

Wanna Bet? The Tohono O'odham Want to Build a Casino in the West Valley -- Now It's Up to the Feds to Make It Happen or Break Another Promise to the Tribe

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Albert Manuel walks through the desert near Gila Bend, reminiscing about the days when Indian villages sprawled across the landscape. He grew up in this southwestern desert, played under its mesquite trees, and hunted quail and dove with his brothers.

"We'd go to the water tank or sit under the trees," Manuel said. "Everybody took care of each other here."

In those days, the Gila River meandered through the Indian reservation about 100 miles southwest of Phoenix. The Papago Indians, now the Tohono O'odham Nation, settled into the small villages of Vecho, Diak, and Sil Murk along the banks of the river.

Families lived on the 22,000-acre reservation in homes with cactus-rib walls, clay floors, and thatched rooftops. In 1882, the federal government established the Gila Bend Indian Reservation, one of four in Arizona that make up the Tohono O'odham Nation.

By 1909, Washington cut the reservation by more than half. Even so, it was plenty big enough for tribal members to gather wood, hunt, worship, and raise families.

Villagers did not feel cramped until 1967, when they were forced to leave their homes because of continual flooding from Painted Rock Dam — built in 1960 by the federal Corps of Engineers downstream from the reservation to protect farming communities in southern Arizona. Water backup from the dam flooded reservation land repeatedly during the 1970s and '80s. Livelihoods were destroyed, including a 750-acre farm that helped support the tribe.

The villagers gathered their personal possessions and were ushered a couple of miles south onto what is known as San Lucy Village, a 40-acre tract that

essentially is all that remains of the Gila Bend reservation. They left behind their homes, their feast house, a community dining hall, and a way of life they would never recapture.

They could not leave behind their most valuable possession, though — the San Lucy Chapel. So after the last Catholic Mass was offered at the tribe's tiny house of worship, villagers removed every religious object and embarked on a two-hour procession to San Lucy Village. It was a long, sad march for the tribe.

"It was a trail of tears," says Lorraine Marquez Eiler, a tribal councilwoman in San Lucy. "The only thing we were able to salvage was that little church. The whole thing is a tragedy."

The smaller reservation had some modern houses, a new church, and a feast hall. But tribal hearts ached for the old villages.

"Moving to the new site created a big rift as to who we are," says Manuel, tribal chairman of Sun Lucy. "We'll probably never get to the point where we've been made whole again."

The forced move was the latest in a series of broken promises made to the tribe by the federal government.

First, because of pressure from land-hungry white farmers, the feds reduced the reservation to about 10,000 acres. Then, the government said it would help the impoverished tribe improve its land for agriculture. Before that could happen, the feds approved the dam, which flooded reservation land and forced the tribe to move.

Then, almost two decades after the Tohono O'odham settled San Lucy Village on the 40 acres, federal lawmakers promised tribal leaders in 1986 that they could replace the about 10,000 acres irreparably damaged by Painted Rock Dam — a pledge that the tribe became determined to make Washington keep.

It would take the tribe almost another two decades to find a chunk of real estate it wanted, a 134-acre parcel in the West Valley. In acquiring the property, tribal leaders were shrewd, using the same tricks that non-Indian developers use in land deals all the time.

The Tohono O'odham Nation purchased the land through a company with no apparent ties to the tribe and quietly sat on it for six years. In January 2009, the Nation shocked certain state and Valley political leaders when it announced that it owned the property and intended to build the state's largest resort-style casino on it.

The leaders, including Governor Jan Brewer, Glendale Mayor Elaine Scruggs, and U.S. senators Jon Kyl and John McCain, lined up to fight the Nation's proposal —

arguing that it violates state gaming laws and that a casino in West Valley suburbia would destroy neighborhoods.

Barely mentioned by the politicians were the 10,000 acres lost to flooding that squeezed the tribe and its way of life onto 40 acres.

Although the federal legislation that enabled the Tohono O'odham Nation to buy the property was supported by McCain, Senator Barry Goldwater, and other prominent politicians of the time, tribal leaders are hardly surprised that a federal official like McCain is now speaking out against the reservation designation and casino project.

If McCain and other detractors are successful at blocking the project, tribal leaders feel, it would be still another broken promise by the feds.

Tribesmen like Manuel are living every day with the results of the broken promises over the Painted Rock Dam.

