



Tohono O'odham Nation's Glendale Casino

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SPECIAL EDITION

TO Nation's Chairman Norris Pushes Casino; Despite GRIC & Statewide Opposition



A rendering of the resort and casino the Tohono O'odham Nation wants to build near Glendale at 91st and Northern avenues in Glendale.

SACATON - For more than a year, despite stiff opposition from the Gila River Indian Community, other tribal communities across Arizona and a host of statewide leaders –including Gov. Jan Brewer, Sen. John McCain, Sen. Jon Kyl and Glendale Mayor Elaine Scruggs – the TO Nation has insisted on pursuing a new casino located off traditional tribal lands and more than 100 miles from their reservation boundaries.

While the United States Department of the Interior has not yet decided on the TO Nation's application for its so-called West Valley Resort, GRIC Gov. William R. Rhodes says he's concerned what an approval might mean not just for the GRIC, but for tribal communities all over Arizona, because it's a gaming application.

"If the TO Nation gets its way, this really opens the door to all sorts of problems for communities like ours," said the Governor. "First it will upset the balance of gaming all the tribes have worked so hard to create. Then it will open the door to the horse and dog people. They're going to argue that the promise of Proposition 202 has been broken, and that now they should have off-reservation casinos next."

Proposition 202, passed by Arizona voters in 2002, gave tribal communities new gaming compacts that expanded the number of slot machines, table and card games in Arizona. In return, tribal communities agreed

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Four Tribes Meeting in Tucson



On March 6, 2010, the Four Tribes held a regular quarterly meeting at the Desert Diamond Hotel & Casino hosted by the Tohono O'odham Nation in Tucson, Arizona. The Four Tribes Meeting is a gathering of tribal

leaders, elders and youth from the Ak-Chin Indian Community, Salt River Pima-Maricopa Indian Community, the TO Nation, and the Gila River Indian Community. This group meets every quarter to discuss issues they have in common that could impact all their people. They provide updates on their communities, and address cultural, elder and youth concerns. It's a gathering to keep the lines of communication open and reinforce unity. One of the significant issues on the agenda for that meeting was the request by the Gila River Indian Community (the "Community") to discuss aboriginal lands.

During this meeting the Gila River Indian Community Council came out in force, with an unprecedented showing of solidarity and concern: 11 of the 17 Council members drove to Tucson for the meeting along with Governor William Rhodes and Lt. Governor Joseph Manuel. The Community requested to discuss and receive an explanation from the TO Nation's Chairman Ned Norris for his recent media and political announcements that lands in Glendale, AZ are the aboriginal lands of the Tohono O'odham, and hence the TO Nation. As Akimel O'otham and Pee Posh, the Community leaders questioned this blatant disregard of their home lands.

In January 2009 TO Nation Chairman Norris announced plans to build a West Valley Resort & Casino in the city of Glendale, Arizona. This announcement came as a surprise; casinos can only be built on reservation land. The most northern boundary of the Nation is in the Sif Oidak District, the district just south of Casa Grande, some 100+ miles away from the City of Glendale, and

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Governor William Rhodes - My Turn

Before I became the Governor of the Gila River Indian Community, I built a career in law enforcement.



Governor William R. Rhodes

The law is a promise. In fact, the law is the most important promise society can make, because laws keep us in balance and preserve the greater good.

Indian gaming is a promise like that.

The promise of tribal gaming was agreed upon in 2002, between the Arizona voters and the 17 tribes who supported the initiative. The voters spoke clearly: They supported limited tribal gaming, restricted to traditional reservation lands away from neighborhoods. The tribes spoke

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Timeline of Events

◆ 1986

Gila Bend Indian Reservation Lands Replacement Act enacted to permit the TO Nation to replace or substitute lands lost to flooding on the Gila Bend Reservation. The Act authorizes the Secretary of the Interior to place up to 9,880 acres of land in trust for the benefit of the TO Nation if the land is located in Maricopa, Pinal or Pima counties and not within the corporate limits of any city or town

◆ 2002

Proposition 202 is approved by the voters of Arizona and authorizes limited, regulated, governmental gaming on federally recognized Indian Reservations through an Arizona Gaming Compact with AZ Indian tribes for 23 years.

