

- [About WyoFile](#)
- [Donate](#)

# WyoFile

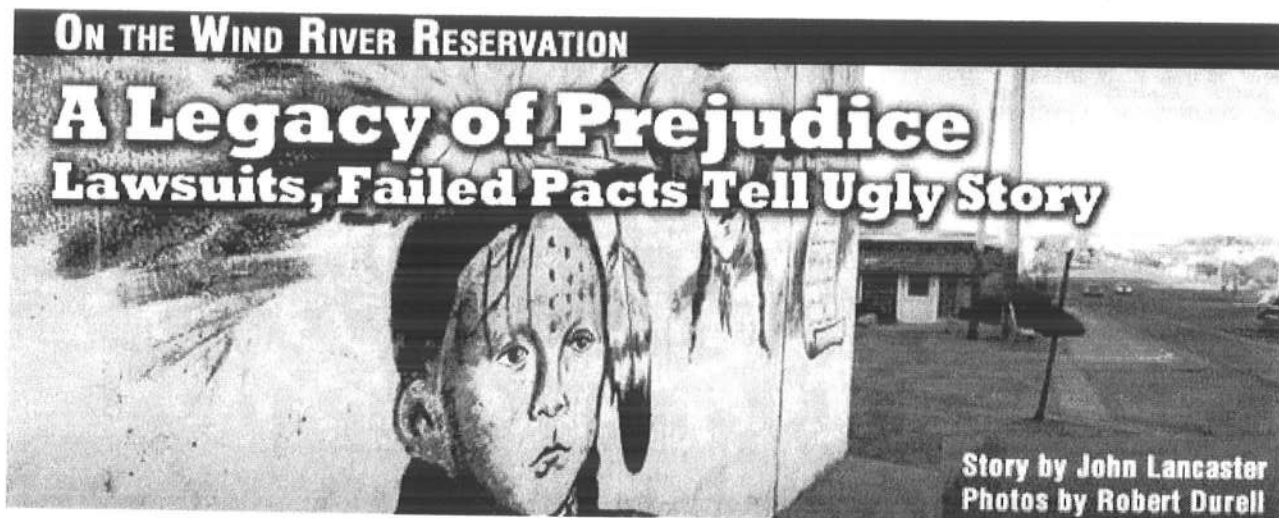
In-depth reporting about Wyoming people, places & policy

- [Home](#)
- [Columns»](#)
- [Special Reports»](#)
- [People»](#)
- [Places](#)
- [Policy»](#)
- [WyoFit»](#)

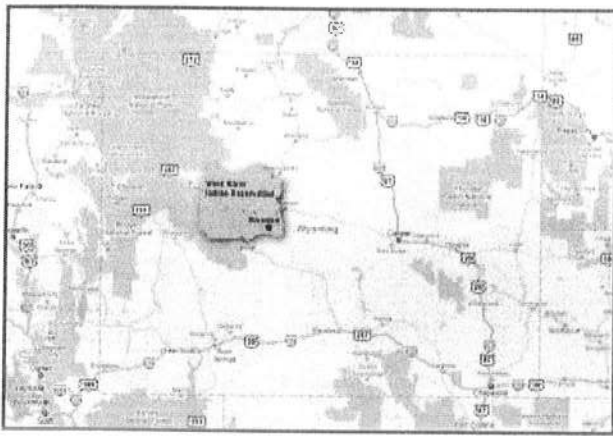
## A Legacy of Prejudice: Lawsuits, Failed Pacts Tell Ugly Story

by [John Lancaster](#) on August 30, 2010

Recommend **185**



(This is the final story in a [multi-part series](#) on the Wind River Reservation)



click to enlarge

RIVERTON—As a child in California, Helsha Acuña was so sensitive about her Native American heritage—her father was Apache, her mother Aleut—that she sometimes tried to pass herself off as Italian. But the racism she encountered was rarely personal. For that, she testified in federal court, she had to come to Riverton.

Fresh from graduate work at the University of California at Santa Barbara, Acuña moved to Riverton in the mid-1990s, her daughter and two horses in tow, to teach Native American Studies at Central Wyoming College. She was thrilled when the owners of a nearby ranch, where she had arranged to board her horses, invited her to live in a trailer home on the property in exchange for caretaking duties. But Acuña's relationship with the couple quickly soured. She was still unpacking her things when the husband stopped by with the news.

“My wife, uh, um, she's a little concerned,” Acuña quoted the rancher as saying. “And, well, you know, we've had Indians out here before who have worked for us, and it's never worked out real well, and, um, well, we just don't know that we'll be able to sleep at night with you on the property.”

