



POLICY DISCUSSION PAPER

Tribal Sovereign Nations and Planning in a Regional Landscape

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DIRECT QUESTIONS AND COMMENTS TO

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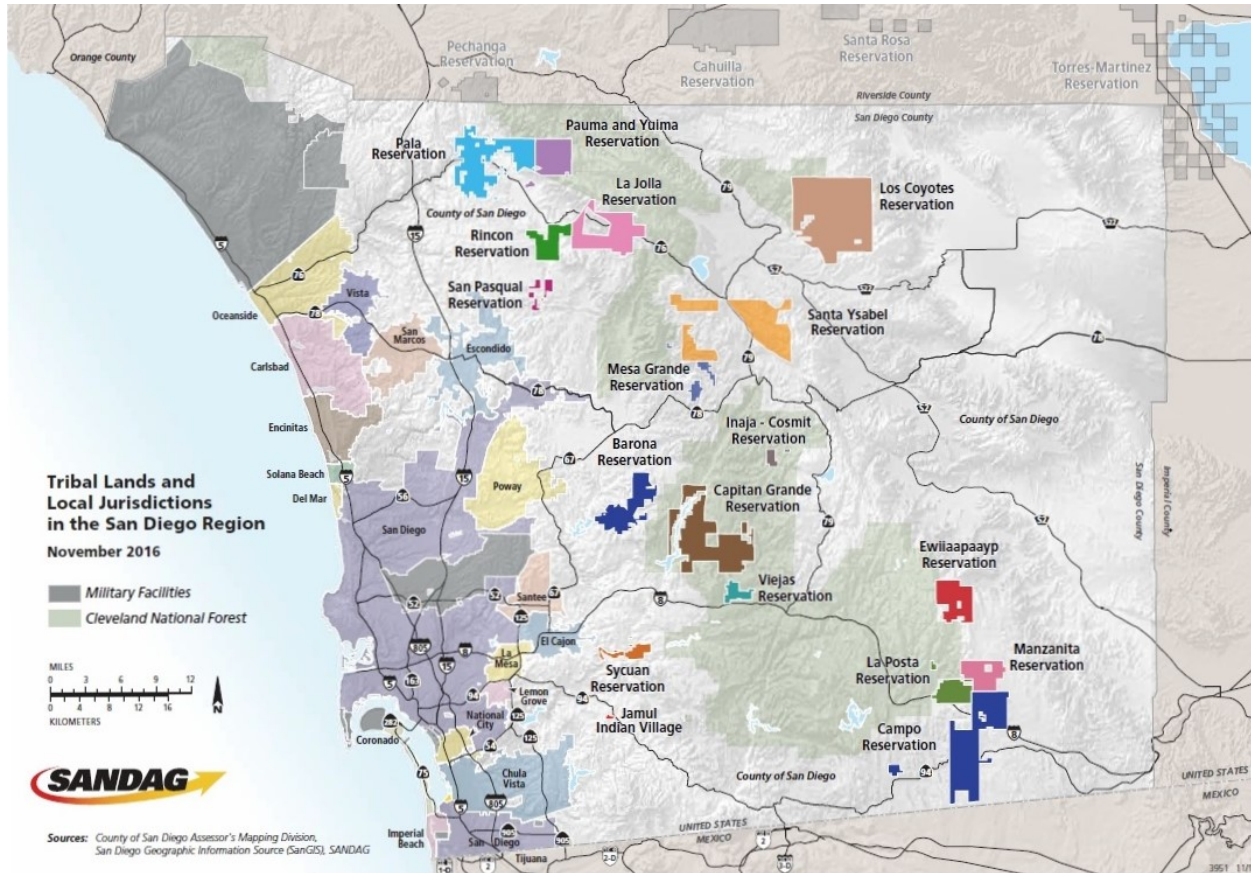
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INTRODUCTION

The United States Constitution and treaties recognize Native American communities as separate and independent sovereign nations within the territorial boundaries of the United States. In the San Diego region, there are 17¹ federally recognized tribal governments with jurisdiction over 18 reservations – the most in any county in the United States.

Figure 1 – Tribal Lands in San Diego



Federal legislation requires that federally recognized tribal governments be consulted in the development of Regional Transportation Plans (RTP) and programs (23 U.S.C. 450.312). In particular, the current federal transportation authorization, the Fixing America's Surface Transportation (FAST) Act, reinforces federal emphasis on tribal government participation. It directs public agencies to incorporate tribal consultation into their plans and programs in a timely and meaningful manner.

At the state level, Governor Edmund G. Brown Jr.'s administration emphasized the importance of tribal-state relations through the creation of the Office of the Tribal Advisor (Executive Order B-10-11) in 2010. The Tribal Advisor's charge is to serve as a direct link between the tribes in California and the Governor,

¹ Pechanga Band of Luiseño Indians acquired some trust land in San Diego as a result of Bureau of Land Management transferring a conservation easement to the tribe. However, the tribe, for planning purposes engages the Southern California Association of Governments region.

facilitate communication and consultations between tribes and state agencies, review state legislation and regulations affecting tribes, and provide recommendations.

At the regional level, how consultation should occur is left to the Metropolitan Planning Organizations (MPOs) and the tribal governments. For more than ten years, the San Diego Association of Governments (SANDAG), as the MPO for the San Diego region, has forged a working relationship with the tribal nations in the region, based on a diplomatic framework of communication, coordination, and collaboration in the regional transportation planning process. With each regional planning cycle, strategies and actions have been pursued collaboratively.

This paper is a collaborative effort between SANDAG and the Southern California Tribal Chairmen’s Association (SCTCA) to discuss policy issues of mutual interest in a regional context. The purpose of this paper is to provide background on tribes, the history of the government-to-government framework, a summary of collaborative efforts to date, and the issues to inform the discussion between SANDAG and the SCTCA at the 2018 San Diego Regional Tribal Summit (Summit).

San Diego Forward: The 2019-2050 Regional Plan

San Diego Forward: The 2019-2050 Regional Plan (2019 Regional Plan), led by SANDAG, is a planning effort that will combine an overall vision for the region’s future with an implementation program to make the vision a reality. As the San Diego region’s MPO, SANDAG is responsible for developing an RTP every four years. Each cycle of the RTP is an iterative process in which the region’s long-term transportation goals and project priorities are revisited and discussed through a public involvement process among diverse stakeholders. The most recent RTP was incorporated into San Diego Forward: The Regional Plan (2015 Regional Plan), and its Sustainable Communities Strategy (SCS) was approved by the SANDAG Board of Directors in October 2015. An innovation in this cycle was that SANDAG combined the Regional Comprehensive Plan (RCP) with the update of the RTP. This approach continues for the 2019 Regional Plan. The SANDAG Board of Directors has approved the following vision and goals to guide the 2019 Regional Plan.

Figure 2 – The 2019 Regional Plan vision and goals



As sovereign nations within the boundaries of the San Diego region, it is important that the region's tribes engage in shaping the 2019 Regional Plan. The proposed objectives for the 2019 Regional Plan with regard to tribal nations and regional transportation planning are:

- To engage federally recognized tribal governments in the regional planning process in a timely, meaningful, and effective manner through the established framework for government-to-government engagement
- To pursue a set of mutually agreed-upon prioritized strategies based on government-to-government dialogue and negotiation to improve tribal transportation in the region in four areas: roadways, transit, funding, and information sharing/technical assistance
- To explore mechanisms for collaboration in regional policy areas of mutual concern, such as energy, habitat conservation, cultural resources, economic development, and emergency preparedness

SANDAG and the SCTCA developed a Tribal Consultation Plan for the 2019 Regional Plan during fall 2017 (*Refer to Appendix A – San Diego Forward Tribal Consultation Plan*). The Tribal Consultation Plan was approved by the SCTCA Board in June 2017 and by the SANDAG Board of Directors in July 2017.

The elements of the Tribal Consultation Plan include:

- **An informational workshop** – A workshop for Tribal Leaders regarding the role of SANDAG in regional and transportation planning (Spring 2017).
- **Convene leadership meetings between the SCTCA and SANDAG** – Engage the tribal leaders in a smaller setting to enable the leadership to get to know each other prior to the Summit in April 2018 and facilitate a meaningful dialogue, which can inform the 2019 Regional Plan as well as other regional issues such as transportation funding strategies (meetings held in June and October 2017).
- **Policy listening sessions** – Sessions with issue area experts supported by SANDAG and SCTCA staff focused on the regional issues identified during the cycle of the 2015 Regional Plan to elicit ideas for collaborative strategies in the selected policy areas other than transportation (February and March 2018).
- **Tribal Transportation Working Group (Working Group)** - Provides input into the development of each stage of the 2019 Regional Plan. In addition, the Working Group has been providing updates to the SCTCA on the 2019 Regional Plan and leading the development of an Intraregional Tribal Transportation Strategy that will inform the 2019 Regional Plan as well as working to include individual Tribal Transportation Plans in the 2019 Regional Plan. (ongoing; quarterly meetings).
- **Policy Discussion Paper** – Based on the input provided, SCTCA and SANDAG staff have prepared this Policy Discussion Paper to serve as a basis for informed dialogue between the tribal nations and SANDAG.
- **2018 San Diego Regional Tribal Summit** - Will be convened between the SANDAG and SCTCA Boards as a means of timely and meaningful input in the process to develop the 2019 Regional Plan. Key policy issues will be discussed for consideration in the 2019 Regional Plan, and a collaborative agenda will be developed.
- **Incorporate tribal issues into the Draft 2019 Regional Plan** – Collaborate on drafting Tribal Consultation Chapter and other tribal elements in the Draft 2019 Regional Plan. Incorporate strategic actions identified at the Summit.
- **Collaborate on outreach for Draft 2019 Regional Plan** – The SCTCA will support outreach to all tribal nations to collect input/comments on the Draft 2019 Regional Plan from their tribal communities.