The TO Nation received \$30,000,000 for land acquisitions.

◆ 2003

TO Nation purchased approximately 135 acres of land in Glendale, Arizona under a third party name.

◆ 2009 // January 28

TO Nation filed application with the Department of the Interior for the land purchased in Glendale to be placed in trust as an Indian reservation for the benefit of the TO Nation under the criteria of the Gila Bend Act TO Nation announced plans to construct the West Valley Resort & Casino

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The Tohono O’Odham Casino: What GRIC Is Saying

Based on materials released by the Gila River Indian Community and on press accounts over the past 15 months, here’s what the GRIC is saying about the proposed casino in the middle of Glendale.

Would the TO Nation’s casino violate Proposition 202?

Yes. We believe it would violate the promises made to pass Prop 202. The voters of Arizona were told time and again in campaign materials that Prop 202, which passed in 2002, would limit the number of gaming facilities and keep tribal gaming on traditional reservation lands. Tribal leaders agreed among themselves and with the State of Arizona that Prop 202 would keep casinos on traditional reservation lands.

As Gov. Jane Hull put it in the publicity pamphlet sent to millions of voters before that election: “Voting ‘yes’ on Proposition 202 ensures that no new casinos will be built in the Phoenix metropolitan area and only one in the Tucson area for at least 23 years. Proposition 202 keeps gaming on Indian Reservations and does not allow it to move into our neighborhoods.”

Does the TO Nation’s application to the federal government pass muster under the Gila Bend Act?

No. The Gila Bend Act does not allow the TO Nation to place into trust any land within the corporate limits of a city or town. As the City of Glendale has strenuously argued, this land lies within the city’s corporate boundaries and has been incorporated into the city’s General Plan. Thus, this land should not be eligible to be taken into trust as reservation land under the Gila Bend Act.

Does the TO Nation’s application to the federal government pass muster under the Indian Gaming Regulatory Act?

No. While the TO Nation argues that if the Secretary of the Interior takes this land into trust, they can open a casino – without any review – we believe they’re absolutely wrong. IGRA prohibits gaming on off-reservation land acquired after October 1988. An exception is made for such land if the Secretary of the Interior rules that gaming activity would not be detrimental to the local community and the Governor of the affected state consents. In this case, no such determination has been made – and Gov. Jan Brewer quite clearly opposes the project.

IGRA also allows gaming on off-reservation land taken into trust as part of the settlement of a land claim. As we read the law, the Gila Bend Act was not such a settlement. Thus, the land is not eligible for gaming.

Whose aboriginal land is this?

Based on cultural, historical and archaeological records, the GRIC always has asserted and defended the present day Phoenix metropolitan area as the aboriginal homeland of the Pima and Maricopa tribes (generally defined as the GRIC, Ak-Chin and the Salt River Pima-Maricopa Indian Community).

Through an Act of Congress in 1859, the United States set aside land for the Pima and Maricopa Indians along the Gila River, southeast of the confluence of the Gila River and Salt River. The Maricopa tribe moved from the Colorado River region along the Gila River to settle in the Valley in the 1700s. From 1859 to 1915, the United States increased and decreased the reservation land base for the Pima and Maricopa tribes in the Valley, establishing the Gila River Indian Reservation and separate reservations for Ak-Chin and the Salt River Indian Communities.

The United States also determined the boundaries of these aboriginal lands in the Indian Claims Commission (ICC) cases, brought by the Pima and Maricopa Tribes and in a separate case brought by the Papago Tribe. These decisions legally determined the aboriginal territory of the Pima and Maricopa tribes and compensated the tribes for their respective losses. The ICC compensated the Gila River Indian Community, Ak-Chin Indian Community, and Salt River Pima-Maricopa Indian Community for lands the Pima and Maricopa tribes once possessed exclusively.

Additionally, the ICC determined the boundaries of aboriginal lands of the Papago tribe in southern Arizona. The TO Nation was compensated for its land. The court based its decisions on extensive archaeological information which established the distinct culture of the Pima that inhabited the Valley since time immemorial. The record also established the territorial region of the Papago in Southern Arizona. The regions occupied by each tribe are separate and the archaeological evidence clearly shows separate and unique cultures.

