

Arizona Republic

Ruling aids tribe in battle for casino

by **Cecilia Chan** - Mar. 4, 2011 12:00 AM
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A U.S. District Court judge Thursday upheld a federal decision to designate land in the West Valley as a reservation, opening the door to a tribal casino near Glendale's sports and entertainment district.

The Gila River Indian Community, Glendale and state legislative leaders had sought to overturn the 2010 U.S. Department of Interior's decision to take 54 acres into trust for a southern Arizona tribe.

The Tohono O'odham Nation aims to build a casino, resort, shops and restaurants on 54 acres near 95th and Northern avenues, just off Loop 101.

It's unclear how quickly the tribe would begin construction. Opponents plan to appeal Judge David Campbell's decision. It was not immediately known if the Interior Department would take the land into the reservation system before all appeals were exhausted.

And the tribe faces another legal challenge. Arizona Attorney General Tom Horne and the Gila River Indian Community last month asked a federal judge to ban gaming on the land, saying the tribe's plans would break the state gaming compact, which outline the rules of gaming on tribal reservations.

Tohono O'odham Chairman Ned Norris Jr. called Thursday's ruling "a significant day in the history of this project."

He said the tribe looked forward to obtaining the needed regulatory approvals to move forward on its casino.

Glendale vowed an appeal, issuing a statement that "reversing this decision is very important to the future of Arizona and the other Arizona Indian communities."

Glendale maintained "its position is correct both from a legal and public-policy perspective."

Campbell in his ruling said the case before him was not about "appropriate limits on Indian gaming . . . whether the federal government, as a matter of good governance, should show greater deference to the wishes of state and local voters and leaders . . . (or) even about whether a Las Vegas-style casino in the middle of Glendale is a good idea."

He viewed the case more narrowly, as whether the Interior Department's decision was "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

He ruled it was not and thus gave deference to the agency's decision.

Campbell also disregarded Glendale and legislative leaders' argument that the Interior Department's decision ran afoul of the U.S. Constitution's 10th Amendment by trampling on state rights.

The Interior Department agreed to take the land into the reservation system based on a congressional settlement with the tribe to replace reservation land near Gila Bend that had been damaged by a federally built dam.

The Constitution clearly gives Congress the authority to regulate Indian affairs and commerce, he said.