SETTING THE STAGE

Historically, the relationship between local governments and federally recognized tribal governments has been contentious. While the federal-tribal relationship is well established, the local-tribal government relationship has not been as clearly defined. Despite efforts to reach out to local governments, tribal governments indicate that for many years they were not well received. This dynamic has changed considerably in recent years. According to various tribal leaders, local perceptions have changed with the advent of gaming. As a condition of the development of more recent gaming compacts, some tribes are required to negotiate mitigation agreements with the local land use authorities adjacent to them. What has not been clearly delineated by the state or federal government is the mechanism for inclusion of tribal input into the regional transportation planning process. The federal government requires “consultation” with tribal governments; however, the definition of meaningful consultation, or more in-depth coordination and cooperation, is emerging in various parts of the country. As the San Diego region continues to grow, there is an increasing need to better coordinate our tribal and regional planning efforts to make the best use of resources while protecting and enhancing the quality of life for all our region’s residents.

Tribal Nations in San Diego

Of the 109 federally recognized Indian tribes in California, 17 are located in San Diego County (*Refer to Appendix B – California Native American Trust Lands*).² Historically, the tribal members of today’s bands represent four Indian cultural/linguistic groups who have populated this entire region for more than 10,000 years, taking advantage of its abundant natural resources and diverse ecological system for their livelihoods. The four nations are: the Luiseño, who traditionally inhabited the land along the San Luis Rey River in north and northwestern San Diego County; the Cahuilla, who live in the mountains in the northeastern part of the county and into the Coachella and Imperial Valleys; the Cupeño, who live in the Warner Springs area; and the Kumeyaay (Northern Ipai/Southern Tipai), who live in the southern part of the county from the coast to the mountains and all the way to what today is Baja California (*Refer to Appendix C – Kumeyaay Historical Map*).

In the years just prior to California becoming a state, the federal government developed treaties with Native Nations in the region in an effort to reduce tribal and settler violence at the end of the United States-Mexican War and the onset of the Gold Rush. However, these treaties were never ratified—they were thwarted on the United States Senate floor by pressure from the new California Senators—and the tribal nations that had signed the treaties were never informed. In 1875, President Ulysses S. Grant signed an Executive Order based on several of the “lost treaties,” creating tribal reservations for Santa Ysabel, Pala, Sycuan, La Jolla, Rincon, and Capitan Grande.³ Most of the current tribal reservations were established by the end of the 19th century; however, several were established well into the 20th century.⁴ Today, these four ethnic groups are distributed across 18 reservations and are represented by 17 federally recognized tribal governments, as shown in Table 1.⁵

² There are 566 federally recognized tribes in the United States. The next-highest concentration in a county after San Diego is Riverside County, with 16 federally-recognized tribes.

³ The Capitan Grande Reservation included the Bands that would later become the Barona Band of Mission Indians relocated to the Barona Valley Ranch (1932) and subsequently the Barona Indian Reservation, and the Viejas Band of Kumeyaay Indians that relocated to Baron Long Ranch (1934) and subsequently the Viejas Indian Reservation.

⁴ The Jamul Indian Village did not receive federal recognition as a reservation until 1975; other landless California tribes such as the San Luis Rey Band of Mission Indians continue to seek federal recognition.

⁵ The original inhabitants of the still-federally-recognized Capitan Grande reservation established in the 1890s were moved to two different ranches in 1932 when the City of San Diego, by act of the United States Congress, acquired more than 7,000 acres of

As domestic sovereign nations,⁶ tribes are subject to federal regulations, but are not subject to local or state regulations, unless the United States Congress delegates implementation of federal law to the state. From a governance perspective, tribal governments are considered a separate category of government from the federal, state, and local governments. In addition to the standard governmental functions of regulating, taxing, and delivering services, tribal governments act to preserve and protect tribal culture and the tribal community, including determining tribal membership. Tribal governments also are responsible for the development, management, and operation of tribal economic enterprises. Most of the land within the boundaries of reservations is owned by tribes and held in trust by the federal government.⁷ Native American reservations currently cover more than 127,000 acres in the San Diego region, approximately 4 percent of the region’s land base.

Table 1 – American Indian Reservations and Federally-Recognized Tribal Governments in the San Diego Region

Reservation name	Tribal government
Barona*	Barona Band of Mission Indians
Campo*	Campo Band of Kumeyaay Indians
Capitan Grande	Joint Power Authority between Barona and Viejas
Ewiiapaayp	Ewiiapaayp Band of Kumeyaay Indians ⁸
Inaja and Cosmit	Inaja-Cosmit Band of Indians
Jamul Indian Village*	Jamul Indian Village of California
La Jolla	La Jolla Band of Luiseño Indians
La Posta**	La Posta Band of Mission Indians
Los Coyotes	Los Coyotes Band of Cahuilla and Cupeño Indians
Manzanita	Manzanita Band of the Kumeyaay Nation
Mesa Grande	Mesa Grande Band of Mission Indians
Pala*	Pala Band of Mission Indians
Pauma and Yuima*	Pauma Band of Luiseño Indians
Rincon*	Rincon Band of Luiseño Indians
San Pasqual*	San Pasqual Band of Mission Indians
Santa Ysabel**	Iipay Nation of Santa Ysabel
Sycuan*	Sycuan Band of the Kumeyaay Nation
Viejas*	Viejas Band of Kumeyaay Indians

*tribe with gaming facility

**tribe that has closed gaming facility

Source: SANDAG; Bureau of Indian Affairs

land inside that reservation territory to build the El Capitan Reservoir. Capitan Grande is currently uninhabited and is jointly managed by the Barona and Viejas tribal governments.

⁶ As defined in the United States Constitution.

⁷ For many tribal governments, land ownership is complex, as the reservations often have non-Indian-owned in-holdings and/or allotments or individual land parcels owned by tribal members. This complicates land and resource management for tribal governments.

⁸ Several official sources alternately refer to the Ewiiapaayp tribe by the Spanish spelling “Cuyapaipa.”

Current Conditions

A number of planning issues surround these reservations, as they are all located in remote areas outside of incorporated areas.⁹ The degree of remoteness ranges from those that are outside the urban transportation system, but near major highways such as Viejas, to those that are not even fully connected to county roads, such as Los Coyotes. Inadequate access to and from the reservations often results in a lack of economic opportunities, as well as insufficient health, social, and cultural services.

Tribal Economic Development

Gaming is a traditional social activity among many tribal nations; however, tribal gaming enterprises expanded exponentially nationwide in the early 1990s as a result of the passage of the Federal Indian Gaming Regulatory Act (IGRA). The IGRA was the result of a legal battle between the Cabazon Band of Mission Indians and the State of California over the issue of the definition of sovereignty.¹⁰ The State claimed that Cabazon was violating state anti-gambling laws, while the tribe asserted its sovereign right to pursue its own economic interests. In 1987, the United States Supreme Court ruled in favor of Cabazon, prompting Congress to pass a federal gaming regulatory act to define how gaming should be conducted nationwide and what role states should have in that activity.¹¹ Although several tribes in the San Diego region already had bingo facilities, by the 1990s most of the tribes had developed or had agreements to develop gaming facilities as a means of economic development. San Diego County now has nine tribal gaming facilities, which is the greatest number of Indian gaming facilities in any county in the United States (Table 1).¹²

Gaming-related and other types of development have led to rapid economic growth for a number of tribes, while also providing jobs and stimulating the regional economy.¹³ In the San Diego region, statistics show that the Indian gaming industry as a whole has created more than 10,000 jobs in the region, resulting in a \$1 billion industry with approximately \$263 million in goods and services purchased annually and \$500 million in payroll. It should be noted, however, that poverty levels among the Native American population remain below the national average, and some gaming tribes have been much more successful than others.

This growth has been accompanied by increases in traffic, jobs-housing accessibility issues, and the need for additional resources such as water and energy.¹⁴ Those tribes who do not have gaming facilities continue to have economic development, transportation, and infrastructure needs, which have not been met.

⁹ Banegas, Ethan L., "The Socioeconomic Impact of Indian Gaming on Kumeyaay Nations: A Case Study of Barona, Viejas, and Sycuan, 1982 - 2016" (2017). Theses. 14.

