District agreeing to vacate Parcel 1, the Pascua Yaqui Tribe has agreed to lease Tucson Unified School District a more suitable parcel of approximately 10 acres elsewhere on the Tribe's Reservation, at a nominal rate of \$1 per year, for Tucson Unified School District's proposed Regional Transportation Center, subject to environmental and regulatory approvals.

The Pascua Yaqui Tribe's Gaming Compact of January 9, 2003 prohibits location of any new gaming facility within 1 ½ miles of any existing gaming facility. Parcel 1 is within 1 ½ miles of the Tribe's existing Casino del Sol Resort and Casino Complex, into which the Tribe has invested approximately \$200,000,000 in the last 10 years. So the Tribe would not likely be demolishing that Casino to construct a new one on Parcel 1. Nevertheless, the Tribe would consent to a restriction against gaming on Parcel 1.

THE BUREAU OF LAND MANAGEMENT PARCEL (PARCEL 2)

The second parcel covered in HR 4222 is in the vicinity of Parcel 1, but slightly southeasterly from Parcel 1. Parcel 2, shown in orange on Exhibit 1, is currently owned directly by the United States, and is managed by the Secretary of the Interior as part of the Bureau of Land Management. This Bureau of Land Management Parcel ("Parcel 2) is also a 10 acre parcel.

Parcel 2 is very similar to Parcel 1 in that it, too, is surrounded by Pascua Yaqui land. Like Parcel 1, the Pascua Yaqui Reservation surrounds Parcel 2 on the North, East and South. Pascua Yaqui fee lands border Parcel 2 on the west. And, like Parcel 1, there is no legal right of ingress or egress to Parcel 2. The Tribe's pending Fee to Trust application at the Bureau of Indian Affairs requests that the lands west of Parcel 2 also be taken into trust as part of the Tribe's Reservation.

Parcel 2 is also similar to Parcel 1 because the golf course now under construction completely surrounds Parcel 2 as well. Again with Parcel 2 the Tribe has developed a contingency plan to include Parcel 2 as part of the golf course. From an aesthetic and commercial point of view the golf course would be more viable if it were to include Parcel 2. And, as with Parcel 1, passage of HR 4222 and its enactment into law to include Parcel 2 as part of the Tribe's Reservation would offer the Tribe more assistance in meeting its goals of self-sufficiency, and would also be a beneficial act of the U.S. in fulfilling its trust obligation to foster tribal self-sufficiency of the Pascua Yaqui Tribe.