In addition to the archaeological evidence supporting the Pima’s and Maricopa’s legal claims to the Valley, our otham himdag from the oral traditions of our family histories have daily told us that the Akimel O’otham and Pee Posh have always lived along the rivers and farmed these lands.

“There is a lack of respect in regards to the questions of ancestral land rights to us as leaders for our community and I feel that Tohono O’Odham community is also lacking the full intent of Mr. Norris and his agenda. The Tohono O’Odham Community is at risk and unaware to some degree. We should and will make a stand. Remember our HIM’THAG.”

- Gila River Councilman Delane “Tony” Enos

The Tohono O’Odham Casino: What They’re Saying

Based on materials released by the TO Nation and on press accounts over the past 15 months, here’s what the TO Nation is saying about the proposed casino in the middle of Glendale.

How big will the casino be?

The entire facility will be 1.2 million square feet. That will include:

- Approximately 150,000 square feet of gaming space with 1,089 gaming machines, 50 table games, 25 poker tables, and a 1,000 seat bingo hall;
- A spa hotel with 480 rooms and 120 suites;
- Eight food and beverage options within the casino and hotel combined, including five restaurants, a food court, a buffet, and a coffee shop
- Two bars and a nightclub;
- 180,000 square feet of convention and meeting space;
- A 40,000 square foot event center that doubles as convention/meeting space;
- 30,000 square feet of retail space;
- Structured and surface parking for over 4,000 vehicles.

What will the economic impact be?

A study purchased by the TO Nation concluded that the casino will benefit the area and that it will not hurt other tribes.

- The TO Nation’s study claims that the entry of this casino into the Phoenix gaming market will only have a small impact on other tribes. GRIC disputes that conclusion since almost half of machines allocated to the TO Nation under the compact will be at the facility.
- GRIC finds it difficult to have an accurate study without any numbers from the other gaming operation in the market available to reference.

How can the TO Nation acquire land that isn’t their aboriginal land, and that is so far from their traditional lands?

The TO Nation’s explanation, which the GRIC and others believe is not supported by the law, goes like this:

In the early 1980s, the federal government’s construction of the Painted Rock Dam caused flooding, ruining about 10,000 acres of desert and farmland in the Nation’s San Lucy District. To remedy this, in 1986 – before the establishment of tribal gaming in 1988 – Congress passed the Gila Bend Indian Reservation Lands Replacement Act (Gila Bend Act). Under the Gila Bend Act the TO Nation received \$30,000,000.00 to purchase an equivalent amount of replacement land in Pima, Pinal or Maricopa counties that shall be taken into trust by the Secretary of Interior following the requirements under the Gila Bend Act.

The TO Nation anonymously purchased property in 2003 that they claim meets the criteria in the Act. They are now seeking to place the land into trust so that it can be used for economic development purposes (i.e., a casino). However, both the City of Glendale and the GRIC believe that this land doesn’t qualify under the Gila Bend Act, and have stood up in opposition.

But what about the Indian Gaming Regulatory Act?

The Indian Gaming Regulatory Act (IGRA) was passed by Congress in 1988, two years after the Gila Bend Act, and allows tribes to conduct gaming on their lands. IGRA generally prohibits gaming on reservation lands acquired after 1988. The TO Nation claims that the land they acquired in 2003 meets the exceptions to IGRA even though they already have three other casinos in Southern Arizona.

The TO Nation claims – and the GRIC, the City of Glendale and others vehemently disagree – that the Gila Bend Act represents a “land claim settlement,” which qualifies for an IGRA exception.

◆ 2009 // march

GRIC opposes all off-reservation gaming including the TO Nation's efforts to operate a casino in Glendale, AZ

◆ 2009 // april

City of Glendale opposes TO Nation's land into trust application within its city limits

◆ 2009 // july

TO Nation files suit against the City of Glendale for recognizing the invalidity of the City's attempt in 2002 to abandon an annexation that occurred in 2001. The TO Nation lost the suit and is appealing. The result is that of the approximately 135 acres the Nation originally applied for trust status under the Gila Bend Act, approximately 81 acres do not meet the criteria because these acres are within the Glendale city limits. The Nation continues to pursue its application for trust status of 54 acres of land in Glendale, AZ.

