

ISSUE BRIEF: WEST VALLEY SETTLEMENT AGREEMENT

The Journey: 1960-2015

Flooding of San Lucy District

In 1960, the U. S. Army Corps of Engineers completed construction of the Painted Rock Dam on the Gila River. Despite repeated assurances from the Bureau of Indian Affairs and the Corps that flooding would not harm the lands of the Tohono O'odham Nation's San Lucy District, 9,880 acres were eventually rendered unusable due to continual flooding in the late 1970s and early 1980s. Included among the destruction was a 750-acre farm that had previously provided tribal revenues.

Congress Passes Gila Bend Indian Reservation Lands Replacement Act

To resolve the situation, the Gila Bend Indian Reservation Lands Replacement Act (Public Law 99-503) was signed into law by President Reagan in 1986, authorizing the Nation to purchase up to 9,880 acres of unincorporated private lands located in Pima, Pinal, or Maricopa counties as replacement reservation lands. The Act settled the Nation's claims to its destroyed reservation, and also provided funds for land and water rights acquisition, economic development, and relocation costs.

Passage of Indian Gaming Regulatory Act

IGRA was passed by Congress in 1988 and allows tribes to conduct gaming on their lands. While IGRA generally prohibits gaming on reservation lands acquired after 1988, one exception is for "lands taken into trust as part of the settlement of a land claim." Under IGRA, the federal government settled claims for the Nation's loss of lands and promised to take replacement lands "suitable for sustained economic use" into trust.

Voters Support Proposition 202

In 2002, Arizona voters passed Proposition 202, which established updated guidelines for Indian gaming and ensured its continuation well into the future. The Proposition preserves the Nation's right to construct an additional casino operation, and permits the Nation to operate limited gaming on lands acquired under the Lands Replacement Act.

Purchase & Development of West Valley Property

In 2003, the Nation acquired a 135-acre parcel in unincorporated Maricopa County near Glendale. The land meets all requirements of the federal law and a 54-acre portion of this land was taken into trust as reservation land in July 2014.

The Nation broke ground on the Desert Diamond Casino West Valley in August 2014. The interim facility opened on Dec. 20, 2015 as a Class II casino with 1,089 games. It employs nearly 600 people.

The Settlement: 2017

Continued Litigation to Hinder Casino Project

Since the Tohono O'odham Nation first announced plans in January 2009 to construct a major resort casino in the West Valley, opponents have challenged the legal authority for the land to be taken into trust and for the Nation to operate a gaming facility. There have been more than a dozen court rulings on the issue; including administrative decisions, there have been nearly 20 decisions, all of which favored the Nation.

Failed Legislation Against the Project

There have been several legislative attempts at the state and federal level to derail the project. All efforts, however, failed to pass, including hostile federal legislation in 2012, 2014, and 2015. State legislative attempts have ended and there is no current opposition bill in the Congress.

Settlement Agreement

In May 2017, after months of negotiation, the State of Arizona and the Tohono O'odham Nation settled on an agreement for the West Valley property. The agreement provides protections for this facility moving forward and preserves the Nation's rights under P.L 99-503. It also ensures that its enterprise can move forward to become a powerful economic engine for the Nation, the West Valley and all of Arizona

The Settlement Agreement:

- Puts an end to all outstanding litigation over the Nation's West Valley facility.
- Enables the Nation to move forward with Class III gaming and a full-scale resort casino with all amenities. The completed facility will create over 3,000 new jobs and over \$300 million in annual economic impact.
- Ensures that the State won't oppose the Nation's efforts to take the remaining West Valley parcels into trust.
- Prohibits additional facilities in the Phoenix Valley for the term of this compact and the next, or a total of 15 years if a new compact is not agreed upon.
- Provides that if state or federal legislation that would hinder the Nation's facility passes in the future, or if another tribe moves to game on lands in the Phoenix area acquired after 2003, then these restrictions on the Nation will terminate.