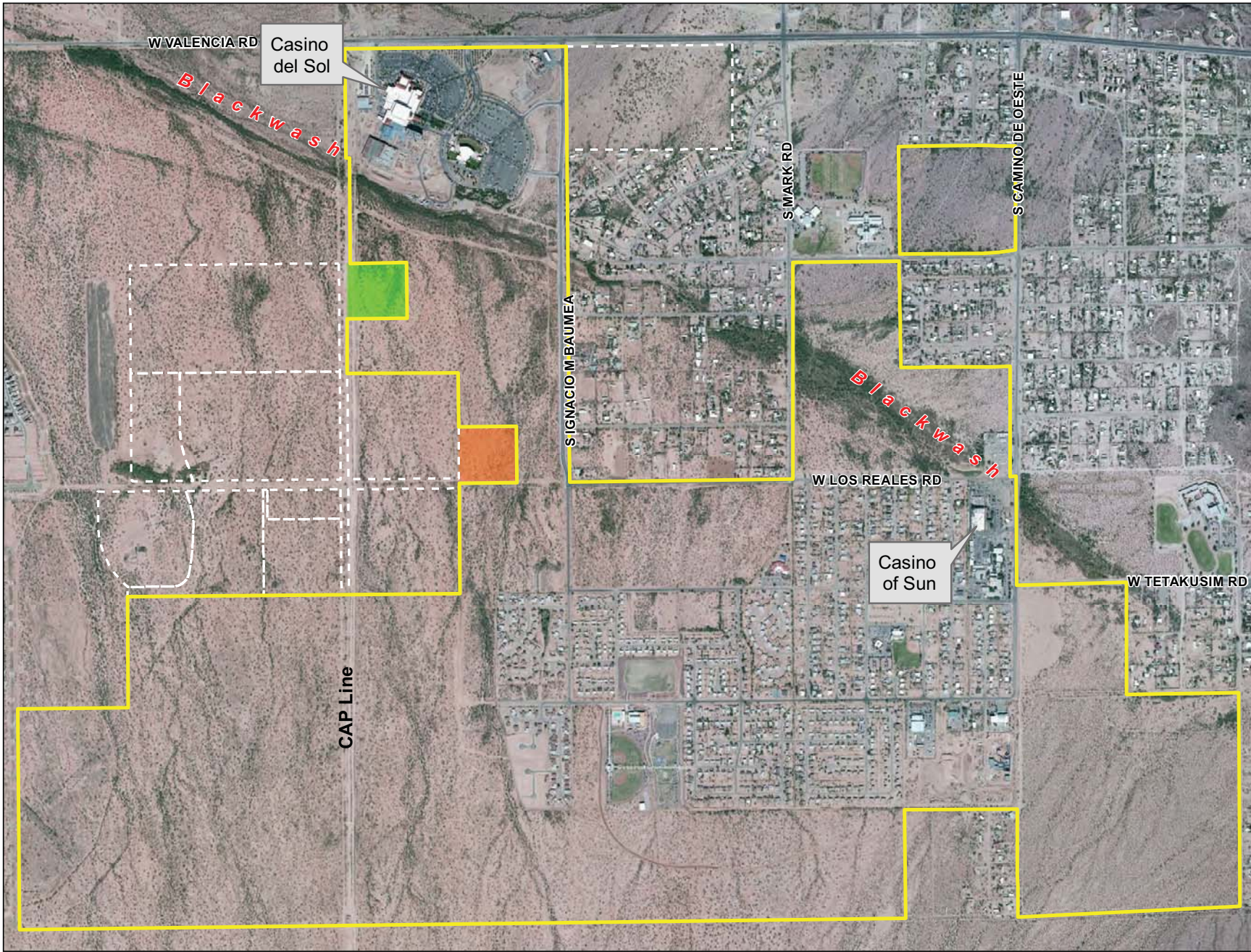
Lastly, just as with Parcel 1, Parcel 2 is within 1 ½ miles of the Tribe's Casino del Sol. And the Tribe's Gaming Compact would also prohibit locating a new gaming facility on Parcel 2 unless the Tribe were to demolish its existing Casino del Sol. Because of this fact the Tribe would consent to a restriction against gaming on Parcel 2.

CONCLUSION

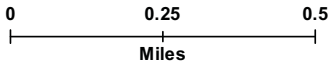
I would like to thank the Committee for its consideration of HR 4222. This bill means a great deal to the Pascua Yaqui Tribe and its endeavor to improve itself through economic development of its lands. Being able to add the parcels covered by HR 4222 to the Tribe's golf course would significantly improve the golf course and its chances for economic viability and success.

On the other side of the coin, the two parcels that are the subject of HR 4222 have very little, if any, value at all to the U.S. if offered for sale in the open market. They are virtually landlocked. And even if a developer were to purchase them, their size and location would prohibit almost any potential economic use. So the Tribe feels that these parcels have little, if any, market value to the United States, but great value to the Tribe. The Tribe therefore humbly requests that this Committee report this bill favorably to the whole House.

Again, thank you for your consideration of a favorable report on HR 4222.



- PYT Reservation
- PYT Fee Land Subject to 2011
- Fee to Trust Petition
- US 10 Acres
- TUSD 10 Acres



TUCSON UNIFIED SCHOOL DISTRICT
Governing Board
P.O. Box 40400
1010 East Tenth Street
Tucson, Arizona 85717-0400

Mark Stegeman, President
Michael Hicks, Clerk
Miguel Cuevas, Member
Adelita S. Grijalva, Member
Alexandre Borges Sugiyama, Ph.D., Member

(520) 225-6070
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March 27, 2012
(revision of letter dated February 15, 2012)

Peter Yucupicio, Tribal Chairman
Pascua Yaqui Tribe – Administrative Office
7474 South Camino de Oeste
Tucson, Arizona 85757

Dear Chairman Yucupicio,

At its meeting on February 14, 2012, the Governing Board of Tucson Unified School District voted to support the bill HR4222 drafted by the Pascua Yaqui Tribe to allow the transfer of land, currently in two TUSD patents (#02-81-0020 and #02-62-0110), from the Bureau of Land Management to the Tribe. We appreciate that the proposed bill will also convey approximately 13 acres of BLM land immediately adjacent to Hohokam Middle School to TUSD and that the Tribe has offered a site to TUSD for the Westside Transportation Facility.

These mutually beneficial actions will allow both of our organizations to better serve our communities. I extend my thanks to you and your staff for your efforts in this matter.

