

RESOLUTION OF THE
NAABIK'ÍYÁTI' COMMITTEE OF THE
NAVAJO NATION COUNCIL

23RD NAVAJO NATION COUNCIL - First Year, 2015

AN ACTION

RELATING TO NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING U.S. SENATE BILL S. 152 AND U.S. HOUSE OF REPRESENTATIVES BILL H.R. 308, "KEEP THE PROMISE ACT OF 2015," REGARDING THE ARIZONA TRIBAL-STATE GAMING COMPACT

Whereas:

- A. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered the Naabik'íyáti' Committee to address statements of policy and to coordinate with federal programs. 2 N.N.C. §§ 164(A), (A) (9), 701(A) (4) (2012).
- B. The Indian Gaming Regulatory Act was developed to structure compacts and jurisdictional powers between Tribes and states encouraging gaming by tribes for economic development.
- C. In 2002, the State of Arizona and Tribes within Arizona negotiated a State-Tribal gaming compact and agreed to a state-wide ballot measure (Proposition 202) whereby Arizona citizens approved for casino gaming rights exclusively for the Tribes.
- D. The Tribes in Arizona agreed to a State-Tribal compact in 2002 providing for casino gaming rights exclusively for Tribes.
- E. Included in the 2002 Arizona compacts was a market parity agreement, developed by a consensus of the Tribes, to limit casinos in Maricopa County to seven. This market parity agreement preserved market demand for gaming outside of Maricopa County.

- F. The Tohono O'odham Tribe proposed a project in Glendale, Arizona referred to as the Tohono O'odham Glendale Casino Development. The Tohono O'odham Glendale Casino Development is not in conformance with the agreements made by Tribes in 2002. Map of proposed project site, Exhibit A.
- G. The Twin Arrows Casino and Resort is important to the Navajo Nation for jobs, income and for its long term development opportunities. It was developed on the premise that the 2002 Compact would protect Twin Arrows from unexpected casino developments within the metropolitan Phoenix area and would prohibit race track and commercial casino development in the Flagstaff area. Loss of these protections will have significant negative impacts to Twin Arrows revenues.
- H. Tohono O'odham Glendale Casino Development poses a danger to Navajo's Twin Arrows project by:
1. Negatively impacting Twin Arrow's revenues from casino patrons from the Phoenix area which have been projected by market studies to be 10% to 20% of Twin Arrows' revenues.
 2. Encouraging major commercial gaming and race track interests to move aggressively to obtain casino gaming as a result of Tohono O'odham Glendale casino opening. The casino opening will add an additional rational for expanded gaming into urban areas, risking Navajo's gaming market in the future from Phoenix and Flagstaff.
 3. If commercial and track interests entering casino gaming they will become a significant political power, compromising Tribal interests as they promote their interests in the Arizona political system related to gaming.
- I. U.S. Senate Bill S.152 and U.S. House of Representatives Bill H.R. 308, "Keep the Promise Act of 2015," are identical bills in Congress that prohibit casinos in the Phoenix metropolitan area. These bills do not affect land into trust applications but only restrict the use of the trust land in the Phoenix urban area to other than casino gaming until 2027, the expiration of the last current

State-Tribal compact. Bill Summary, Exhibit B. S. 152, Exhibit C. H.R. 308, Exhibit D.

J. The Keep the Promise Act of 2015 enforces the promise imbedded in the compact made by Tohono O'odham Nation to all other Tribes in Arizona and do not assert any restriction for the Navajo Nation in law or in precedent, related to Navajo lands or land acquisitions outside of the Phoenix metropolitan area.

Therefore Be It Resolved

The Navajo Nation supports U.S. Senate Bill S.152 and U.S. House of Representative Bill H.R.308, now being considered in Congress, in order to maintain the integrity of the Arizona's Indian gaming industry and to protect Navajo's gaming market from commercial or race track intrusion into it; and which will prohibit additional Tribal casinos in the Phoenix area until 2027.