¹⁰ Neuman, Lisa. 2005. *Commentary: From Clean Water to Casinos: Why Sovereignty is Important to Native Americans*. Maine Policy Review. Vol. 13(2): 30-32

¹¹ California v. Cabazon Band of Mission Indians, 480 U.S. 202 (1987).

¹² Two smaller gaming facilities—La Posta and Santa Ysabel—closed their operations. Viejas and Sycuan added hotels to their facilities, while Pala and Rincon expanded their existing hotels/parking facilities.

¹³ For additional discussion on the impact of tribal gaming in California, see California Nations Indian Gaming Association (CNIGA) *California Tribal Government Gaming Impact Study*.

¹⁴ For a comprehensive overview, see San Diego County study, *Update on Impacts of Tribal Economic Development Projects in San Diego County*, April 2003. Contact the Department of Land Use and Planning for a copy of this document.

Since the mid-1990s, tribal governments in San Diego have been in the process of developing gaming compacts with the State of California that have allowed them to plan and develop gaming facilities on their reservations. As part of the gaming compact process, tribal governments are required to submit to the state a Tribal Environmental Impact Report, the findings of which are subject to negotiation between the tribal government and the local land use authority adjacent to it. However, there are currently no protocols or requirements in place for exchanging information regarding long-term land use and transportation plans on tribal lands for the purposes of regional planning. This makes the Regional Transportation Plan (RTP) process, making coordination a challenge.

Tribal Transportation

In 2003, the County of San Diego, in its capacity as the adjacent land use authority to most tribal developments in the San Diego region, conducted traffic impact assessments related to tribal developments, which intensified after the enactment of the federal IGRA. In its report on the impact of tribal development on its roadways, the County requested that SANDAG consider the impacts of tribal development on the regional transportation system.

Based on that study, the County negotiated cooperative agreements with several tribes for “fair share” funding of traffic impact mitigation. Nonetheless, according to the county report, levels of service on several road segments in the State Route 76 (SR 76), State Route 67 (SR 67), and State Route 94 (SR 94) corridors were estimated to deteriorate with increased traffic volume associated with the gaming facilities. Both Caltrans and the County of San Diego called for additional corridor studies in the unincorporated area associated with gaming facilities to better understand the situation.

Currently, the main input required to accurately incorporate tribal land use into transportation forecast modeling for the RTP is the square footage of gaming area which produces the estimate of average daily trips. Nine tribal gaming facilities currently are in operation. It is anticipated that more accurate protocols can be developed for assessing traffic impacts through government-to-government discussions with tribal governments.

While there is concern about the impact of the development of gaming facilities on the regional transportation system, tribal governments have long advocated for better access to that same system. Located in the unincorporated portion of the county, tribal lands are largely isolated from the regional transportation system. Although all non-gaming tribes¹⁵ in San Diego County receive funding from gaming tribes through the Revenue Sharing Trust Fund (RSTF)¹⁶ to support the administration of their nations, their physical isolation—both in terms of infrastructure and transit services—is a significantly limiting factor in their ability to improve the health and well-being of tribal members who reside on the reservation, as well as their ability to explore alternative sources for economic development. As more tribal members return to their homelands to live, this will continue to be an issue regardless of the success of tribal enterprises. Federal regulations for transportation require that regional transportation systems address the needs of federally recognized tribal reservations.

Federally-recognized tribes face a dilemma for transportation planning and funding. Most of their transportation funding comes through the federal Bureau of Indian Affairs (BIA) through a national competitive process among all tribal nations in the country. The funding formula is based on population, road inventory, and average tribal shares. Small land-based tribes with small populations and few on-reservation roads do not compete well against larger tribes with extensive road inventories, such as the Navajo Nation, which expands over three states. From 2005 to 2009, under the Safe, Accountable Flexible, Efficient Transportation Equity Act: A Legacy for Users, the

¹⁵ The 1999 Compact defines a “non-gaming” tribe as a tribe that has no gaming or operates less than 350 gaming devices. Gaming devices are defined to be Class III devices. Class II devices, or bingo gaming devices, are not included in this count.

¹⁶ The State Controller’s Office began distributing checks to tribal governments in August 2001. “Eighty-five of the 109 federally recognized tribes in California (those that have either small or no gaming operations) will receive checks that will provide these Tribes with funds to help meet the critical needs of their communities. Tribes will manage the RSTF distributions in a variety of ways, including providing per capita distributions of direct cash benefits.” Source: www.cgcc.ca.gov

Indian Reservation Roads (IRR) program funding formula was revised to allow tribes to include off-reservation transportation facilities critical to reservation ingress and egress as part of their tribal transportation system. This allowed tribes in the San Diego region to compete successfully for funds. With the 2012 passage of the Moving Ahead for Progress in the 21st Century Act, the provision was removed, and the FAST Act, passed in 2015, maintains that change. As such, the San Diego region's tribes lack resources needed to plan for their mobility needs and to address problem areas in the region that most hinder their regional connectivity.

In addition to limited resources, the process to plan for and implement transportation projects is complicated and involves many agencies and jurisdictions. At a federal level, tribes work with the BIA, the Tribal Transportation Program (TTP) of the Federal Highway Administration (FHWA), and in more recent years with the Federal Transit Administration. In most cases, tribes in the region have worked on an individual basis, not as a group. However, many of the issues that impact their mobility and access to the regional transportation system are shared by several tribes along corridors. The federal government has no mechanism for examining the regional needs of tribes. Each tribe submits a long-range tribal transportation plan and updates their own road inventory, but there is no forum for assessing their collective concerns. At the state level, the tribes work with Caltrans through the Native American Liaison Branch, which has been highly successful in analyzing the needs of tribes on state transportation facilities. The state receives the Tribal Transportation Improvement Programs for inclusion in the State Transportation Improvement Program, but again there is no forum for evaluating their collective needs in a regional context.

Tribal Environmental Context

Tribes face a variety of environmental and topographical challenges. Several reservations are in valleys surrounded by mountainous terrain, like Barona, while others are situated on steep slopes, like Los Coyotes. Historically, Indian reservations were established in remote, rocky, steep, and desolate areas of the region in which agriculture and other subsistence activities were limited.

Today, there are a number of environmental issues that tribal communities share with non-tribal communities, such as air and water quality, threats from hazardous and solid waste, and illegal dumping. The 2003 and 2007 regional fires decimated several reservations. The Poomacha fire in 2007 destroyed 99 percent of the La Jolla Band of Luiseño Reservation including homes and open space.

Other environmental challenges are unique to tribal lands because of their sovereign status. For example, many reservations in the region are in watersheds with groundwater. The rules and regulations governing surface water and groundwater are different for tribes than for the communities that surround them. This has often created confusion and at times led to tensions. Similarly, habitat conservation is important to tribal nations, but tribal lands are only a fraction of the acreage originally agreed to in the treaty negotiations in the 1800s and are now surrounded by land controlled by federal, state, or private parties. As efforts increase to preserve habitat throughout the region, pressure for tribal lands to be considered open space or endangered species habitat have risen. As sovereign land use authorities, however, tribal governments have the right to define their own land use. At the same time, as reservations are a fraction of traditional native territories, there are many important natural areas with cultural significance located outside the reservation in areas where tribes have limited influence or control. This highlights the importance of diplomatic discussions to identify ways in which tribes, as land use authorities, can join the regional dialogue on habitat conservation and habitat planning.

A REGIONAL GOVERNMENT-TO-GOVERNMENT FRAMEWORK

As tribal reservations continue to develop and interregional planning issues become more related to surrounding jurisdictions, the need for establishing a government-to-government framework at a regional level has become increasingly apparent. Tribes operate under independent constitutions, have their own systems of governance, and establish and administer their own laws. This sovereign status of tribal governments dictates that the United States and all agencies operating within it are expected to engage in government-to-government relationships with Native American tribes. Government-to-government interaction with Native American tribes should follow the principles of coordination, cooperation, and consultation.

For more than ten years, SANDAG and the SCTCA have developed a government-to-government framework to engage in planning dialogue and action at the regional level. The success of this model has demonstrated that working collaboratively, public agencies and tribal governments can create a mechanism for timely, meaningful, and effective involvement of tribal governments in the regional and transportation planning process.

Regional Partners

The core of the framework is an ongoing dialogue among key stakeholders at the regional level. Today, three main public agencies in the region have tribal liaisons: SANDAG, Caltrans, and the County of San Diego.