◆ 2010 // february

The City of Glendale introduces H.B. 2297 in the Arizona legislature. It is a bill that provides that a municipality may annex territory that is surrounded by the municipality or has city borders on at least 3 sides, if the landowner requests that the United States government take ownership if the territory or take it into trust. The bill is very specific to the TO Nation's application for trust status of land in Glendale, AZ under the requirements of the Gila Bend Act.

◆ 2010 // march 6

The GRIC attended the Four Tribes Meeting hosted by the TO Nation. The GRIC placed on the agenda a discussion of the aboriginal land claims the TO Nation made to the media and the Arizona legislature over the lands in Glendale, AZ. The TO Nation did not make any response to the GRIC's issues.

◆ 2010 // march

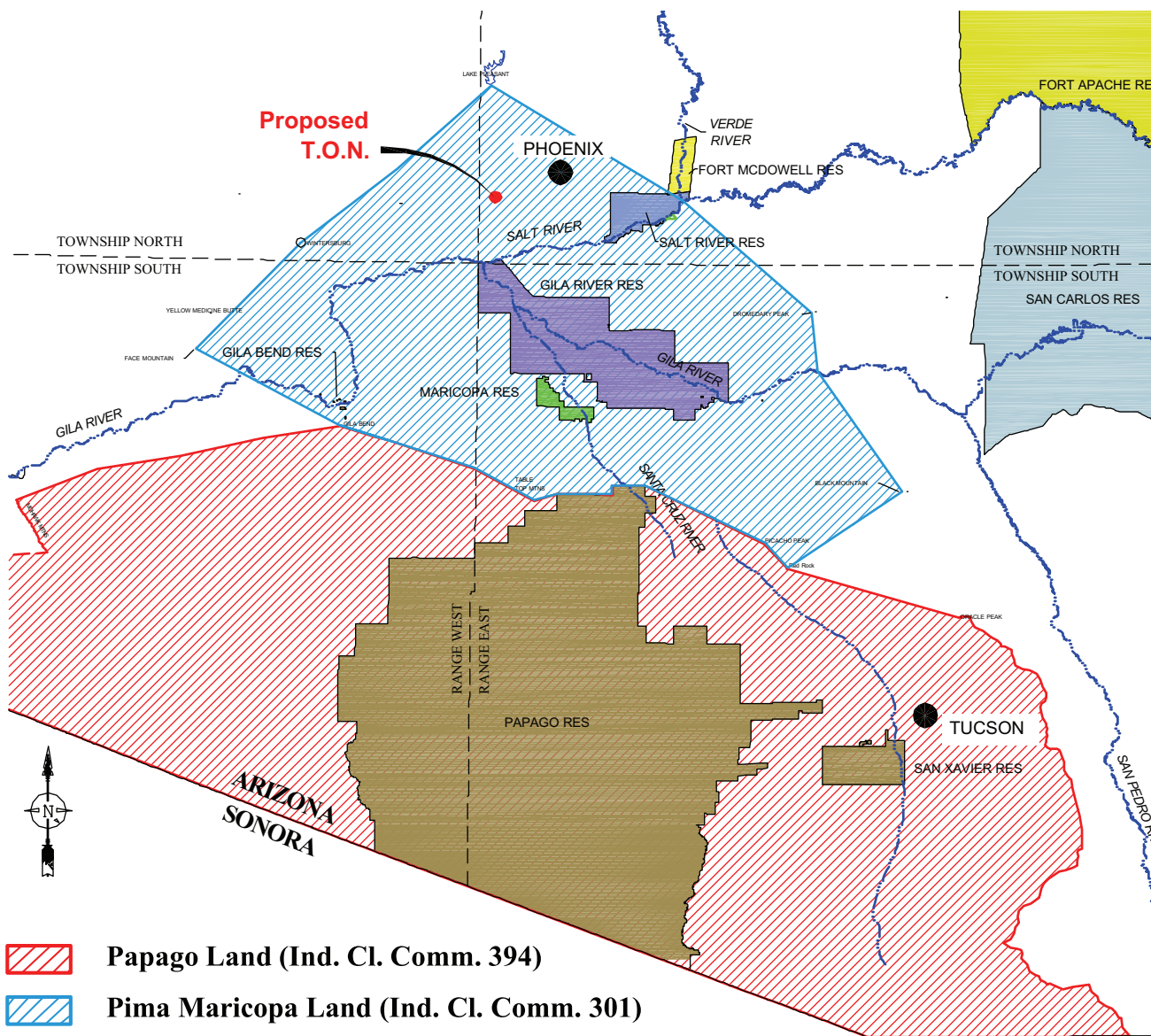
TO Nation files suit against the Secretary of the Interior in the District of Columbia, requesting that the court compel the Secretary to place 54 acres of land located in Glendale, AZ into trust status for the benefit of the TO Nation. The court granted the TO Nation's request to expedite the case. On June 15, 2010 the court will hear oral arguments for the TO Nation's motion for summary judgment and the United States cross motion. The City of Glendale intervened as a party to the case.