Acuña called the man's wife, who first berated her for rescheduling a gas delivery to the trailer without telling her, then for who she was. “You know what, Helsha?” the woman said. “We're not the niggers here.”

“What?” Acuña said.

“You heard me,” the woman replied, according to the college professor's sworn testimony. “You know, you may not be from around here, you may be an Apache, but you're no better than these fucking Arapahos or fucking Shoshones that are out here.”

The couple barred Acuña from returning to the property until she had paid the boarding bill for her horses, relenting only under pressure from her attorney. But when she showed up to collect her furniture and other household items, she found them heaped outside in the rain. “Everything was just soaked,” she testified. The rancher's wife and several others, including a man with a shotgun, kept watch as she loaded her belongings onto a truck. “It was very demeaning.”

Racism usually takes subtler forms in this blue-collar town of about 9000 people, which was founded on land carved from the Wind River Indian Reservation in south-central Wyoming in 1906, when a portion of the reservation was opened up to white settlers. The reservation is the home of the Northern Arapaho and Eastern Shoshone tribes. As elsewhere in Fremont County, whites and tribal members mingle in

schools, the checkout lines at Wal-Mart, and the restaurant at the Arapaho-owned Wind River Casino, which is said to serve the best steak and lobster in town. Not since the 1950s have local businesses displayed “No Dogs or Indians” signs in their windows.

But hard feelings remain. Over the last seven months, two separate but related developments have cast a harsh light on white attitudes towards the reservation and the 10,000 tribal members who live there. First was the collapse of a cooperative agreement between the city of Riverton and the Northern Arapaho, who withdrew from the deal in February in the face of bitter opposition stirred in part by supporters of the conservative Tea Party movement. The other came in late April, when a federal judge cited “ongoing” discrimination against Native Americans—including that experienced by Acuña—in ordering the Fremont County Commission to scrap its at-large electoral system in favor of one based on single-member voting districts. The judge found that the county’s system had diluted Indian voting strength. Until 2006, no Native American had ever served on the commission, though the ethnic group makes up 20 percent of the county’s population.

The ugly feelings unearthed by these two episodes are rarely acknowledged among whites in Fremont County. Yet a close look at the public record reveals the deep reservoir of prejudice, suspicion and paranoia that—as elsewhere in the rural West—still shapes white perceptions of Indians. Whites here may have legitimate concerns about the quasi-independent state on their borders, such as issues relating to law-enforcement jurisdiction or water rights. But that doesn’t explain the bigotry that often seems a holdover from another time: the high-school sports fans mocking Indian players as “prairie niggers,” for example, or the white civic leader, subsequently elected to the county commission, declaring in a private meeting, “I hate goddamn Indians,” to cite examples from the voting rights trial.

Even among those who eschew such naked hostility, Indians are often described, in effect, as freeloaders who are constantly maneuvering for political leverage and a bigger share of resources, often with help from the federal government and usually at the expense of the white majority. This sense of white victimization is striking. It turns the standard narrative of American history—a story of native people robbed of land, buffalo herds and culture—on its head.

One day I drove north from Riverton to meet Lois Herbst, a rancher and former president of the Wyoming Stock Growers Association who had spoken out against the agreement between the city and the Northern Arapaho. Herbst, a flinty septuagenarian in slacks and a brown sweater, met me by the side of the road in her gray Ford Expedition, not far from the single-story beige house that she and her late husband purchased in 1962. Her father-in-law, an Austrian immigrant, was a homesteader who came to this area in a one-horse cart, now proudly displayed in Herbst’s front yard.

She took me on a driving tour of her property, a piece of it anyway, which is situated inside the reservation’s historic borders in the area opened up to homesteading in 1906. The newcomers purchased their plots of “excess” reservation land for nominal sums, a portion of which was supposed to go to the tribes, although it is far from clear how much of it actually did. The federal government then paid for the construction of a massive network of canals, ditches and dams—the Riverton Unit of the Midvale Irrigation District—to channel water from tribal lands to the white farmers. But Herbst insisted that the Indians had gotten a fair deal. “They were happy to have it,” she said of the proceeds from the land sales.

