

Governor Arlen Quetawki, Sr.
Pueblo of Zuni

Testimony Before the U.S. House of Representatives
Subcommittee on Indian and Alaska Native Affairs

Legislative Hearing On:

H.R. 2938

“The Gila Bend Indian Reservation Lands Replacement Clarification Act”

October 4, 2011

My name is Arlen Quetawki, Sr and I am the Governor of the Pueblo of Zuni which has approximately 11,000 members. Zuni lands are located in the States of Arizona and New Mexico.

My remarks concern H.R. 2938, “The Gila Bend Indian Reservation Lands Replacement Clarification Act,” which the Zuni Pueblo supports for the reasons given below.

Zuni Pueblo is a rural tribe and does not have a casino in either our Arizona or New Mexico lands. Even though Zuni Pueblo is not a gaming tribe we are familiar with the Indian gaming issues that affect tribes in both states. From 1999 to 2002, Arizona tribes accomplished something unique in Indian country; they formed a coalition to jointly negotiate a compact with the Arizona Governor that balanced the interests of tribes in large markets, tribes in small markets, and tribes like Zuni that have no market due to that fact our lands in Arizona are very remote. Under the Tribal-State gaming compact, which was approved by the Arizona voters in 2002 when they voted to pass the Proposition 202 initiative, we are able to transfer our slot-machine allocation under lease agreements to other tribes that are located in better gaming markets.

This important compromise was a negotiated balance of interests reached among the Arizona tribes and with the State through the current Arizona gaming compacts. In return for our agreeing to limits on gaming in the Phoenix and Tucson metropolitan areas, and for giving up an opportunity to seek off-reservation gaming near these lucrative markets, we get to share in gaming revenues generated in these markets through transfer agreements.

As a result of that balance of interests, the Zuni Pueblo receives revenues from gaming tribes located closer to the metropolitan markets. As a rural tribe which struggles with severely limited economic opportunities, those funds have been essential. We use and rely upon those revenues to support our limited government operations. We have also dedicated a portion of those funds to develop the Pueblo’s new Wellness Center, which will be instrumental in our fight against the growing rate of diabetes among our people. Lastly, those funds have enabled the Pueblo to reacquire aboriginal lands in Arizona which link our main reservation to the lands containing the sacred Zuni Heaven. We recognize that the stability and negotiated balance of the compact structure in Arizona was designed for the interests of all participating tribes, and we are very grateful for the revenues it has provided us.

Our concern with the proposed Glendale Casino by the Tohono O'odham Nation is that it would threaten to unravel the negotiated balance and benefits we achieved through our gaming compacts. First of all, the venture would break the promise all tribes made about limiting casino locations in securing the passage of Proposition 202, which authorized the State to enter into the gaming compacts which are currently in effect. The people of Arizona have repeatedly shown they approve the benefits of Indian gaming, but only if it is limited in scope, location and size. We do not wish to backtrack on those commitments.

Second, we anticipate that the Glendale Casino proposal would blur the distinction which the Arizona voters supported in their approval of Proposition 202, that Class III gaming be limited to what was recognized as Indian reservations in existence in 2002. With a new casino established on new tribal lands within a large non-Indian metropolitan area, other competing interests within the State will also seek the right to conduct Class III gaming. And, if the tribes lose their exclusive right to conduct Class III gaming, as assured in the compacts, those compact terms will be voided and the limits placed on gaming will be lifted. If that occurs, the tribes in the urban markets will no longer need to make transfer payments to rural tribes to acquire rights to additional gaming devices. Thus, this project which is sought to expand Class III gaming for one Indian Tribe could be completed at the expense of all other Arizona tribes. We believe that if this occurs, the Zuni Pueblo, like other rural tribes will suffer the most. For us, it would mean the loss of revenues provided to us under the compact, which we depend upon.

Plus, it must not be overlooked that the only protection that the non-gaming tribes had when the compacts were approved by Interior was its review to determine whether the compacts were consistent with its trust obligation to Indians. On their face, there would not have been a concern, given that the state and the tribes were acting in concert, and the voters placed their imprimatur on the deal struck by Governor Hull and the tribal leader-negotiators. There is no way in the world that the non-gaming tribes would have willingly exposed ourselves to the uncertainty that has resulted from the Glendale casino plan announced by the Tohono O'odham Nation only two years ago. Nor would we have asked Interior to approve the compact had we known of the intention of our fellow tribe.

Zuni Pueblo supports the Tohono O'odham Nation's efforts to exercise its rights under federal law to remedy the taking of its lands in its San Lucy District through passage of the Gila Bend Indian Reservation Lands Replacement Act. As a fellow tribe we understand the importance of remedying past wrongs. All tribes have suffered hardship and many continue seek redress for past wrongs. So we are sympathetic but our sympathy has limits when these past wrongs are used to excuse concealing a plan to gain a competitive advantage over fellow tribes when it had a duty to disclose such a plan, and this plan puts all other Arizona tribes gaming ventures at risk.

Moreover, it should not be ignored that the Tohono O'odham received \$30 Million dollars under the Land Replacement Act and was able to purchase over 16,000 acres with these funds as compensation for the 9,880 acres that were flooded. Nowhere in the Land Replacement Act does it say that the Tohono O'odham had a right to game on lands placed into trust under the Land Replacement Act, let alone well outside of its aboriginal territory. But, even if, for the sake of argument, that legislation can be interpreted to allow the Tohono O'odham to conduct gaming on lands placed into trust after 1988, the Tohono O'odham agreed not to seek expansion of its

casinos into the Phoenix metropolitan area when it contributed to the Proposition 202 campaign in which it and other tribes promised voters in campaign materials that there would be no additional casinos in the Phoenix metropolitan areas.

The Zuni Pueblo is very concerned with how this legislation is now to be interpreted by Tohono O'odham, and the impacts it would cause for my tribe and other Indian tribes in Arizona. For that reason, we support the narrow scope of H.R. 2938 because we believe it is the simplest solution to this problem. The measure would not impact tribal sovereignty and would not impact the Indian Gaming Regulatory Act, whether in Arizona or elsewhere within the country. Instead, the law merely states what had been the common understanding of the rights and remedies available under the Land Replacement Act. In that regard, the measure would maintain the stability of the current compact structure and the recognition of the established reservation boundaries in Arizona, which had been the basis for the Proposition 202 negotiations by the tribes and the ultimate approval by the State voters.

As a Tribe in both Arizona and New Mexico, we have seen firsthand the harm which can result when a tribe tries to obtain noncontiguous land for gaming. In New Mexico, the ensuing battles and ill will stemming from the application by the Pueblo of Jemez to open a casino three hundred miles away has brought unfavorable attention from Congress, the U. S. Senators, the New Mexico Legislature, and the voters of the State. None of this attention has been positive, and the ill will it created among numerous parties and stake holders still remain. We think the Department of Interior made the right decision when it recently denied the application for that casino, and we hope that relationships among tribes and other interested groups will be restored and strengthened with passage of time, just as we hope to see in Arizona after Glendale casino dispute is resolved.

As your subcommittee examines this legislation and the controversy in Arizona which it is intended to address, we ask that you recognize and support the benefits of Indian gaming in Arizona under the current compact arrangement. That arrangement works because it supports everyone, including my Tribe. And if appropriate steps are not taken to maintain this stability, ultimately my Tribe and all tribes in Arizona will lose.

Thank you for the opportunity to provide the Subcommittee with this testimony.