◆ 2010 // april

The Arizona legislature breaks without having approved H.B. 2297 or S.B. 1109, the City of Glendale's proposed annexation legislation that would prevent the TO Nation's application under the Gila Bend Act

Indian Claims Commission (ICC) Map

Akimel O'otham (Pima), Pee Posh (Maricopa), Tohono O'Odham (Papago) aboriginal land map



But these aren't the aboriginal lands of the Tohono O'Odham Nation, are they?

The TO Nation tribe claims that Glendale is located on its ancestral home. In a recent interview with Howard Fischer of Capitol Media Services, TO Nation Chairman Ned Norris Jr., said the following: "The O'odham have lived in this region, including where we're moving with this particular project, since time immemorial."

Norris also said, "... all O'odham tribes, which he said includes the Gila River community as well as the residents of the Salt River and the Ak-Chin reservations, are all descendants of the Hohokam."

TO Nation Chairman Norris is basing his aboriginal claim to the valley on the meaning and use of "Hohokam." In fact, "Hohokam" merely means "those who have gone." Archaeologists studying and uncovering Indian cultural remains labeled the findings as Hohokam. It is actually a mischaracterized of Huhgam, the O'otham term for those who have gone. It doesn't create an aboriginal claim to land.

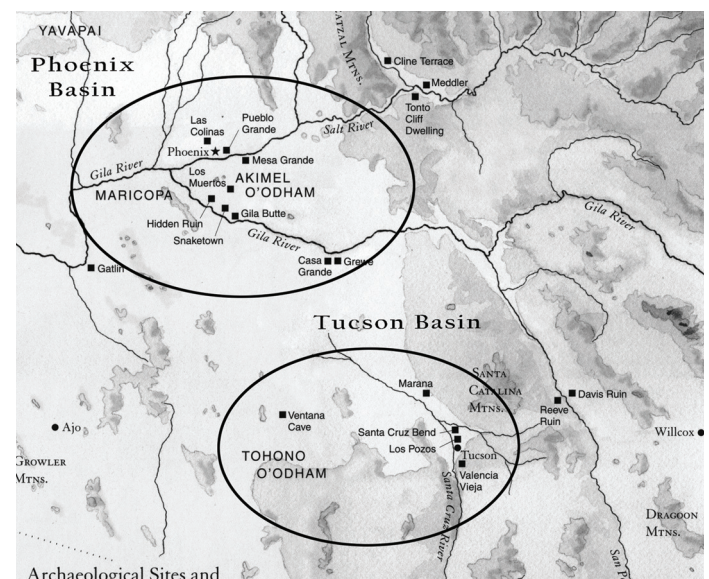
This is Pima and Maricopa land, not Papago land.

"Huhugam"

The historic translation of Huhugam as recorded by ethnographers, anthropologists and archaeologists basically accept an interpretation provided by O'Odham informant(s) in 1908. The recorded translations that are attributed to the Odham word "Huhugam" are incorrect. The limited knowledge of the English language of the informant(s) and the manner of articulation may account for the misleading interpretations.