CERTIFICATION

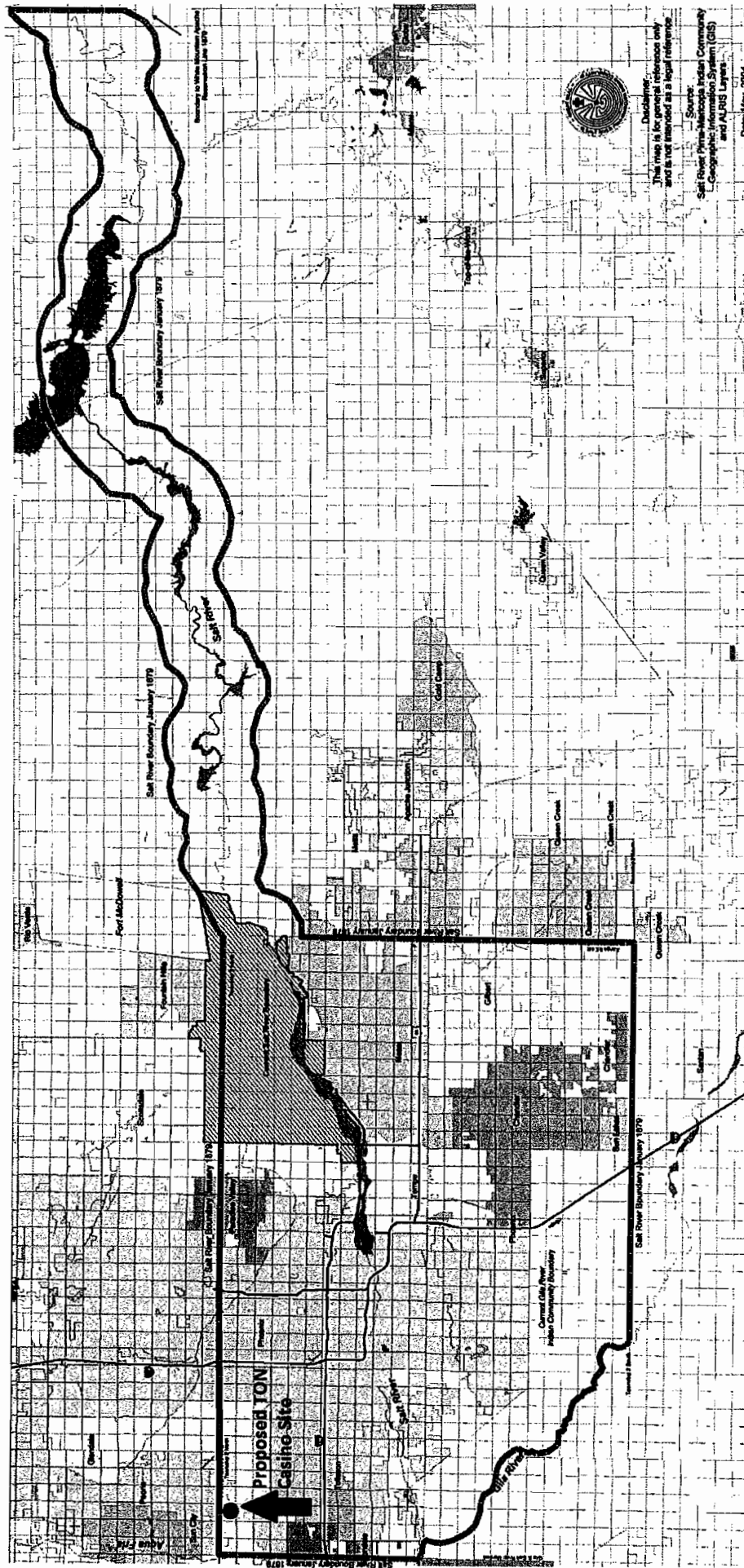
I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 18 in favor and 0 opposed, this 11th day of June, 2015.



LoRenzo C. Bates, Chairperson
Naabik'íyáti' Committee

Motion : Honorable Jonathan L. Hale
Second : Honorable Tuchoney Slim, Jr.