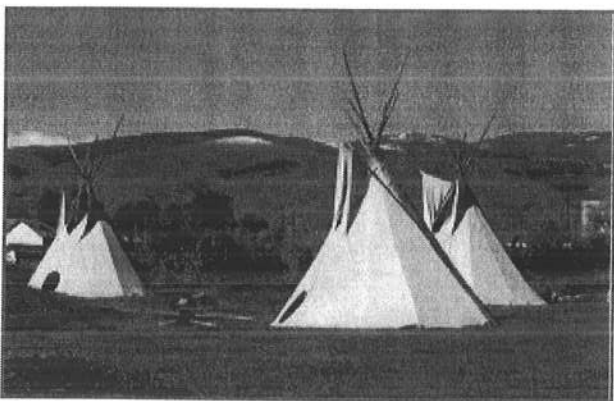
Besides, she added, “What was so great about the life they had before we came here? The women were doing all the work. I shouldn’t say that but it’s true.”

Herbst acknowledged that things have not worked out so well for the Indians, but she blamed that largely on their failure to assimilate—a consequence, she argued, of the socialist enterprise otherwise known as the reservation system. And as she sees it, hardworking people like her are paying the price, as the tribes

and their attorneys scheme to take back “our water” and the land they had freely parted with. “If they can, they’ll tax us,” she said.

We got out of the car, and Herbst pointed to a distant wire fence, erected by tribal land managers, that she said intruded on her family’s property. “They fenced it without asking me,” she said. “To me that was arrogant. It is a new attitude being developed by some of them, an attitude of, ‘Take back.’”

## A Record of Discrimination



Teepees are part of the view as you enter Lander, Wyoming, along Main Street, June 19, 2010. Photograph by Robert Durell

The reservation grew out of a treaty between the federal government and the Eastern Shoshone in 1868. Because the tribe was on good terms with the whites, it was allocated more than 4 million acres—much of it prime rangeland—in the drainage of the snowy Wind River range. But the situation was not to last. The Northern Arapaho, historic enemies of the Shoshone, were transferred to the reservation in 1878, and the government hacked away at its size with dubious land deals, such as the purchase of the Thermopolis area with its coveted hot springs, for \$60,000 in 1896. Then, in 1905, Congress invited homesteaders to settle on 1.44 million acres of reservation land north of the Wind River, an area that now includes the city of Riverton. A million of the least desirable acres went unclaimed and were later returned to the tribes. The result was a confusing hodgepodge of ownership in which jurisdictional lines often were blurred.

The political system, of course, was tilted heavily in favor of the white settlers. Native Americans did not become citizens until 1924. And in Wyoming, literacy tests that were used until 1971, when they were finally eliminated by amendments to the Voting Rights Act, may have been a further impediment to political participation by non-whites.

In the 1960s and '70s, Indians on the Wind River Reservation, as elsewhere, experienced a political awakening signaled by the rise of the American Indian Movement, whose sometimes-radical methods were aimed at restoring Native pride and sovereignty. The tribes also benefited from growing sympathy in Congress and the courts. In a landmark 1988 decision, the Wyoming Supreme Court infuriated white farmers and ranchers by ruling that the tribes had first claim on water flowing through the reservation, a decision later affirmed by the U.S. Supreme Court. Emboldened by their progress, the Arapaho eventually won court approval—over intense state opposition—to bring casino gambling to the reservation. The Shoshone soon followed with their own casinos.

At the local level, though, political power still eluded the Indians. Under Fremont County’s at-large

electoral system, whites who ran for the county commission had a built-in advantage, and tribal candidates invariably lost. So in 2005, a group of Northern Arapaho and Shoshone plaintiffs filed suit in U.S. District Court in Wyoming against the county under the Voting Rights Act. They argued that the electoral system discriminated against Native Americans, and sought to ensure a voice in local government by dividing the county into single-member voting districts, one of which would be mostly Native American.

Much of the trial transcript reads like a sadly familiar history lesson, with references to such infamous crimes as the Sand Creek massacre, in which scores of Arapaho and Cheyenne, mostly women and children, were slaughtered by a Colorado militia in 1864 (whites celebrated the killings with a parade in Denver). On the reservation, meanwhile, disease and malnutrition took such a toll that by the late 19<sup>th</sup> century the Arapaho population had dwindled from about 6000 to fewer than 900, according to expert testimony. Children who survived their early years often were taken from their parents and forced into boarding schools of notorious cruelty and squalor. Their braids were chopped off, and if they dared to speak Native languages instead of English, they were beaten or had their mouths washed out with soap. At one such school on the Wind River reservation, living conditions were so dreadful that half the students died between 1892 and 1902, according to data, compiled by an Episcopal priest, which was presented at the voting rights trial.