Huhugam does not literally mean "the things that are all used up" Huhugam specifically applies to past human life and not objects as that may have been accepted generally as "that which has perished" (Haury 1976:5). The term "that" implies reference to an object which is inaccurate and is not acceptable in the hearts and minds of the present day O'Odham.

This perspective represents the understanding and beliefs of Odham Elder, Barnaby V. Lewis of the Gila River Indian Community, December 2008.



Aboriginal lands shown in detail. The Tohono O'odham do not have aboriginal lands in the Phoenix municipal area.

TO Nation Pushes Casino; Despite GRIC & Statewide Opposition

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to restrict casinos to traditional reservation lands and contribute a small portion of gaming revenues to the state.

The TO Nation's casino, planned on more than 100 acres of land at 91st Avenue and Northern in Glendale, was announced in January 2009, more than six years after the tribe bought the land using the name, "Rainier Resources, Inc.," a Delaware corporation with a Seattle, Washington mailing address.

While the TO Nation believes that the Secretary of Interior must take this land into trust as a part of a mandatory process, other entities – including the GRIC and the City of Glendale – disagree completely.

As Glendale wrote in its resolution of April 9, 2009, condemning the casino plan: "The City believes that the Tohono O'odham Nation's assertions ... are incorrect, poor public policy, in violation of the governmental rights, privileges and authority of the State of Arizona, the County of Maricopa, and the City of Glendale, and are contrary to the best interests of the Citizens of the State of Arizona."

GRIC Lt. Governor Joseph Manuel added his voice to the opposition as well. "This land isn't eligible to be put into trust in a mandatory way," said Manuel. "The land the TO Nation was supposed to get was for agricultural use, not to build a casino on. And it's especially odd that they'd buy this land so far from their home, in an area that isn't even their aboriginal land."

Said Gov. Rhodes, "We've opposed this process for more than a year, and we're not going to stop, what they're doing is dishonest and it's going to hurt not just our community, but every tribal community in Arizona. We can't just let this happen."

Governor William Rhodes' My Turn

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clearly, too: We agreed to state oversight of casinos and to contribute up to 8 percent of our annual revenues to the state.

Thanks to that promise, both sides have benefitted greatly. Tribes (even non-gaming tribes) have been given an economic engine to rebuild our homelands and improve our quality of life. And Arizonans have seen the benefits of more than \$600 million in tribal contributions. Those dollars have funded education, health care, wildlife conservation and communities across Arizona.

Now that promise is under attack.

In 2003, the TO Nation used a dummy corporation to buy land in Glendale, more than 150 miles north of their government seat. Last year, this tribe petitioned the federal government to declare the parcel at 91st Avenue and Northern part of its reservation. If approved, despite a location close to homes, churches and schools, the tribe has announced plans to build the state's largest casino.

The City of Glendale opposes this plan. So do the mayors of Buckeye, Goodyear, Litchfield Park, Surprise and youngtown. So does Sen. Jon Kyl, Sen. John McCain, Gov. Jan Brewer, and Congressmen John Shadegg and Trent Franks. So do at least a half-dozen tribes across Arizona. All of us believe this land isn't eligible to be taken into trust, that it's an unsuitable site for a casino and that it breaks the promise of Proposition 202.

All of us agree with how then-Gov. Jane Hull explained the promise of tribal gaming to voters. "Voting 'yes' on Proposition 202 ensures that no new casinos will be built in the Phoenix metropolitan area ... for at least 23 years," she said. "Proposition 202 keeps gaming on Indian Reservations and does not allow it to move into our neighborhoods."

Despite this promise, the Tohono O'odham tribe isn't alone in wanting to expand casino gambling in Arizona. The owners of horse and dog tracks across the state also want casinos. Seizing an opening created by the state's budget shortfall, the tracks and their lobbyists are busy cajoling legislators for permission to operate "racinos," tracks where patrons can bet not only on racing animals but on slot machines, blackjack and poker.