Sincerely,



Mark Stegeman
President

CC: Ms. Kelly Gomez, Director, Pascua Yaqui Land Department
Dr. John J. Pedicone, Jr., Superintendent, Tucson Unified School District
Ms. Candy Egbert, Chief Operations Officer, Tucson Unified School District
Mr. Bryant Nodine, Program Manager, Planning Services, Tucson Unified School District

MS\maw
\\Regular\02-14-12-GB ltr Support of Conveyance Bill 14Feb12 BAI-revised032717

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS

The Tucson Unified
School District No. 1

is entitled to a Land Patent pursuant to the Recreation and Public Purposes Act of June 14, 1926, 44 Stat. 741, as amended; 43 U.S.C. 869 et seq. (1976), for the following described lands:

Gila and Salt River Meridian, Arizona

T. 15 S., R. 12 E.,
Section 14, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$,

containing 10.00 acres;

NOW KNOW YE, That there is, therefore, granted by the UNITED STATES unto the above said School District the lands described for the construction, operation and maintenance of a public elementary school and related facilities;

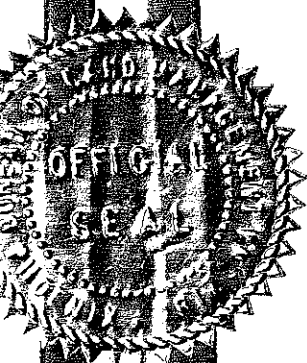
TO HAVE AND TO HOLD the said lands with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said School District, its successors and assigns, forever;

EXCEPTING AND RESERVING TO THE UNITED STATES:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945;
2. All minerals, together with the right to mine and remove the same under applicable law and regulations established by the Secretary of the Interior;

Title to the above described land shall revert to the United States upon a finding, after notice and opportunity for a hearing, that, without the approval of the authorized officer:

- (a) The patentee or its approved successor attempts to transfer title to or control over the lands to another;
- (b) The lands have been devoted to a use other than that for which the lands were conveyed;
- (c) The lands have not been used for the purpose for which they were conveyed for a 5-year period; or
- (d) The patentee has failed to follow the approved development plan or management plan filed on April 26, 1972, with the Bureau of Land Management, or any revision thereof approved by the Secretary of the Interior or authorized delegate.



The Secretary or authorized delegate may in lieu of said reversion of title require the patentee or its successor in interest to pay the United States 50 percent of the fair market value of the patented lands, to be determined by the Secretary or authorized delegate as of the date of issuance of this patent, plus compound interest computed at four percent beginning on the date this patent is issued.

The Secretary of the Interior may take action to revest title in the United States if the patentee directly or indirectly permits its agents, employees, contractors, or subcontractors (including without limitation lessees, sublessees, and permittees) to prohibit or restrict the use of any part of the patented lands or any of the facilities thereon by any person because of such person's race, creed, color, sex or national origin.

The grant of the herein described lands is subject also to the following reservations, conditions, and limitations:

1. The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.
2. If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the Act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or authorized delegate may declare the terms of this grant terminated in whole or in part.
3. The patentee, by acceptance of this patent, agrees for itself or its successor in interest that a declaration of termination in whole or in part of this grant shall, at the option of the Secretary or authorized delegate, operate to revest in the United States full title to the lands involved in the declaration.
4. The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.
5. The patentee or its successor in interest will, upon request of the Secretary of the Interior or authorized delegate, post and maintain on the property conveyed by this document signs and posters bearing a legend concerning the applicability of Title VI of the Civil Rights Act of 1964 to the area or facility conveyed.

6. The reservations, conditions, and limitations contained in paragraphs 1 through 5 shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described herein is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.
7. The assurances and covenant required by sections 1 through 6 above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h).
8. The patentee, by acceptance of this patent, agrees for itself or its successor in interest that it will allow the Bureau of Land Management to manage, consistent with the purposes for which the grant was made, all the other values of the lands and to recognize the right of the United States to retain the revenues from such management.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat. 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

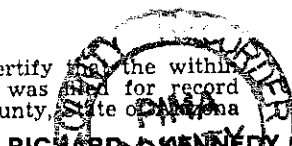
GIVEN under my hand, in Phoenix, Arizona the FOURTEENTH day of SEPTEMBER in the year of our Lord one thousand nine hundred and EIGHTY-ONE and of the Independence of the United States the two hundred and SIXTH.

By *Richard A. Kennedy*
State Director

Patent Number 02-81-0020

STATE OF ARIZONA }
COUNTY OF PIMA } ss.

I hereby certify that the within instrument was filed for record in Pima County, State of Arizona



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