- **SANDAG** – It is through the Borders Committee that SANDAG has been pursuing government-to-government relations with tribal governments in the San Diego region. The Borders Committee discusses policy issues related to borders-related planning from three perspectives: interregional, binational, and tribal. In 2005, the SCTCA joined the Borders Committee as an intertribal council of governments to engage in a dialogue on tribal planning issues with other neighboring councils of government, including Imperial Valley, Riverside, and Orange Counties, as well as the Republic of Mexico (as represented by the Consul General in San Diego). The SANDAG Tribal Liaison is a member of the Land Use and Transportation Planning Department, which provides technical support to the Borders Committee as well as the Board of Directors and other Policy Advisory Committees.
- **SCTCA** – The SCTCA is the SANDAG counterpart as an intertribal council of governments in the San Diego region. The SCTCA is a multiservice, nonprofit corporation established in 1972 by a consortium of 20 federally-recognized Indian tribes in Southern California.¹⁷ The primary mission of the SCTCA is to serve the health, welfare, safety, education, cultural, economic, and employment needs of its tribal members and descendants in the San Diego County urban areas. A board of directors composed of tribal chairpersons from each of its member Tribes governs SCTCA. As an intertribal council, the SCTCA serves as a forum for a wide variety of issues for its member tribes.
- **Caltrans District 11** – Caltrans was the first state agency in California to enact an agency-wide policy on tribal consultation. The Native American Liaison program was established in 2002 to work with the 19 tribes in its jurisdiction (San Diego-Imperial Counties). Its objectives are to establish close coordination and early project involvement with tribal governments to streamline funding, environmental, and project-delivery processes in areas on or near reservations; to ensure that Caltrans programs do not adversely affect important California Native American sites, traditions, or practices; to encourage cooperation between other agencies and local tribal governments; to assist with training, information dissemination, and project delivery; and to consider Tribal Employment Rights Ordinance (TERO) from individual tribes for employment and contracting opportunities for Native Americans on Caltrans projects on or near reservations.

¹⁷ The SCTCA Board has several tribal governments from Riverside.

- **County of San Diego** – The county’s Tribal Liaison was established in 2001. Liaison responsibilities include identifying and resolving issues related to impacts of tribal economic development projects on infrastructure and other county services in unincorporated areas; providing support and tracking legislation and policy matters related to tribes for the County Board of Supervisors and the Chief Administrative Officer; participating in regional land use and transportation planning, economic and services forecasting, funding, and development activities; and assisting tribes with permitting and other issues.

Policy Level

The regional government-to-government framework for working with tribal nations in the San Diego region has been strengthened during the last several years. Institutional trust has been built over time through a combination of policy dialogue and technical action and forms the foundation for cooperation.

Periodic summits

An overarching element of the government-to-government framework is having periodic summits between the Boards of Directors of the two principal intergovernmental agencies—SCTCA and SANDAG. By bringing together these two councils of government, it offers an opportunity for tribal and local elected officials from the region to engage in a diplomatic dialogue, identify issues of mutual concern, and develop priority actions that can be carried out through the partnership framework.

SCTCA representation on SANDAG

One of the key issues raised by the tribal leaders at the inaugural 2006 San Diego Regional Tribal Summit (2006 Summit) was tribal representation on the SANDAG Board of Directors. The SANDAG Board of Directors and the tribal governments recognized the benefits to be gained by taking a cooperative approach to planning for an improved quality of life for the San Diego region. The leadership of SANDAG and SCTCA had discussions over several months following the Summit regarding the development of a formula for tribal representation which would respect tribal sovereignty and involve tribal governments in policy decisions at SANDAG. It was agreed that the tribal leaders should be involved in SANDAG at a policy level, representing the intertribal council in the same way that other associations of government are represented. The SCTCA and SANDAG signed a Memorandum of Understanding on January 26, 2007, memorializing the agreement to have the SCTCA join the SANDAG Board of Directors and Policy Advisory Committees as advisory members, including the Transportation, Regional Planning, Borders, and Public Safety Committees. Tribal leaders are now part of the regional decision-making process at a policy level, offering a tribal perspective to complex regional issues.

Mutual exchange of policy-level information

At the policy level, the representatives of the SCTCA sit on the various SANDAG Policy Advisory Committees; however, the SCTCA also wanted to ensure that major initiatives in which SANDAG was engaged also were shared directly with the entire tribal leadership. Liaison staff from the SCTCA and SANDAG work together to ensure that briefings on major agency-wide initiatives are brought to the entire SCTCA Board to inform the tribal leadership and obtain feedback. Similarly, staff supports SCTCA representatives who bring tribal issues to their respective SANDAG Policy Advisory Committees. This creates a systematic, ongoing feedback loop to ensure that all tribal nations are involved in the process and have an opportunity to raise issues and provide feedback.

Technical Level

The other element of the government-to-government framework is a technical mechanism for pursuing collaborative action. Another key outcome of the 2006 Summit was the strategic action of creating an ongoing forum for discussion on tribal transportation issues between the tribal nations and public agencies that have an influence on tribal transportation.

Interagency Technical Working Group on tribal transportation issues

The Boards of SCTCA and SANDAG approved the charter (*Refer to Appendix D – Tribal Working Group Charter*) for the Working Group on Tribal Transportation Issues in summer 2006. The Working Group reports to the Borders Committee and all tribes in San Diego can be members. Currently, 14 of the 17 tribes in the region are formal members of the Working Group (*Refer to Appendix E – Current Tribal Working Group Membership Roster*). At the request of the tribal nations, the Working Group has two co-chairs, a tribal leader, and a SANDAG executive staff member. The Working Group is staffed by SANDAG, meets quarterly, and tribal nations alternate hosting the meetings at different reservations. Since 2014, Barona, Jamul, Pala, Rincon, San Pasqual, and Viejas have hosted the quarterly Working Group meetings.

The purpose of the Working Group is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region, including SANDAG, Caltrans, the County of San Diego, and the transit operators. In partnership with the SCTCA, the Working Group monitors and provides input on the implementation of the strategies and planning activities related to transportation, which were mutually developed through the San Diego Regional Tribal Summit.



The Working Group receives a project update at its April 2016 meeting.

Working Group responsibilities include reviewing current activities and plans being implemented by SANDAG and the tribal governments in an effort to coordinate programs, addressing issues of concern, and ensuring that the needs and issues of tribal governments are being incorporated into the transportation planning process at the regional level. The Working Group provides feedback and comments on current and planned activities and provides technical advice on the implementation of these activities. The Working Group also assists with the associated outreach to the tribal community on transportation issues of regional significance.

Collaboration with federal and state agencies

The Working Group provides an important forum for engaging federal and state agencies in tribal transportation issues for both information exchange and technical support. Caltrans Native American Liaison Branch coordinates efforts with the Working Group as does the National Indian Justice Center. Recently, FHWA engaged in a Collaborative Long-Range Transportation Plan (CLRTP) to integrate the transportation needs of Federal Lands into Statewide and the Metropolitan Transportation Planning process in California. The FHWA approached the Working Group to understand the needs of tribal nations in the San Diego region.

COLLABORATIVE POLICY AREA: TRIBAL TRANSPORTATION

During the last ten years, the principal area of consultation and collaboration with tribal nations at the regional level has been in tribal transportation. For each update of the Regional Transportation Plan since 2007, issues of mutual concern and priority actions have been revisited, analyzed for progress, and re-prioritized. There are four primary transportation-related policy areas that were considered in the 2015 Regional Plan as a result of the consultation process with tribal governments: roadway infrastructure, funding, transit, and information sharing/data gathering. These policy areas are proposed to continue as areas for future collaboration

Progress in Tribal Transportation Planning

Through the Tribal Liaison Program, SANDAG dedicates significant resources to ensuring that tribal issues are considered in its plans, programs, and projects¹⁸. Since the 2006 Tribal Summit, efforts have been made in all of the strategic areas identified. *Appendix F* provides a summary table of those transportation strategic accomplishments.

Tribal transportation issues have been increasingly integrated into the development of the RTP. During the 2050 RTP (2011), a tribal component was added to both the Project Evaluation Criteria and the Performance Measures. In addition, tribes have submitted their own long-range transportation plans as an appendix to the RTP. For the 2050 RTP (2011), eight tribes submitted their LTTs, while for the 2015 Regional Plan, 12 tribes submitted their LTTs. For the 2015 Regional Plan, tribes also were asked to highlight projects with regional significance. These were mapped in the tribal consultation appendix of the 2015 Regional Plan to begin to see the connectivity issues.

Another area of focus over the last several years was public transit. SANDAG was awarded a technical assistance grant from Caltrans in 2007 and was able to dedicate it to a [Tribal Transit Feasibility Study](#)¹⁹, which was the Working Group's first project. The purpose of the project was to analyze the connections between the two transit districts and the tribal reservations and determine potential corridors and types of service. The recommendations of the study served as the basis for an intertribal transportation agency—the Reservation Transportation Authority—to apply for the federal tribal transit set aside FTA Section 5311c funding. One of the recommendations of the study was to have an enhanced route in North County Transit District, (Route 388/389), to run an express segment from Escondido on Interstate 15 (I-15) to SR 76. The RTA successfully competed for these funds for several years for a total of over \$2 million, subsidizing North County Transit District for this enhanced route. In addition, the Reservation Transportation Authority (RTA) received a \$1.2 million capital improvement grant in FY 2009 under the American Recovery and Reinvestment Act of 2009 to construct a bus stop at the Park & Ride at I-15 and SR 76, as well as to make enhancements to bus stops along NCTD bus routes (Routes 864, 888, 891, 892, and 894).