Original Boundary of Salt River Indian Reservation: Executive Order January 10th, 1879; with revised June 14th, 1879 Executive Order Boundary



tabbles

EXHIBIT

A

Salt River Land Area Estimates

January 10th 1879 E. O. Boundary
1064 Square Miles +/-

Current Land Area:
85.5 Square Miles +/-

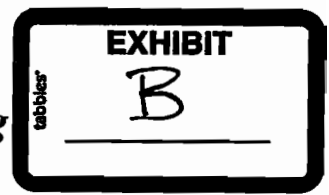
Legend

- US Interstates
- Lakes
- Rivers
- Public Land Survey Sections
- Current Salt River Community Boundary
- Salt River Boundary January 1879



Disclaimer:
This map is for general reference only
and is not intended as a legal reference.
Source:
Salt River Pima-Maricopa Indian Community
Geographic Information System (GIS)
and ARLIS Layers
Date: May, 2004

The Keep the Promise Act Protects Tribal Gaming



H.R. 308, the Keep the Promise Act of 2015, is necessary to protect the current system of Indian gaming in Arizona and prevent the proliferation of off-reservation gaming. The bill temporarily prohibits any additional casinos from being built in the Phoenix metropolitan area until 2027. This prohibition on additional casinos was agreed to by the tribes, State leadership and voters in 2002. In exchange for this prohibition, the voters granted tribes exclusive authority to conduct gaming in Arizona. The bill has strong bipartisan support and passed the House of Representatives by voice vote in the 113th Congress. It is supported by a dozen tribes in Arizona, the Governor, the State Legislature and numerous communities.

The bill is needed because one tribe located in the Tucson-area of the State (the Tohono O'odham Nation) is attempting to build a Las Vegas-style casino within the Phoenix suburb of Glendale across the street from a new public high school. These efforts are contrary to promises and commitments made by the Tohono O'odham Nation, and other tribes, to the State leaders and voters in 2002 that there would be no additional casinos within the Phoenix metropolitan area until 2027. The voters specifically granted tribes exclusive authority to conduct gaming within the State based upon these promises. More, other tribes gave up important rights (such as the rights to build additional casinos) based upon these promises and commitments.

When negotiating new gaming compacts in the early 2000s, the Governor, State Legislature and voters made clear that they did not want any more casinos built in the State. At the time, there were already 7 tribal casinos in the Phoenix metropolitan area. In the Tucson metro area, the Tohono O'odham Nation was already operating 3 casinos. In order to continue to have the exclusive right to conduct gaming within the State, the Phoenix-area tribes (and many rural tribes) agreed to give up rights to build additional casinos and agreed to caps on the number of gaming machines they could operate. The only metro-area tribe that did not give up a right to build an additional casino was the Tohono O'odham Nation. The State and other tribes decided to allow the Tohono O'odham Nation to keep its right to build a 4th casino because the Tohono O'odham agreed that it would build this casino on or near its reservation in the Tucson-area. Once this agreement was reached, the Governor and tribes, including the Tohono O'odham, ran an extensive campaign to garner the support of the voters to approve the new gaming compacts. The campaign materials, and public statements made by the Governor and tribes (including Tohono O'odham) focused on the fact that tribal gaming would be limited, that there would be no casinos in neighborhoods, no additional casinos in the Phoenix area, and only one additional casino in the Tucson-area.

The voters of the State narrowly approved the new gaming compacts in 2002, but 7 years later the Tohono O'odham Nation announced that it found a legal loophole in the compacts that it would use to build its 4th casino in the Phoenix area rather than in Tucson. When the State and a few tribes tried to sue the Tohono O'odham to enforce its promises, the Tribe raised sovereign immunity as a defense. Even though the court found that the evidence supported the claims of fraud and wrongful inducement, the judge held that sovereign immunity prevented him from adjudicating the merits of the claims. This attempt to break the promises made to the other tribes, the State and voters will have devastating impacts on the long-term viability of tribal gaming in Arizona. When the time comes for the voters to consider whether to approve tribal gaming again in 2027, there will be no trust with the tribes and there are already attempts to destroy the exclusive right that tribes have to game within the State.

More, the Tohono O'odham Nation's proposed casino is within the former reservation boundaries of the Salt River Pima Maricopa Indian Community, and almost 100 miles from the Tohono O'odham's main reservation lands. Allowing a tribe to go so far from their reservation and into another tribe's aboriginal territory would be precedential and violate the policy adopted by a majority of gaming tribes within the country that tribes should stay within their aboriginal territory when building casinos and not negatively impact other tribes. Congress needs to pass this bill to preserve the integrity of tribal gaming.