Historical grievances aside, the trial produced ample evidence of how little some things have changed in Fremont County over the last century. One of the tribes' witnesses was Todd Guenther, a former director of the Pioneer Museum in Lander who now teaches anthropology and history at Central Wyoming College. Guenther testified that when he came to the museum in 1995, Native Americans complained to him about the use of offensive terms, such as "squaws" and "bucks," in some exhibits. So he applied for a \$10,000 grant from the Wyoming Humanities Council to replace or redesign the exhibits.

Guenther got the grant, sharing the news in a meeting with the association that oversees the museum. But a member of the group, who also was on the county museums board, asked him to stay after the meeting. "He wanted to know more about what I was undertaking with that project," Guenther testified. "And when I explained that to him, he terminated the meeting by slamming his notebook and saying, 'I hate goddamn Indians, and I won't have anything to do with this.'" The association member, Crosby Allen, subsequently was elected to the Fremont County Commission (Allen did not return phone messages seeking comment).

Others apparently shared the same view. "I have had people come up to me and say, well, I'll support that museum if you don't spend much time, you know, if you don't emphasize those prairie niggers, which is a slur that's heard around the area referring to Native Americans," said Guenther.

Native Americans lacked a voice on the county commission until the election of Keja Whiteman, a member of the Turtle Mountain Band of Chippewa, in 2006. The dearth of representation meant that tribes were at a distinct disadvantage when it came to competing with the rest of the county for services. Tribal leaders have commissioned studies showing that the reservation generates significantly more in revenues for the county than it receives in the form of services. County officials countered with their own analysis, which they say shows the reservation does receive its fair share of attention from county government.

But there is no dispute that the reservation makes a significant contribution to the county's revenue base. Much of the money comes from the severance tax that the state collects on oil and gas extracted from the reservation, then redistributes to counties on the basis of a revenue-sharing formula. Tribal members also pay state sales taxes—part of which comes back to the county—on purchases from businesses off the reservation.

“Some of our money is going into those [county] coffers, and I think we should be on the Commission saying, ‘Yes, this is where some of the money should go,’” testified James Large, a plaintiff in the case.

Large, who moved back to the reservation after earning two Purple Hearts in Vietnam, told the court that he and three others lived in a trailer home with no telephone or water service, relying on monthly truck deliveries to fill a cistern. Meanwhile, the reservation town of Fort Washakie had to rely on boiled or bottled drinking water for two and a half months in 2003 because local sources were contaminated, according to testimony from Gary Collins, a Northern Arapaho plaintiff. Collins, who studied geology at the University of Wyoming, said that between 2000 and 2005 there had been numerous such “boil orders” on the reservation.

“I didn’t think any community off of the reservation would have had such, it seemed, ongoing problems,” said Collins. “It just wouldn’t have been allowed to go on for so long.” (A county official said such problems typically are resolved below the county level, as when neighbors band together to form water and sewer districts. Taxes from these districts are then used to improve water quality.)

The county was aided in its defense by the Mountain States Legal Foundation, an arch-conservative Colorado-based group whose founding director was Wyoming lawyer James Watt, who served as Interior Secretary during the Reagan Administration. Their strategy, by and large, was to deny that there was any problem. To that end, the county’s attorneys relied heavily on expert testimony from Stephen Thernstrom, a Harvard University history professor known for his controversial arguments against special treatment for minorities. Thernstrom disputed the idea that Indians had suffered unduly at the hands of whites during the frontier era—“I think there’s plenty of blame to apportion to both sides”—or in the boarding schools they were later forced to attend. The experience of Indian children who were beaten for speaking Native languages, he suggested, was not so different than that of his father, a child of Swedish immigrants, who had no choice but to learn English when he entered public school in the United States. “That’s the American story, and I don’t think that was racist,” he said.

Patrick Hickerson, one of several commissioners to testify, disputed the charge that the county skimmed on services for Native Americans, ticking off a list of programs—the detox center, a homeless shelter, services for children and elderly people—that many use. Under cross-examination, however, Hickerson acknowledged that several such programs were required by law, not initiated by the county, and that none of the program offices was actually located on the reservation—which, in fact, he knew little about:

*“You’ve never attended any cultural events on the reservation, such as powwows, have you?”*

*“Not that I can remember, no.”*

*“And you’ve never had any interest in doing that, isn’t that right?”*

*“Oh, I wouldn’t say I wouldn’t be interested in it, I just haven’t.”*

*“Well, didn’t you say in your deposition that you had no interest in doing it?”*