While the four reservations in the Tohono O'odham Nation add up to 2.4 million acres — about the size of Connecticut — San Lucy Village quarters are tight. Several generations of families in the 500-person community are packed in modest homes marked by decades of poverty.

The old sense of tranquility no longer exists in tiny San Lucy, roughly the size of 30 football fields and one of 11 political districts in the Tohono O'odham Nation. Sometimes Manuel ventures through the old reservation land that is frequently flooded by water backed up from the dam. He doesn't find much tranquility there either.

"This area used to have a lot of life to it," Manuel said. "You could hear the doves cooing and the small animals rustling in the bushes. Now look at it."

In sight are a couple of concrete slabs, a few stacked bricks, remnants of an outdoor grill, heaps of blackened and broken trees — and a cemetery with a few dozen white crosses circled by man-made berms to protect it from the periodic flooding.

But the water sometimes pours over the berms and carries away cemetery markers. "There are a lot more graves," Manuel says, "than there are crosses here."

The graveyard and a site where centuries-old petroglyphs were discovered are the most important remnants of the lost reservation. The petroglyphs are where the ancestors of Manuel and his people etched on stone the stories of their lives in the hard desert.

Today, the Tohono O'odham Nation is trying to write a new chapter in its story. The southern Arizona tribe is moving forward with plans to build that \$600 million resort-style casino on the dusty, vacant piece of land it owns in the West Valley.

As a result, a battle rages in Arizona over the fate of the tribe's 134-acre parcel of county land that sits between Peoria and Glendale. Governor Jan Brewer and a smattering of state and local politicians have spent more than a year trying to derail the casino.

Their opposition campaigns have been hypocritical, hysterical, and untruthful.

Somewhere inside the rhetoric of those who object to the West Valley casino and the rights of the Tohono O'odham Nation are voluminous and complex federal laws that deal with Indians reclaiming lost land or establishing casinos on "replacement" acreage.

Though Indian gaming laws prohibit casinos on reservations created after 1988, they make exceptions for reservations established as part of a "land settlement."

And it is a land settlement that the Tohono O'odham believe was granted when Congress in 1986 adopted Public Law 99-503, also known as the Gila Bend Indian Reservation Land Replacement Act.

The law pointedly gives the tribe the right to search for replacement land in Pima, Pinal, and Maricopa counties that is "suitable for sustained economic use." It also requires that the federal government take the replacement land into trust, which effectively creates new reservation acreage.

That is why Nation leaders are pushing ahead with West Valley Resort, which would sport the state's largest casino. It would be just a couple of miles from Westgate City Center, Glendale's sports-and-entertainment district, [Jobing.com](#) Arena, and University of Phoenix Stadium, home of the Phoenix Coyotes and the Arizona Cardinals, respectively.

The area is already a magnet for mega-events such as the Super Bowl, WrestleMania, and concerts by artists such as Paul McCartney and the Black Eyed Peas.

The casino, expected to generate 6,000 construction jobs and 3,000 permanent jobs, would lure another 1.2 million people to the region each year. It promises 1.2 million square feet of posh rooms and fine dining, a full-service spa, bars, and a nightclub. The project also calls for a convention center and more than a dozen retail shops.

Not a bad prospectus at a time when the Valley faces double-digit unemployment, a massive budget crisis, and businesses shutting down left and right.

While local leaders typically salivate at the opportunity to stimulate an economy that is showing few signs of life, Glendale officials have been leading the all-out battle to keep the casino from building next to their city; in fact, they would like to see it as far away from the Phoenix area as possible.

They don't want to hear that a major project like the Tohono O'odham development would draw professional conferences, out-of-state visitors, and give well-heeled pro sports fans a big reason to stay in the West Valley (instead of heading to Phoenix or Scottsdale). Proponents of the casino argue that the extra pedestrian traffic might even create a strong enough buzz that other businesses would flock to the area.

All state and Glendale officials want to talk about is that an Indian reservation casino in the middle of suburbia is a bad idea. They bring up the standard morality arguments, saying the surrounding area would be ruined by a massive gambling establishment that plans more than 1,000 slot machines, 50 table games, 25 poker tables, and a 1,000-seat bingo hall.