II

114TH CONGRESS
1ST SESSION

S. 152

To prohibit gaming activities on certain Indian land in Arizona until the expiration of certain gaming compacts.

IN THE SENATE OF THE UNITED STATES

JANUARY 13, 2015

Mr. MCCAIN (for himself and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To prohibit gaming activities on certain Indian land in Arizona until the expiration of certain gaming compacts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep the Promise Act
5 of 2015”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) in 2002, the voters in the State of Arizona
9 approved Proposition 202, the Indian Gaming Pres-
10 ervation and Self-Reliance Act;

1 (2) to obtain the support of Arizona voters to
2 approve Proposition 202, the Indian tribes within
3 Arizona agreed to limit the number of casinos within
4 the State and in particular within the Phoenix met-
5 ropolitan area; and

6 (3) this Act preserves the agreement made be-
7 tween the Indian tribes and the Arizona voters until
8 the expiration of the gaming compacts authorized by
9 Proposition 202.

10 **SEC. 3. DEFINITIONS.**

11 In this Act:

12 (1) INDIAN TRIBE; CLASS II GAMING; CLASS III
13 GAMING.—The terms “Indian tribe”, “class II gam-
14 ing”, and “class III gaming” have the meanings
15 given those terms in section 4 of the Indian Gaming
16 Regulatory Act (25 U.S.C. 2703).

17 (2) PHOENIX METROPOLITAN AREA.—The term
18 “Phoenix metropolitan area” means land within
19 Maricopa County and Pinal County, Arizona, that is
20 north of latitude 33 degrees, 5 minutes, 13 seconds
21 north, east of longitude 113 degrees, 20 minutes, 0
22 seconds west, and west of longitude 110 degrees, 50
23 minutes, 45 seconds west, using the NED 1983
24 State Plane Arizona FOPS 0202 coordinate system.

1 **SEC. 4. GAMING CLARIFICATION.**

2 (a) **PROHIBITION.**—Class II gaming and class III
3 gaming are prohibited on land within the Phoenix metro-
4 politan area acquired by the Secretary of the Interior in
5 trust for the benefit of an Indian tribe after April 9, 2013.

6 (b) **EXPIRATION.**—The prohibition in subsection (a)
7 shall expire on January 1, 2027.

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I

114TH CONGRESS
1ST SESSION

H. R. 308

To prohibit gaming activities on certain Indian lands in Arizona until the expiration of certain gaming compacts.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 13, 2015

Mr. FRANKS of Arizona (for himself, Mrs. KIRKPATRICK, Mr. GOSAR, Mr. SCHWEIKERT, and Mr. SALMON) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To prohibit gaming activities on certain Indian lands in Arizona until the expiration of certain gaming compacts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keep the Promise Act
5 of 2015”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds as follows:

8 (1) In 2002, the voters in the State of Arizona
9 approved Proposition 202, the Indian Gaming Pres-
10 ervation and Self-Reliance Act.

1 (2) To obtain the support of Arizona voters to
2 approve Proposition 202, the Indian tribes within
3 Arizona agreed to limit the number of casinos within
4 the State and in particular within the Phoenix met-
5 ropolitan area.

6 (3) This Act preserves the agreement made be-
7 tween the tribes and the Arizona voters until the ex-
8 piration of the gaming compacts authorized by Prop-
9 osition 202.

10 **SEC. 3. DEFINITIONS.**

11 For the purposes of this Act—

12 (1) the terms “Indian tribe”, “class II gam-
13 ing”, and “class III gaming” have the meanings
14 given those terms in section 4 of the Indian Gaming
15 Regulatory Act (25 U.S.C. 2703); and

16 (2) the term “Phoenix metropolitan area”
17 means land within Maricopa County and Pinal
18 County, Arizona, that is north of latitude 33 de-
19 grees, 5 minutes, 13 seconds north, east of longitude
20 113 degrees, 20 minutes, 0 seconds west, and west
21 of longitude 110 degrees, 50 minutes, 45 seconds
22 west, using the NED 1983 State Plane Arizona
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