*“I may have.”*

*“Okay. You don’t really have any social contacts on the reservation, do you?”*

*“No, not really.”*

*“Now, as I understand it, the County Commission has never undertaken any specific projects on the*

*reservation, such as improving housing, for example?"*

*"No."*

*"Or improving drinking water?"*

*"Uh, no."*

*"Or improving healthcare?"*

*"Not at—not a project, no."*

*"Or to stimulate economic development on the reservation?"*

*"Not that I know of."*

## **A Sense of Community**



John Vincent, mayor of Riverton, Wyoming, on a ranch outside of town, June 19, 2010. Photograph by Robert Durell

The voting rights trial was not the only threat to the status quo in Fremont County. Another was John Vincent, who in 2002 became the first Democrat to win the mayor's office in Riverton since the 1950s. Born and raised in the community, Vincent, 61, is a shambling, easygoing bear of a man—a former college wrestler—who earns his living as a trial attorney. He runs his busy practice out of a converted 1920s bungalow, behind which is the carriage house where he keeps his private office. When I met him there one afternoon, he was dressed in gym clothes in preparation for an afternoon workout. Vincent told me he had always believed strongly in the need for better relations for the tribes, showing me a photo of a "cedaring ceremony"—a ritual blessing conferred by Native elders—held in his city hall chambers the

day he was sworn in to his first term.

“It just seemed we needed to learn how to work together and get along better,” he recalled. “From the outset I wanted to develop some sense of community between Riverton people and reservation people, because our economies are so intertwined.”

A wide streak of pragmatism drove his efforts. As an assistant city attorney in the 1990s, Vincent had settled a lawsuit brought on behalf of a tribal member who had been picked up by a Riverton police officer for public drunkenness. Rather than taking him into custody, the officer deposited him across the city line in the parking lot of an Arapaho-owned bingo parlor on reservation land. The man staggered into traffic, was hit by a truck, and severely injured. The episode helped build support for the detoxification center in Riverton, which opened a few years later and now serves mostly Indians. And it underscored, in Vincent’s mind, the need for better coordination between the town and reservation, not just in law enforcement but in other areas as well.

Against that backdrop, then, Vincent and the leaders of the Arapaho and Shoshone Business Councils—the governing bodies for the tribes—signed a formal agreement on April 29, 2008. On its face, the pact was innocuous. It pledged in general terms that the city and the reservation would work together on various community matters, and asserted that “Riverton is within the exterior boundaries of the Wind River Reservation”—to Vincent and other supporters of the agreement, a simple acknowledgment of geographic fact. But the statement set off a firestorm in Fremont County, where the legal status of Riverton and other areas that were transferred to white ownership during the homesteading era has long been disputed.

“You are absolutely, positively and dangerously incorrect,” then County Attorney Ed Newell wrote in an email to Vincent. “I don’t know what compelled the City to adopt this agreement.” Accepting that Riverton is part of “Indian Country,” he wrote in another email, would “open the door for Tribal taxation and regulation of Riverton residents,” and prevent local police from arresting Indians for crimes committed in Riverton. He suggested that the city’s position could help free a “convicted baby-killer,” Andrew Yellowbear, an Arapaho man who in 2006 was convicted in a state court of murdering his infant daughter at his apartment in Riverton. Yellowbear, who had been sentenced to life, was seeking to have the conviction overturned on grounds that he should have been tried in a tribal or federal court because Riverton is part of the reservation.

Vincent, whose low-key manner masks a pugnacious streak, punched back.

“This type of fear-mongering and hateful language that Newell puts in his emails and then wants you to write is intended to do no more than to tear our people apart,” he told the *Riverton Ranger*. “I find it reprehensible for a publicly elected official who claims to represent the people of Fremont County.”

The battle had been joined, and it quickly got worse.

## Hard Feelings





A teepee stands outside a home in Ethete, Wyoming, June 19, 2010. Photograph by Robert Durell

In September 2008, the Northern Arapaho filed a federal lawsuit against the state and county governments challenging their right to collect sales taxes and vehicle registration fees from tribal members in Riverton. Vigorously represented by the Lander law firm of Baldwin & Crocker, the tribe argued that because the town was within the reservation's boundaries, tribal members should be exempt from such levies, as they already are on reservation land south of the river. Though the lawsuit did not name Riverton, city officials regarded it as a threat to their revenue base, which comes in part from state sales taxes. Many whites saw the tribe's decision to file the case just four months after pledging cooperation with the city as evidence that the Indians on the reservation were not to be trusted—and that Vincent had been played for a fool.