Opponents have argued from atop every soapbox imaginable, shifting from social disdain (the casino will destroy families and give way to organized crime) to disapproval for financial reasons (it will force nearby businesses to close) to legal arguments (the federal government's creation of the reservation land it would occupy is unconstitutional).

Mayor Scruggs has likened an Indian reservation next to Glendale to the German government's buying land next door and declaring it Germany.

Glendale's opposition to the casino is born out of desperation.

The West Valley city has invested about \$490 million in west Glendale, and city officials shudder at the competition that a casino would create. Glendale spent about \$80 million on its own convention and media center, \$180 million in [Jobing.com](#) Arena, and borrowed \$200 million for Camelback Ranch-Glendale, the spring training home of the Los Angeles Dodgers and Chicago White Sox. It also brokered deals to land the Cardinals' new stadium, investing about \$9.5 million in the project and another \$11.5 million for youth sports fields around the stadium.

Glendale Councilwoman Joyce Clark believes that the tribe's West Valley Resort would suck the life out of many existing businesses by offering better deals on hotel rooms, dining, and entertainment — the same conclusion reached in a March 2009 study commissioned by Glendale to determine the economic impact of having a casino as a neighbor.

Indeed, the study concluded that the casino complex "would become a destination that would serve as competition for businesses" at Westgate City Center.

Conducted by Elliott Pollack & Company, the study minimized any benefits the casino might create for the Glendale. It noted that the city would be saddled with extra costs for services such as public safety and street maintenance.

Glendale is concerned about the competition to Westgate City Center because it relies on the businesses there to generate the sales-tax revenue needed by the city to pay off about \$490 million it borrowed to spark life into its western flank.

City officials moan that the Tohono O'odham have an unfair advantage in the marketplace because, as a sovereign nation, the tribe can undercut prices of adjacent businesses and because reservation isn't subject to state and local taxes.

Glendale will be happy only if the feds deny the tribe's application for a reservation, because then the city might someday annex the acreage and get a cut of sales and property taxes from traditional non-casino businesses that could locate there. To stay afloat, the city needs to squeeze every sales-tax dollar it can out of local businesses to cover debt payments tied to its prized sports-and-entertainment complex.

Administrators already had to cut \$11 million from Glendale's 2009-10 budget because of an overall drop in tax revenue, and they estimate that they may have to cut \$17 million from next year's budget.

The city has barely managed to make the loan payments for its complex without dipping into sales taxes generated by businesses outside the Westgate complex.

City Attorney Craig Tindall told *New Times* that the city's concerns are not purely economic.

"This is absolutely the wrong place to put a reservation and gaming facility," he said. "It's disruptive. Allowing this reservation is too great a risk."

As the laws stand, Glendale would not be able to annex the land without the Tohono O'odham's approval as long as the tribe owns it. But if the federal government turns down the tribe's reservation application, who knows what could happen? The tribe could conceivably sell the land and buy another plot that could be deemed reservation and build its casino there.

All this is to say that Glendale has precious little financial wiggle room, though nobody forced city leaders to step into the role of developer and invest public money to bankroll a hockey arena, a spring training complex, and a football stadium.

Nobody forced Glendale to hinge repayment of the massive loans for the sports-and-entertainment complex on sales taxes from future businesses that its leaders said would sprout like wildflowers around the stadium and arena.

It is true that the Nation would have the advantage of not automatically paying state and local sales taxes or fees to offset the city's need to build new streets or water lines for the casino. But it's also true that Glendale has had the advantage of using its government pulpit to protect its own interests as a developer.

On another front in the battle, Glendale officials are lambasting the tribe for concealing its ownership of the land and for keeping its plans for it hidden for six years before making a public announcement.

It is unfair criticism because hushed business transactions are common among developers. If a developer shows its hand too early, it could lose a negotiating edge or give competitors ample time to derail a project.

Albert Manuel, the San Lucy District chairman, said the tribe concealed its identity when it bought the West Valley land because of the tribe's previous experience with land negotiations.

After the tribe lost the roughly 10,000 acres of the Gila Bend reservation land to perpetual flooding and the land-replacement act was adopted, it found that replacing the property was difficult.

The act gave the Tohono O'odham \$30 million in federal money with which to purchase unincorporated land in Maricopa or the other counties. The tribe was allowed to search for property outside southern Arizona when leaders could not find land near San Lucy at fair market value.