Another strategic area that was collaboratively pursued was Transportation Demand Management (TDM). For tribal nations whose lands are in the rural areas, TDM is a significant solution to mobility needs. There have been a number of collaborative projects²⁰ over the years to encourage tribal enterprises to pursue TDM policies.

The tribal gaming facilities are now major employers in the region, yet their involvement in the region's commuter services program (iCommute) is limited. Barona, Campo, Sycuan, and Viejas in the Interstate 8 corridor have

¹⁸ In 2005 Caltrans and SANDAG conducted an initial Tribal Transportation Needs Assessment to determine the overall status of tribal transportation planning and needs. For more information on this assessment, visit sandag.org/TribalTransportationAssessment

¹⁹ sandag.org/TribalTransitStudy

²⁰ For more information on the Reservation Transportation Authority Transportation Demand Management Study, visit sandag.org/RTATDMStudy

approximately 6,000 total employees. In the SR 76 corridor Pala, Pauma, Rincon, and San Pasqual have almost 5,000 employees in total. It is estimated that each gaming facility attracts a daily count of anywhere from 6,000 to 12,000 guests. The tribal governments invest extensively in the San Diego region. Statistics show that the Indian gaming industry as a whole purchases approximately \$263 million in goods and services annually. Although many tribal members now live on the reservations, non-tribal employees travel from all over the region and other counties, including Riverside, Imperial, and Orange Counties to jobs on the reservations. These commutes would be considered 'reverse' commutes as urban residents are travelling to rural employment opportunities.

Several years ago, SANDAG, the RTA, and the SCTCA collaborated on an assessment of the needs of tribal employers and developed a strategy to meet their needs, and SANDAG assisted the RTA in developing a business/marketing plan for establishing a Tribal Transportation Management Association that would collaborate with the SANDAG iCommute program. The tribal TMA, a private, nonprofit, member-controlled organization would provide the institutional framework for the recommended TDM programs and services that were developed as a result of the study. Six tribal enterprises participated in the study and completed commute surveys in their facilities, including: Pala, Pauma, Rincon, Viejas, Sycuan, and Santa Ysabel. This area of transportation continues to have tremendous potential.

Finally, an area that has been a consistent benefit to tribal nations and other regional, state, and federal agencies has been the regular functioning of the Interagency Technical Working Group on Tribal Transportation Issues. This working group has served as a forum for information-sharing and technical assistance not only regionally, but for state and federal agencies as well. For example, when the State of California began its listening sessions for its 2040 Statewide Plan, it took advantage of the regular meeting of the Working Group to engage tribal governments in the San Diego region in the process.

Intraregional Tribal Transportation Strategy

The 2015 Regional Plan focuses transportation investments in the most urbanized areas, where there is existing and planned transportation infrastructure. At the same time, the transportation system must support the needs of federally recognized tribal nations whose reservations are in the sparsely populated eastern rural areas of the region. To most effectively identify and serve the transportation needs of the tribal communities, the 17 tribal nations in the region sought an opportunity to evaluate their mobility issues collectively in a regional context and determine collective priorities for further analysis.

A near-term action from the 2015 Regional Plan was to develop an [Intraregional Tribal Transportation Strategy \(Strategy\)](#)²¹ with the tribal nations and other agencies that influence tribal transportation in the San Diego region. In 2015, SANDAG, in partnership with the SCTCA, successfully competed for a Caltrans Strategic Partnership Planning grant to support this effort. The funding allowed SANDAG and the SCTCA to work together with the County of San Diego, the North County Transit District, the Metropolitan Transit System, Caltrans, and the BIA to develop a strategy that identifies key multimodal transportation projects that will improve tribal mobility while meeting regional, state, and federal goals. The recently completed strategy included identifying projects, criteria, cost estimates, potential partners, and funding opportunities.

Development of the [Strategy](#)²² was initiated in January 2016. The Tribal Transportation Working Group (Working Group) served as the Project Advisory Group. Updates at key milestones in development were shared with the SCTCA Board and the SANDAG Transportation and Borders Committees. A Project Development Team composed of staff from SANDAG, SCTCA, County of San Diego, Caltrans, and a representative from the

²¹ For more information on the Intraregional Tribal Transportation Strategy (ITTS), visit sandag.org/ITTS

²² For more information on the Intraregional Tribal Transportation Strategy (ITTS), visit sandag.org/ITTS

Working Group led the project with consultant assistance. All 17 tribal nations in the San Diego region participated actively in the project.

Tribal corridors

The 2015 Regional Plan developed a multimodal plan of improvements for the San Diego County region. Roadways included in the plan are shown in *Appendix G – ITTS North Project Map* and *Appendix H – ITTS South Project Map*.

Many of the roadways in the Regional Plan are focused in urbanized areas because of congestion concerns and because population is denser in these areas. However, tribal reservations are located in rural areas of the county, and transportation needs focus on issues such as safety, road maintenance, expansion of multimodal facilities, and design issues rather than capacity expansions. For the purpose of examining long-range transportation issues of the tribal nations, key transportation corridors were identified that provide transportation into and out of the reservations and include:

- SR 76, which generally runs east-west in the northern area of the county.
- SR 79, which generally runs north-south in the eastern half of the county.
- Interstate 8 (I-8), which runs east-west in the southern area of the county and is subdivided into the I-8 east and I-8 west corridors. It should be noted that SR 67 projects have been included as part of the I-8 west corridor.
- SR 94, which generally runs east-west in the southern area of the county.

The [Strategy](#)²³ report describes these corridors and tribal transportation issues in these areas in more detail.

Tribal transportation issues

Tribal nations have unique transportation concerns. Many tribes, located in rural areas with a small population base, lack funding resources to maintain existing roads and address new improvements. In some cases, tribal roads are not built to the same standards as surrounding jurisdictions, which can cause transportation safety issues.

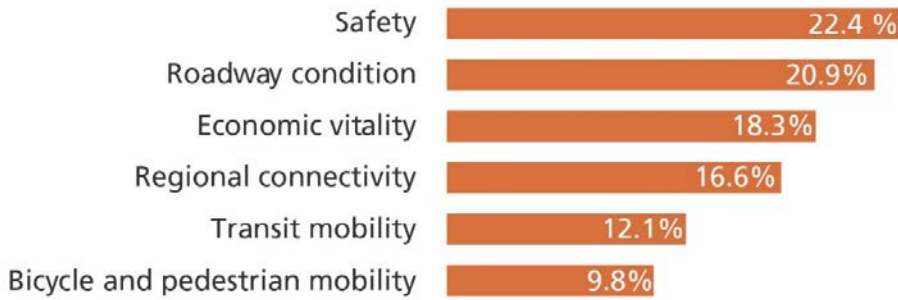
Tribal communities need improvements to roads, bridges, and highways to adequately connect their communities to other communities, thereby enhancing the opportunity for economic, social, cultural, and community developments. They also need better transit to and from their communities to take advantage of job and education opportunities in surrounding communities. As new economic and community development ventures expand in tribal communities, transportation is becoming a major planning component for land use, mobility, and accessibility.

As detailed in the Caltrans Transportation Guide for Native Americans (March 2017), the current level of annual funding to California tribes from the TTP, the successor to the IRR Program, are distributed to tribes via a complex TTP funding formula, which takes only factors such as land base, road inventory, and population into account. Because California tribes are smaller in enrolled population and land base than many tribes, California tribes have not received a proportion of TTP funds commensurate with their number of tribal governments, causing critical infrastructure to deteriorate.

During the course of developing the Strategy, tribal representatives discussed possible goals/issues in transportation and then were surveyed on their relative importance. The most important goal was improving safety, followed closely by improving roadway conditions, enhancing economic vitality, and improving regional connectivity. Important considerations for transportation improvements, as indicated by tribal representatives in the San Diego region, are shown in Figure 3.

²³ For more information on the Intra-regional Tribal Transportation Strategy (ITTS), visit sandag.org/ITTS

Figure 3 – Relative importance of goal areas for transportation improvements



Source: Tribal Mobility Needs Assessment Survey 2017

Tribal Mobility Needs Assessment Survey

A key component of the development of the Strategy was the development and administration of the Tribal Mobility Needs Assessment Survey. One-on-one meetings were conducted with tribal representatives over several months to discuss the survey questions and responses. The survey was tailored to each tribal nation by including a list and maps of transportation projects that had previously received consideration. Through their survey responses, tribes provided essential project details, feedback on transportation modes and priorities most important to their governments, and information regarding cultural resource awareness considerations.

This survey was conducted to determine the specific transportation needs for each tribal community and then to use this information to identify opportunities for partnerships and further coordination on funding opportunities. Approximately 126 transportation improvement projects were identified through the survey process. Projects identified include roadway and intersection improvements; safety improvements; and travel demand management, transit, bicycle, and pedestrian improvements. In order to identify opportunities for potential coordination, projects were summarized by region, corridor, tribal nation, and project type. The inventory of projects was mapped and entered into a database with information such as the project description and planning level cost estimate, among other information. See the Intraregional Tribal Transportation Strategy for the project lists and the database for additional information.