“People would say stuff like, ‘Did you feel a tomahawk in your head, John?’” the mayor recalled ruefully. It didn't help that during the same period, the Arapaho and Shoshone applied to the federal Environmental Protection Agency for money to conduct air quality studies on the reservation. The studies, if they are funded, could eventually help the tribes win a greater voice in the approval process for new industry near the reservation—an outcome that county officials say could threaten the local economy.

The city sided with the state and county in the tax case, and also joined them in opposing the tribes' application to the EPA. The Shoshone, meanwhile, dropped out of the negotiations with the city. But despite their differences with the tribes, Vincent and other city officials believed strongly in the need for continued dialogue. In the fall of 2008, city officials began a new round of talks with the Arapaho, this time with help from former Wyoming Gov. Mike Sullivan, a Democrat and former ambassador to Ireland who had been brought in as a mediator.

In December of the same year, Vincent's conciliatory approach was vindicated to some degree when U.S. Magistrate William C. Beaman found that city's pursuit of better relations with the tribes did not amount to giving away the store, as the mayor's critics had argued.

“The city has not conceded that it is Indian country,” Beaman wrote in an interim ruling in the tax case.

“Rather, it has merely taken an approach of governmental cooperation with the Tribes given its proximity to the Tribe and the reservation.” (U.S. District Judge Clarence Brimmer subsequently dismissed the Northern Arapaho’s tax lawsuit, which is currently on appeal.)

The discussions brokered by Sullivan produced a new package of agreements known collectively as the MOU, or memorandum of understanding. They were carefully written to take account of non-Indian concerns, or so the authors believed. Gone was any talk of Riverton’s place “within the exterior boundaries” of the reservation. In fact, the Arapaho explicitly disavowed any claims to land in Riverton. They also agreed to accept the city’s master plan for the city and its surroundings, and promised not to try to take over the municipal sewage plant, so long as it was operated effectively. In return, the city agreed to seat a tribal member on its planning commission, and to help the tribe work for federal tax breaks for local businesses that hire Native Americans. Both sides agreed to seek help from outside mediators before taking disputes to court.

“I think for too long we’ve let a river divide us and we haven’t worked together very well,” Vincent said at a city council meeting where the agreements were unveiled last Nov. 16.

But white reaction to the proposed pacts was hostile. As word of them spread in the community, opponents circulated petitions, flooded city hall with letters and emails, and took out a full-page newspaper ad warning that the MOU “has no value to Riverton and is detrimental to the citizens’ of Riverton position that Riverton is not part of the Reservation.” Hostile county officials couched their arguments in legal terms, asserting that the documents implicitly supported the Indians’ position that Riverton and other parts of the reservation ceded by the 1905 act were still under tribal jurisdiction, at least for some legal and regulatory purposes.

“They’re not overt, they don’t say that, but when you read it in the context of what’s happening, it’s a red flag to me,” Doug Thompson, the chairman of the Fremont County Commission, told me in an interview this spring. “A lot of these cases hinge on the definition of what are the boundaries of the reservation.”

Thompson’s point is at least debatable, but it was clear that legal worries alone were not driving the opposition. As captured in video recordings, city and county residents who packed the November city council meeting and an even noisier session on February 9 denounced the accords in angry and emotional terms that often had little to do with their substance.

“They need to understand that they cannot keep on bearing this hatred toward the white man,” said a white-haired woman in a flowered dress, accusing the Indians of plotting to take white-owned property in Riverton. “They’re not forgiving and they’re planning all the time.”

A bearded man in a cowboy hat described the documents as “a trap” filled with “weasel words.” Another woman said the tribes’ taxation lawsuit “makes you question their values and ethics.” Someone else blamed the casinos on the reservation for driving up Riverton’s crime rate. Many of the sharpest comments were greeted with hearty applause.

Some of the nastiest comments came in the letters and emails to the city, which were obtained by the Northern Arapaho’s attorneys under the Freedom of Information Act and posted on the tribe’s website. “If you give these Indians what they want now, they won’t quit. Then they will want to take more, possibly your business,” said an anonymous letter from A Concerned Citizen.

“Every day there are many Indian people listed in the paper for drunk, disorderly conduct, etc.,” warned another. “I think they should be deposited at the door of the Indian police—then, if they are caught again in Riverton, they would be trespassing and ordered to forfeit any incoming monies to the city gov’t.”