Manuel recalls that once it was known how much money the tribe had to spend, landowners jacked up prices when the tribe expressed interest in their properties. Manuel said some property owners tried to sell land for five times more than it was worth.

After more than a decade of unsuccessful land negotiations, tribal officials decided on a more discreet business approach. They secretly bought the land in the West Valley, a region that was exploding with new homes and businesses. It wasn't until all their plans were in order — including their application requesting that the feds establish their land as a reservation where a casino could be built — that they went public with their intentions.

The strategy was similar to what Mayor Scruggs and Glendale City Manager Ed Beasley did when they plotted behind closed doors to lure the Phoenix Coyotes to Glendale from Scottsdale. Without bringing Scottsdale or the public into the discussion, the officials met with Phoenix developer Steve Ellman and West Valley mogul Jerry Moyes to make the move happen.

Once the deal was hashed out, it went directly to the Glendale City Council, and what became Jobing.com Arena received unanimous approval. As Scottsdale

officials appeared shocked by that announcement, Scruggs and Beasley beamed with pride.

Glendale officials also had private meetings in Phoenix long before they announced their intention to develop Camelback Ranch-Glendale, the baseball complex on Glendale-owned land in Phoenix that opened in 2009.

It is a style of doing business that Glendale apparently enjoys — as long as it is not on the receiving end.

Glendale's fight with the Tohono O'odham Nation started soon after the tribe announced its casino and resort plans.

Tohono O'odham Chairman Ned Norris stated clearly that the tribe was not asking local officials for permission to embark on the development. Norris said the tribe wanted to forge partnerships, and some city officials were more receptive than Glendale's.

Peoria Mayor Bob Barrett and Tolleson Mayor Adolfo Gamez said they believe the casino project will help reignite the region's economy.

"We're talking about employment opportunities for the entire West Valley," Gamez told *New Times*. "That's 6,000 construction jobs we don't have right now. And 3,000 permanent jobs, once the casino opens. People are talking about 'we need jobs, we need jobs,' and that's what we're talking about here.

"It's a good destination spot to attract people to this area," he said. "It's win-win, and that's why I can't understand why people are against it."

He is talking about Glendale, mainly, whose City Council passed a resolution directing Beasley and the city attorney to do anything necessary to blow up the Nation's plan.

First came city support of a bill sponsored by state Representative Jerry Weiers that would have given cities the right to forcibly annex tribal land. The Glendale Republican proposed immediate annexation if a landowner requested the federal government to establish the property as reservation. (If land is annexed into a city, federal law prohibits it from becoming reservation.)

The made-to-order legislation made it out of the Arizona House of Representatives, but it stalled in the Senate after the body's president, Bob Burns, buried it. Burns said the fight over the casino was between Glendale and the Tohono O'odham.

City officials then announced that 46 of the Tohono O'odham's 136 acres were already within Glendale's city limits, rendering at least those acres ineligible to become reservation.

Losing the acreage would not stop the tribe's casino plans, but it would alter them, so the tribe filed a lawsuit to rebuff Glendale's claim. A Maricopa County judge agreed that the portion of the land purchased by the Nation in 2003 was within Glendale's city limits.

The decision came after city officials dug up records to establish that Glendale had annexed the swath in 2001. The city admitted that it had collected no taxes on the property because it had de-annexed the 46 acres back to the county. But the city argued that it couldn't legally undo an annexation unless the property was absorbed by another city, so the property was still in Glendale's jurisdiction.

The Nation is appealing.

Even though the state is steeped in its worst financial crisis in modern history, Governor Jan Brewer is also opposed to the Tohono O'odham's building a casino in the West Valley.

Whether it creates jobs or helps kick-start the local economy, Glendale resident Brewer doesn't care. Put simply, she's against gaming near residential neighborhoods for moral reasons.

Strangely, at first blush, another Indian tribe also is playing the morality card in an attempt to stop the Tohono O'odham casino. But the Gila River Indian Community's real reason for siding with Glendale and Brewer is that its fellow tribe's development will upstage its recently opened "premier" casino in Arizona, Wild Horse Pass, and will compete with another of its casinos, Vee Quiva.

Regarding the governor's misgivings about the Tohono O'odham casino complex, her spokesman says, "She believes our citizens are deeply concerned about the spread of gaming. She believes that's a widely held position by citizens, one they approved in the past."