Figure 4 – Project screening tool

Project Filter ✕

Find projects based on their objectives, the funding source, and how they relate to other projects happening in the area.

Search Criteria

- Project Objectives
- Project Overlap
- Project Cost
- Project Corridor

Project Funding Sources

- Federal Funding Programs
- State Funding Programs
- Regional Funding Programs

Safety
 Project on a Primary Corridor or Promotes Regional Connectivity
 Roadway Condition
 Economic Vitality
 Bicycle and Pedestrian Mobility / Multimodal
 Transit Mobility
 Opportunity for partnerships
 Promotion of Native identity
 Could Provide Opportunities for Local Jobs, TERO
 Supports Goods Movement

Check/Uncheck All

An interactive tool was developed to facilitate the clustering of projects with potential regional partners and funding opportunities. The tool allows for easy sorting of the 126 identified projects, each with approximately 45 data fields including cost estimates, potential funding sources, and project readiness. With the screening tool, a user can easily enter a query to find projects that may align with potential funding opportunities, partnerships, or cost goals.

The ability to cluster and rapidly sort through projects will facilitate the organization of the Strategy. New funding opportunities and potential partnerships often emerge rapidly. With governments increasingly budget-conscious, competition for external dollars is increasingly high. The project screening tool allows users to quickly identify projects that could be eligible for these emerging opportunities and focus more time on the application process and less on the project identification. The tool will continue to be updated and utilized by the Working Group.

Strategies and actions

The Intraregional Tribal Transportation Strategy project brought together the region's tribal nations to work collectively with the key agencies including Caltrans, the County of San Diego, SANDAG, and the transit agencies to develop this Strategy, which will serve as a guide to help the region better address the transportation needs of tribal communities. The Strategy identified four key strategic objectives to guide future processes aimed at addressing these needs:

- support partnerships/collaboration
- coordinate collaborative planning
- share data supporting tribal transportation
- create opportunities to fund priority tribal transportation projects and programs

The strategic objectives and associated actions described in the Strategy provide a structure to continue the process of collaboration focusing on tribal multimodal access to the transportation system and create a logical framework for near-term and future efforts. These strategic objectives and actions are intended to be flexible enough to allow the Working Group to define how to implement each one. The Strategy document provides short-term and ongoing actions for the Working Group to consider in identifying next steps in the planning process.

COLLABORATIVE EMERGING REGIONAL POLICY AREAS

As the Regional Plan is comprehensive, involving policy issues beyond transportation, tribal nations and SANDAG have an opportunity to identify other policy areas of mutual concern in which strategies for collaboration could be developed.

In the development of the 2015 Regional Plan, tribal nations identified several policy areas in which the tribes and SANDAG intersect in interest and potential collaboration. The four topics were Cultural Resources, Habitat Conservation, Economic Development, and Energy. A fifth topic, Emergency Preparedness and Management, was an issue raised at several previous San Diego Regional Tribal Summits, and the County and tribal nations followed through on recommendations made. In the process of discussions with tribes leading up to the 2018 Tribal Summit a related topic of Public Safety has been introduced. For each policy area, the legislative context of the policy area will be provided, as well as the background, tribal initiatives, and ideas for potential collaboration.

Cultural Resources

As many California tribes were moved away from their traditional lands or had their land base restricted in size, it is often the case that lands of cultural significance to the tribes do not exist within the boundaries of the reservation. This can cause conflict between tribes and developers and/or land use authorities that propose development on land that the tribe does not control, but that has cultural or religious significance. These conflicts can be compounded when coastal communities lack an understanding of the coastal history of many of the tribes.

Contemporary reservation lands represent a small fraction of the traditional lands under the direct authority of the tribal nations. Indirectly, through federal and State law, tribal nations continue to have an extensive role in assessing the impacts of development on cultural resources, the protection or disposition of human remains, religious items, and biological resources. For local governments and businesses, not understanding these roles and authorities can result in significant conflict and, at times, added costs to proposed developments. For tribal nations, the lack of early involvement in the process often makes it very difficult to define a course of action that minimizes impacts to all parties.

Legislative context

California and federal legislation address tribal cultural resources to some extent through the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). California also provides specific protections through the Native American Historic Protection Act (Public Resources code, Div.5, Ch 1.76). The repatriation of human remains is primarily governed through the federal Native American Graves Protection and Repatriation Act (NAGPRA, 25 U.S.C. 3001 et seq.).

- **NEPA** – The NEPA requires federal agencies to integrate environmental values into their decision-making processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions. Tribal interests are addressed in conjunction with Section 106 of the National Historic Preservation Act, which requires that tribes be part of the consultation process when development may affect their cultural or sacred sites.
- **NAGPRA** – Agencies and institutions that receive federal funding are required to comply with the Native American Graves Protection and Repatriation Act. This relates to the disposition of Native American cultural items and human remains under the control of federal agencies and institutions that receive federal funding (museums), as well as the ownership or control of cultural items and human remains discovered on federal or tribal lands after November 16, 1990.

- CEQA – CEQA is a statute that requires state and local agencies to identify the significant environmental impacts of their actions, including impacts to cultural resources, and to avoid or mitigate those impacts if feasible.
- Native American Historic Resource Protection Act (Public Resources code, Div.5, C h 1.76) – This state act makes it a crime to unlawfully and maliciously excavate upon, remove, destroy, injure, or deface a Native American historic, cultural, or sacred site that is listed or may be eligible for listing in the California Register of Historic Resource.
- **Senate Bill 18 (Burton, 2004) (SB 18) (Tribal Consultation)** – This state law went into effect in March 2005 and requires cities and counties in California to conduct consultations with tribal nations in their region when updating any element of a General Plan. These consultations are for preserving or mitigating impacts to Native American historic, cultural, or sacred sites, features, and objects located within the city or county.
- **Assembly Bill 52 (Gatto, 2016) (AB 52)** – To strengthen legislation to preserve culturally significant and sacred lands, tribes worked with Assemblymember Mike Gatto to pass an amendment to CEQA that establishes a new category, “tribal cultural resources,” and requires consideration of tribal cultural value in addition to scientific and archeological value. AB 52 recognizes California Native Americans as potential experts with regard to tribal histories and practices.

Background

Although NEPA and CEQA have consultation requirements, tribal nations have reported that the consultation on specific projects often comes too late into the process, when decisions have already been made or development is underway. In addition, tribes have reported that consultation does not necessarily result in the avoidance of impacts to culturally significant or sacred land. On the other hand, agencies carrying out projects have followed procedures outlined in SB 18 and have sometimes found tribes non-responsive. There have been occasions when tribes contact the agency much later in the process even though they were contacted in the specified timeframe. These problems will continue to grow without cooperative efforts to increase the response capacity of the tribal nations.

Tribal initiatives

- **Tribal Historic Preservation Offices** – Several reservations have developed or are developing Tribal Historic Preservation Offices to address the protection of cultural resources both on-reservation and within their traditional cultural region. These offices provide more local control and expertise in ensuring that tribal concerns are addressed, and reduce the reliance on the State Historic Preservation Office.
- **Conservation easements** – One method of addressing the conservation of cultural resources has been through the use of conservation easements on private property under state law. One organization, the Kumeyaay Diegueño Land Conservancy, was created as a 501(c)3 under California law specifically for that purpose. This method avoids the lengthy and sometimes expensive process of protecting lands by going through the federal fee-to-trust process.
- **Tribal museums/facilities** – One problem with tribal acquisitions has been a lack of adequate storage facilities for items that can be fragile or susceptible to deterioration. This problem is beginning to be addressed with the creation of storage facilities on reservations, usually in conjunction with tribal museums or cultural departments. This also is supplemented by working arrangements with existing archive facilities to allow access to items for educational or cultural purposes. The tribal capacity is still inadequate. Most do not meet the national standards of a repository.
- **Monitors** – Under both federal and California actions, monitors are often hired to oversee construction and ensure that identified cultural resources are protected, or to alert the project developer to resources discovered in the construction process. The high variability in the skill levels of monitors has been an issue of concern for many in the tribal community. Many tribal communities have been working toward the establishment of a baseline skill set for monitors that can provide a reliable pool for off-reservation projects.

Potential strategies for collaboration

Below is a list of potential opportunities for coordination and collaboration regarding cultural resources:

- Explore potential to collaborate on a way to provide information regarding the location of culturally significant resources without compromising the preservation of the resource (i.e., heat mapping or color-coded polygon mapping showing general areas of increased sensitivity to cultural resource damage)
- Explore ways to collaborate in communicating information regarding legal requirements of tribal consultation for local jurisdictions and consultants pursuant to SB 18 and AB 52 (i.e., develop an AB 52 implementation strategy)
- Work with tribes and the State to find resources for tribes lacking the capacity to fully participate in SB 18 and AB 52
- Work with SANDAG to establish an information exchange program with local governments to identify the primary contacts and resources available from the tribes and to mitigate the impediments to early and accurate communication in the project development process
- Work with tribes and tribal museums to establish a methodology to ensure that archiving costs are incorporated into the review process

Habitat Conservation

In the area of habitat conservation, there are a number of opportunities for collaboration, including creating frameworks for discussing environmental concerns. Such concerns might include stormwater runoff management, air quality monitoring, or solid waste management. In habitat conservation, there are opportunities for collaborating on the Regional Multiple Species Conservation Program and other habitat conservation programs. Traditional land management techniques are still relevant or may be adapted in many present-day ecosystems. Tribal harvest techniques, fire management, water management and plant utilization are all topics studied and, at times, implemented in many areas of the State.