Those who would break the promise see profits where we see limited gaming and the rule of law. We, their opponents, believe promises are more than just words. We believe any promise that helps us all is a promise that absolutely must be kept.

Four Tribes

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the location of approximately 135 acres of land the TO Nation purchased and is applying for federal status. More importantly and at the heart of the issue is that area which the TO Nation is trying to create a reservation for their benefit is within the Gila River Indian Community's and the Salt River Pima-Maricopa Indian Community's ancestral territory--it's Pima-Maricopa aboriginal land. The TO Nation is attempting to put the 135 acres of land in trust for purposes of gaming by making it their reservation. The TO Nation is Papago; historically, culturally and based on archaeological evidence the Papago tribe has never occupied land in the region that Chairman Norris is claiming as theirs.

Governor Rhodes wanted to know why Chairman Norris didn't bring the Nation's casino proposal before the Four Tribes earlier, saying to Chairman Norris, "You know this is our land, you should have said something, it's not too late to talk." Gila River Councilwoman Brenda Robertson spoke of HIM'THAG, our way of life, and going in the direction of the mergan, the white man. All the Community Council representatives' questions and concerns went unanswered by Chairman Norris. He simply refused to talk and went to the next agenda item. To date, Chairman Norris and no member of the TO Nation has addressed the Community on this issue.

What the Nation's move would do to all the tribes in Arizona and across the Nation?

If the DOI approves the TO Nation's land into trust application, creating a reservation for them under the Gila Bend Act, land located in another tribe's aboriginal territory it perpetuate the trend nationally for "Reservation Shopping", buying land any where to then have the DOI make it a reservation. The Community's Lt. Governor Manuel noted reservation shopping is not just an issue in Arizona, a few Indian communities across the United States are attempting to make other tribe's home land their own, most of which are to put casinos on that land. He stated, "This isn't right, we all know where our territories are and where they aren't, what's going on right now is very hurtful to our people, it's our blood that's been spilled on this land we're standing on, it's our families that have lived on this very ground from time immemorial." He continued on with, "What Chairman Norris is doing is dishonorable. I don't believe it's the people of Tohono O'odham doing this; they're a deeply traditional and well thought of community. It's just hard to believe."

The Compact

According to the Indian Gaming Regulatory Act (IGRA) and Proposition 202, which led to the compact made by all the Arizona tribes with the State of Arizona, gaming facilities (casinos) are to be located within the tribe's current reservation boundaries. The compact was a carefully negotiated agreement that limited the number of facilities for the tribes in the Phoenix metropolitan area. Indeed, the Community is limited to 3 casinos instead of 4 facilities despite its population size. The TO Nation artfully negotiated for 4 facilities, claiming it needed a facility in Why, AZ. The TO Nation purchased the land in Glendale in 2003, and did not tell anyone of their plans when the compact was negotiated.

Racinos

Following closely the efforts of the TO Nation to build a casino in Glendale, AZ are the horse and dog track owners. The racetrack owners' efforts to expand gaming in 2002 failed under Proposition 201, which did not receive approval from the Arizona voters. If the Nation's West Valley Resort & Casino is to be built, the racetrack owners can point to the expansion of gaming in Arizona and again present their efforts for slot machines at the racetracks. In such an event, the gaming compact in Arizona would dissolve: it's the Poison Pill. Arizona could have state-wide legalized gambling.

GRIC Council Members that attended 4 Tribes Meeting

- Augustine Enas, D1
- Arzie Hogg, D1
- Jewel Whitman, D2
- Darrell Gerlaugh, D4
- John Antone, D4
- Brenda Roberston, D5
- Brian Davis, D5
- Frank Pablo Sr., D5
- Delane "Tony" Enos, D5
- Albert Pablo, D6
- Anthony Villareal, D6

Tribes Opposing the TO Nation's Casino:

- Gila River Indian Community
- Ak-Chin Indian Community
- Fort McDowell Yavapai Apache Nation
- Yavapai-Apache Nation
- San Carlos Apache Tribe
- Tonto Apache Tribe
- White Mountain Apache Tribe

No Tribes Support the Tohono O'odham Nation's Glendale Casino