The governor's representative, Paul Senseman, refers to Proposition 202, a voter-approved gaming compact with Arizona tribes known as the "Indian Gaming Preservation and Self-Reliance Act."

Casino critics say allowing the Tohono O'odham Nation to open a casino on non-traditional Indian land would upset the state's delicately balanced gaming regulations.

The gaming compact, approved by voters in 2002, requires tribes to contribute 8 percent of their revenue to fund a variety of statewide programs, including education, wildlife, and emergency healthcare. It also limits how many casinos each tribe can build, how many slot machines and game tables it can operate, and has a "trigger" to ensure that tribes enjoy a gaming monopoly.

That trigger prohibits the state from allowing any non-tribal entities to operate slot machines or other casino-style gaming outside Indian reservations. If that agreement is breached, Arizona's cut of gaming revenues drops to less than 1 percent, and tribes can freely expand casinos and gaming without bounds.

Former Governor Jane Hull was among the supporters of Proposition 202. At the time, she wrote that it would ensure "that no new casinos will be built in the Phoenix metropolitan area," that it "keeps gaming on Indian reservations, and that it "does not allow [gaming] to move into our neighborhoods."

Janet Napolitano, state attorney general at the time, wrote that the measure would prevent "the introduction of casino gaming, and slot machines, into our neighborhoods."

Hull and Napolitano's statements of support attached to the ballot measure are the basis for Gila River's, as well as Glendale's, arguments for keeping casinos out of neighborhoods. It's the thrust of www.keepingthepromiseaz.com, a joint Web site that Gila River and Glendale support as a means of swaying public opinion against West Valley Resort.

The site stops short of informing visitors that the voter-approved gaming compact has clear exceptions.

Though it limits Indian gaming to existing reservations, it allows casinos on new reservations as long as they fit the guidelines in the federal Indian Gaming Regulatory Act.

That set of federal gaming rules allows casinos on reservation land created after October 17, 1988, if they are part of "a settlement of a land claim."

And that is exactly what the Tohono O'odham Nation adamantly says it has: an act of Congress that settles a claim for nearly 10,000 acres of land the tribe was forced to relinquish.

Though the Gila River Community is on board with the morality-based Prop 202 argument, tribal leaders have also publicly contested the project over claims that the West Valley is home to the ancestral lands of the Gila River Community, not the Tohono O'odham.

But Tohono O'odham Chairman Norris begs to differ. He notes that archeologists have determined that the Gila River and the Tohono O'odham tribes are *both* descendants of the Hohokam, who settled in Arizona about 300 A.D. — giving the Tohono O'odham just as much claim to the West Valley as the Gila River Community.

"There is no question in my mind . . . where we come from, who we are," Norris says. "Don't suggest the Tohono O'odham have no ties to that area!"

Norris was upset when he learned that a sister tribe — with intertwined families, cultures, and traditions — had joined forces with mainstream politicians to scuttle plans for the casino. "It's about money and control," Norris says. "[The Gila River people] should call it what it is."

For Albert Manuel, the Tohono O'odham San Lucy District chairman, the bottom line is: "[The Gilas] just opened a new casino. It's competition. That's all I have to say."

In October, the Gila River tribe opened its Wild Horse Pass Hotel and Casino, just minutes from Sky Harbor International Airport and about 40 miles from the Tohono O'odham's proposed West Valley Resort.

On Wild Horse Pass' opening day, Gila Lieutenant Governor Joseph Manuel (no known relation to Albert) declared it the premier casino in Arizona, bragging, "We're at the top, and we're going to stay there!"

Unless something bigger and better comes along.

If the federal gaming authorities allow the Tohono O'odham to build West Valley Resort, it will be the state's largest and glitziest casino. It would also create stiff competition for Gila River's Vee Quiva Casino, a gaming center with no amenities other than a deli, about 25 miles south of the Tohono O'odham's West Valley land.

William Rhodes, governor of the Gila River Indian Community, never mentions competition or ancestral rights when knocking the Tohono O'odham project in a statement on the tribe's Web site.

Like Glendale officials, he complains about the initial secrecy of the project and mentions that the West Valley property is 150 miles from the Tohono O'odham's main tribal land. And like Glendale and Brewer, he complains that the new casino would undermine Prop 202 by being too close to neighborhoods, churches, and schools.