Legislative context

Habitat conservation is important to both tribes and local jurisdictions in the San Diego region. A lack of information sharing and coordination, however, has created some challenges. Lack of tribal consultation in the planning process can exacerbate the situation when programs and legislation fail to include or protect tribal interests. Some such examples are as follows:

- [The Sustainable Groundwater Management Act](#) was implemented in 2016 to provide a framework for local and regional agencies to provide sustainable groundwater management for a groundwater basin or sub-basin. Several tribes have participated in ongoing outreach efforts by the State as they move forward with the Sustainable Groundwater Management Act. Many concerns regarding the methodologies of defining basins and the potential of impacts to long-term planning on reservation lands have been brought forward in early discussions.
- [The Multiple Species Conservation Plan](#) and [the Multiple Habitat Conservation Plan](#) were created to preserve the region's distinct, native habitats and wildlife for future generations; work across political boundaries in unique regional conservation efforts; protect watersheds and water quality; and ensure compliance with federal and state endangered species acts. Tribal nations have concerns, though, including the lack of inclusion of tribal boundaries, that the watershed protection does not include active involvement of tribal land managers; and acknowledgement from agencies that tribal nations have their own list of important species and habitats of cultural significance that are not included on the Multiple Species Conservation Plan or the Multiple Habitat Conservation Plan list.

- **The *TransNet* Environmental Mitigation Program** – The *TransNet* Extension Ordinance and Expenditure Plan, approved by the voters in November 2004, include the Environmental Mitigation Program (EMP), which provides funding to mitigate habitat impacts from regional and local transportation projects, and provides funding for regional land management and biological monitoring. The EMP is a unique component of the *TransNet* Extension Ordinance in that it goes beyond traditional mitigation for transportation projects by including a funding allocation for habitat acquisition, management, and monitoring activities to help implement the regional habitat conservation plans. This funding allocation is tied to mitigation requirements and the environmental clearance approval process for projects outlined in the Regional Transportation Plan. Each year, the Board of Directors allocates \$4 million toward implementation of regional land management and biological monitoring pursuant to a Memorandum of Agreement with state and federal agencies on the implementation of the EMP. Tribal governments are eligible to apply for land management and monitoring funds, although few have. It should be noted, though, that some grants to other organizations have benefitted the tribes. An example is the grant to California Wildlife Services to control a feral pig population that was affecting areas of the unincorporated area, including several tribal reservations.
- **Integrated Regional Water Management** is an initiative aimed at developing long-term water supply reliability, improving water quality, and protecting natural resources. The Statewide Integrated Regional Water Management (IRWM) Program is supported by bond funding provided by the California Department of Water Resources to fund competitive grants for projects that improve water resources management. The IRWM Program began in 2005 as an interdisciplinary effort by water retailers, wastewater agencies, stormwater and flood managers, watershed groups, the business community, tribes, agriculture, and non-profit stakeholders to improve water resources planning in the San Diego IRWM Region.

Background

Tribes are invested in environmental and habitat conservation, but they are often not included in planning efforts. Tribal concerns, values, and impacts are not broadly known. While most conservation planning is done from a species and biological perspective, tribal conservation planning comes from a cultural perspective. Certain plants and animals have great cultural significance to local tribes, but do not necessarily fit the definition of an endangered species.

Positive actions toward inclusion of tribal conservation values have occurred as a result of SB 18 which requires local jurisdictions to consult with tribes when amending their general plans. The challenge for tribes is that consultation is an unfunded mandate. Small, non-gaming tribes often cannot afford to spend limited resources and staff time on a consultation process.

Tribal initiatives

Each tribe has its own habitat conservation concerns based on where its land is located and what kind of development plans the tribe has in place. Some tribal lands come into more contact with larger municipalities than others do, in which case the considerations become more complex. Some examples of projects with the tribes include creek realignment, wetlands restoration projects, habitat restoration along San Luis Rey and Trujillo Creek, and oak tree monitoring partnerships with the California Native Plant Society.

- **Tribal EPA offices** – Most of the tribal nations of the San Diego region have an environmental office or department in place. They provide a broad range of programs including environmental education, drinking water oversight, surface water pollution control, solid waste management, air quality monitoring, and more. Many tribes have incorporated water conservation into their economic

development. These have included the use of reclaimed water in facilities and for landscape, enhanced recharge through wetlands development, native plant nurseries and landscaping.

- **Intertribal efforts** – Along with individual tribal projects, there also are intertribal efforts such as the **Kumeyaay Diegueño Land Conservancy (KDLC)**. The KDLC is a collaborative effort among ten of the Kumeyaay nations. The purpose of the KDLC is to assist with protection and preservation of former use areas as well as sacred sites. Their mission is to protect and preserve and work collaboratively with entities with similar goals and ambitions. The KDLC currently owns or manages over 600 acres directly, and has ongoing relationships to support conservation and management with California State Parks, the U.S. Bureau of Land Management, and the U.S. Fish and Wildlife Service. KDLC also is working with other land trust organizations to co-manage thousands of additional acres.
- The **Native American Environmental Protection Coalition (NAEPC)** is a tribally-driven organization that provides technical assistance, environmental education, professional training, information networking, and intertribal coordination. Established in 1997 and becoming a 501(c)3 nonprofit in 2006, the NAEPC currently has 23 tribes in its membership from Southern California.

Potential coordination

Following is a list of potential areas for coordination and collaboration regarding habitat conservation.

- Collaborate to secure funding needed for tribes to participate in the environmental consultation process
- Support the protection of habitat from a cultural perspective as well as an environmental perspective
- Create a regional forum to bring tribes, local jurisdictions, resource agencies, and environmental stakeholders together for better collaboration and coordination
- Explore the potential for intertribal organizations, such as the KDLC, to participate in the Environmental Mitigation Program Working Group

Economic Development

Tribal economic development has a complicated history rooted in many layers of historic government policies of assimilation, as well as political and cultural termination. In addition, tribal leaders note there are often misperceptions of tribal business enterprises as “taking” from the off-reservation economy.

Legislative context

Tribal economic development is complex because laws apply differently to tribal governments than they do to states, counties, and cities. The laws regarding taxation create the greatest level of confusion. Tribal nations do not have the ability to displace the taxing of reservation property and commerce by the state and county on many portions of the reservation economy, resulting in the inability of tribes to use tax incentives that federal, state, and local governments use to support local investment.

Background

A common misconception is that all tribes have gaming facilities and that all American Indians are directly benefitting as a result of gaming. In fact, less than 50 percent of tribes have gaming facilities, and of those tribes, only a small percentage are making enough money to provide regular income for tribal members. Some tribes are successful and are able to support the tribal members financially, some barely break even, and some fail altogether, leaving tribes in debt. In the San Diego region, nine tribes have gaming facilities. While gaming has helped many San Diego tribes, it comes with no guarantees and some substantial risks. As a result, most local tribes are working to diversify their economic development opportunities.

Economic development beyond gaming is subject to many constraints. The issues of remote locations and lack of access to capital and infrastructure are compounded by the limited ability to fully utilize the tax base of reservation lands. Property, sales, possessory interest, and income taxes from businesses on reservation lands are diverted from the reservation economy with little or no consideration for government services provided by the tribal nation, which has put many aspects of tribal economies at a competitive disadvantage when pursuing economic development outside of the gaming industry.

An added burden can sometimes be the clash between tribes and local governments with respect to differing views on long-term planning, as well as mistrust over tribal regulations and enforcement. This can result in legal fights that can be lengthy and costly to all parties.

In 2012, the United States government enacted the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act amendments to the Indian Long-Term Leasing Act. The HEARTH Act helps promote economic growth and job creation on tribal lands, and provides for a significant restructuring of the control and lease approval process. Ewiiapaayp and Rincon are the first two tribes in San Diego County to receive approval of their regulations under the HEARTH Act.

Tribal initiatives

Each local tribe has its own plan for economic development and diversification. There are many markets being explored, such as renewable energy, ecotourism, waste management, recreational facilities, and more for essentially state-run enterprises. Some tribes choose to run their own businesses, while others select contractors to operate their enterprises. Some tribal business ventures have been off-reservation, such as purchases of small businesses, historic buildings, golf courses, and land. There are some cases wherein tribes can support local jurisdictions through a contracting process, such as fire protection.

There also are tribal businesses on tribal land. The businesses tribes choose to develop oftentimes are dependent on the location of the reservation and availability of space. Some examples of businesses that local tribes run, aside from gaming facilities, include motocross race tracks, campgrounds, wind/energy projects, gas stations, restaurants, shopping centers, and ballparks. Many tribes bring outside businesses onto their land under varied business agreements. Private sector investment into tribal communities is limited due to the present tax structure, which can make some types of tax-based private sector investment problematic to the point of infeasibility.