Rhodes does not bring up his fellow tribe's suffering or that the federal land-replacement act, which made the O'odham deal possible, was designed to compensate for it.

The Gila River Community's governor, in espousing the keep-casinos-away-from-neighborhoods argument, has stranger bedfellows than even Glendale Mayor Scruggs and Brewer.

The fire-and-brimstone argument has been used by Republican Congressman Trent Franks of Peoria in opposing the West Valley Resort, and in the 1990s, with Governor Fife Symington's refusing to negotiate gaming compacts with Native Americans.

Saying that violence, drugs, and organized crime went hand in hand with casinos, Symington said, "It's the kind of thing which really can transform your society and lead to all kinds of social ills."

But despite Symington's prediction that Indian gaming would turn Arizona into another Nevada, that hasn't happened. And at least according to a recent survey commissioned by the Tohono O'odham Nation, most people in the West Valley support the new casino. The poll got a 67 percent positive response.

In all their rhetoric, says an expert on Native American law, critics forget why tribes were given the right to have casinos in the first place.

"People can argue about the negative effects of casinos," said Judy Dworkin, an adjunct law professor at Arizona State University, "but [casinos] are the one thing that Indians have been able to use to raise money and pull themselves out of economic depression."

The Department of the Interior's Bureau of Indian Affairs has been reviewing the tribe's application to make its West Valley property part of the Tohono O'odham Nation for more than a year.

Tired of waiting, the tribe sued the BIA on March 22 in an attempt to compel the feds to quit stalling.

As the Nation tries to force Washington to make a decision, state and local officials have rounded up local politicians and business leaders to put pressure on a federal decision-maker to turn down the tribe's request, filed in January 2009.

Tribal Chairman Norris can't understand what's taking so long, since both the BIA Western Regional Office in Phoenix and the Department of Interior's Office of Indian Gaming in Washington have decreed that putting the 134 acres of tribal-replacement land into trust is "mandated" by the Gila Bend Indian Reservation Land Replacement Act.

But whether that actually happens, and whether the area is approved for gaming, rests solely with Assistant Secretary of Indian Affairs Larry Echo Hawk.

Several Valley and state officials have sent letters opposing the casino, says Paula Hart, acting director of the Office of Indian Gaming. In her responses to them, Hart emphasizes that federal law allowing the Tohono O'odham to replace land that it lost to the flooding is "clear and unambiguous."

One opposition letter was from Phoenix Mayor Phil Gordon, who wrote that when voters approved Prop 202 (allowing gaming to continue on Indian reservations), they "were told there would be no increase in the number of

casinos in the Phoenix area and that [casinos] would be limited to current reservation lands."

But Hart said the mayor's assessment is wrong. She wrote to Gordon that, to the contrary, the 2002 compact, signed by both the tribe and the state, "specifically allows gaming on lands acquired by [tribes] after 1988," as long as they are in compliance with federal gaming laws.

The Tohono O'odham note in the tribe's lawsuit against the BIA that such notable Arizona politicians as Goldwater, McCain, Dennis DiConcini, and Mo Udall signed the Gila Bend Indian Reservation Lands Replacement Act to give the tribe the right to turn its West Valley land into reservation.

In giving the tribe that right, the law specifies that the property be "suitable for sustained economic . . . self-sufficiency." And what better than a casino to make money for the tribe, because some of its revenue would improve poor living conditions in San Lucy?

There are 23 casinos in Arizona that have peacefully coexisted with each other and with surrounding communities, including schools and neighborhoods. The Fort McDowell Casino is about three miles from Fountain Hills. And the Tohono O'odham's Desert Diamond Casino is across the street from a church in Tucson.

But the Gila River Indian Community is no longer willing to coexist with the Tohono O'odham, gaming-wise, unless it abandons its West Valley plan.

The Gila community is launching radio spots that will depict the Tohono O'odham Nation as greedy for planning to build the West Valley Resort.

And, of course, Glendale is continuing its full-force opposition of the casino project — both with its campaign to harangue the BIA and by filing legal objections.

Undeterred, Chairman Norris is pushing ahead defiantly:

"We are standing strong. For us, this is a matter of protecting the rights and sovereignty of the Tohono O'odham Nation. We're not going to go away because someone is concerned about having an Indian reservation in their backyard."