Since the 2010 San Diego Regional Tribal Summit, the issue of tribal employment has been increasingly discussed. Transportation projects with federal funding must do their due diligence and make every effort to hire tribal members from reservations within the area of influence of the project. Many tribes have a TERO. There has been an extensive effort by the U.S. Department of Labor to educate contractors doing business with the federal government of this requirement. In 2012 the SCTCA sponsored the development of a program to address the need for matching qualified tribal members with employment opportunities called Nativehire.

This is a nonprofit organization owned and operated by the SCTCA. Nativehire.org is a job search engine developed to meet the unique employment needs of Native Americans.

Potential coordination

Below is a list of potential opportunities for coordination and collaboration regarding economic development.

- Explore collaborative opportunities to educate local jurisdictions regarding Tribal law and sovereignty to reduce misunderstandings that can be a hindrance to economic development
- Explore the potential for tribal governments to partner with local jurisdictions to provide local public services
- Explore the possibility of expanding economic development opportunities in green energy and eco/cultural tourism
- Develop a regional study of the full range of economic impacts/benefits from reservation economies, including tax generation, community services, supply chain, labor, public safety, and direct contributions to public agencies
- Explore the potential of a publicly available database to host tribal land planning documents that are suitable for sharing

Energy

Southern California tribes continue to explore the potential for energy development on their lands. Tribes have been working at the state and federal levels to promote renewable energy opportunities for Reservations. The federal government has sought to streamline the review process for energy development through Tribal Energy Resource Agreements (TERAs) under the Energy Self-Determination Act of 2005; this was enhanced by the HEARTH Act of 2012. With the passage of the federal Energy Self-Determination Act, tribal nations can develop energy plans without waiting for the approval of the Secretary of the Interior. During the past few years, SANDAG has updated the Regional Energy Strategy and prepared a Climate Action Strategy for the San Diego region. A topic for discussion is how tribal nations and SANDAG could work together to address energy reliability and independence and the development of clean, alternative, and reliable energy resources.

Legislative context

Tribal governments across the country have been developing energy projects with varying difficulties and degrees of success. With the federal Energy Self-Determination Act in 2005 came the ability to establish TERAs. Under a TERA, a tribe may enter into leases and business agreements for the purpose of energy resource development on tribal land, including the exploration for, extraction of, or other development of the energy mineral resources of the Indian tribe located on tribal land, including, but not limited to, marketing or distribution; construction or operation of electric generation, transmission, or distribution facility located on tribal land; and a facility to process or refine the energy resource developed on tribal land. Under an approved TERA, a tribe may grant rights-of-way for purposes of energy resource development on tribal land or for construction or operation of a pipeline or electrical transmission or distribution line serving an electric generation, transmission or distribution facility located on tribal land, or a facility located on tribal land that processes or refines energy resources developed on tribal land.

Background

Southern California tribes have expressed interest in energy development, alternative or green energy, in particular. Some tribes have already established wind and solar energy projects as commercial enterprises or net-meter projects. Tribal governments have identified several obstacles hindering the development of tribal energy projects, including funding, land availability area, and location. Regarding funding, the resources available to assist tribes are usually for feasibility studies and not implementation. Another challenge is that smaller projects often are too small and costly to be effective. Wind farms, solar farms, and other large projects often are difficult to achieve because of the large amount of land required. Many reservations are in remote locations and are not close enough to be part of the local municipal electric grid. As such, these tribal areas often are run entirely on propane or diesel-powered generators. These reservations also usually are reliant on well water, which requires the use of electric pumps.

Several areas were identified in tribal meetings regarding energy implementation, including:

- Difficulties in establishing partnerships across jurisdictional boundaries, in particular, the ability for tribes to work directly as suppliers to other federal jurisdictions
- Lack of consideration for the unique aspects of reservation jurisdictions in utilizing community renewables and governmental use in net metering
- Difficulties in utilizing renewable energy incentive programs that are tax-credit based
- Impacts to tribal communities from the depowering of the rural electric transmission lines during high winds

Tribal initiatives

Tribes in the San Diego region are at various stages of energy development. Campo and Rincon were two of the first tribes to pursue large-scale projects. Many other tribes have incorporated renewable energy into the tribal portfolio on a local basis. Many of the casinos have begun to provide power stations for electric vehicles. This effort has been primarily as a customer service in conjunction with the casinos. However, the opportunity to expand and incorporate the Reservations in the regional planning for power stations has not been fully realized.

Possible collaborative strategies

Although SANDAG has a limited role in this area of concern the agency is a resource for data and research, and there are opportunities for coordination and collaboration among member agencies and other organizations. Following is a list of potential opportunities areas for coordination and collaboration regarding energy.

- Explore opportunities to collaborate on regional energy planning and future updates to the Regional Energy Strategy
- Explore opportunities to collaborate on workforce development in the area of green jobs
- Collaborate on legislation that encourages tribal involvement in energy projects
- Explore opportunities to expand government/private-sector partnerships and work with intertribal organizations.
- Examine the potential for a tribal seat on the Regional Energy Working Group
- Explore ways to increase the information exchange regarding policies, grants, and resources available for tribal access
- Explore opportunities for working with local jurisdictions to support or participate in programs such as: direct access; community choice aggregation; and energy co-ops

Emergency Preparedness

At the 2010 and 2014 San Diego Regional Tribal Summits, the need to coordinate on emergency preparedness was identified as an issue area. Interagency coordination, community resilience, training, planning, and resource management are all key issue areas in which tribal nations and the local jurisdictions can and have collaborated. Some of these issue areas could be extended to regional initiatives.

Legislative context

At the federal level, the passage of the Disaster Mitigation Act of 2000 (DMA 2000) (Public Law 106-390) provides the legal basis for Federal Emergency Management Agency (FEMA) mitigation planning requirements for state, local, and Indian Tribal governments as a condition of mitigation grant assistance. The DMA 2000 repealed prior mitigation planning statutes and replaced them with a new set of requirements that emphasizes the need for state, local, and Indian Tribal governments to closely coordinate mitigation planning and implementation efforts. As an incentive to strengthen the coordination activities, the DMA 2000 authorized up to 7 percent of Hazard Mitigation Grant Program funds available to a state for the development of mitigation plans from these entities. FEMA further updated their implementation rules to streamline the process for mitigation planning in 2016. Most tribes have Hazard Mitigation Plans in place and maintain a current emergency response plan. Many of the tribes have entered into agreements with the Hazardous Incidents Response Team to respond to hazardous materials responses on reservations. This program has worked well in providing access for the tribes, to the expertise of the local Hazardous Materials Response Team at a reasonable rate.

At the state level, California Assembly Bill 307 (Nestande, 2011) went into effect on January 1, 2012, and created a state and local mechanism for federally-recognized tribes to be considered public agencies that may enter into Joint Power Agreements (JPAs). On October 11, 2012, the Viejas Band of Kumeyaay entered into a JPA with Heartland Fire Authority (HFA), thereby becoming one of the first Tribal Governments to enter into a JPA in the state. The JPA grants the Viejas tribe full member status to HFA and provides access to its training facility and full voting rights over operational and budgetary issues involving the existing and new facilities.

At the regional level, the Unified Disaster Council (UDC) is the governing body of the Unified San Diego County Emergency Services Organization. The UDC comprises the San Diego County Board of Supervisors—who serves as Chair of the Council—and representatives from the 18 incorporated cities. The County of San Diego Office of Emergency Services (OES) serves as staff to the UDC. In this capacity, OES is a liaison between the incorporated cities, the California Emergency Management Agency, and the Federal Emergency Management Agency, as well as non-governmental agencies such as the American Red Cross.

Background

Disasters know no boundaries, and the regional risks of catastrophic wildfire, earthquakes, and severe weather are shared. Mutual aid agreements have been a part of the Reservation Fire Departments since their inception. The ability to cross political boundaries to attack a fire early has been key to preservation of life and property for many years. These early agreements have been built on in recent years to include JPAs. Tribes and tribal emergency service personnel have been very active in coordinating efforts amongst each other and with local, state, federal, and private-sector partners.

The 11 Tribal Fire Departments collectively represent a tremendous resource to the region. For many of the departments, the bulk of calls are off-reservation. Reservations are the training grounds for many of the first responders who go on to work in the urban departments after gaining experience with the Tribes. This is all done without the traditional tax-base-generated revenues that most jurisdictions depend on. In fact, some private inholdings are actually assessed a fire protection fee that goes to the off-reservation jurisdiction even though the property relies almost exclusively on the reservation for fire protection.

Tribal initiatives

The Inter Tribal Long Term Recovery Foundation (ITLTRF) was formed in the aftermath of San Diego County's catastrophic wild fires in 2007. Seven Tribal nations came together to ensure that unmet needs of the American Indian community would be addressed during the long-term recovery. The recovery work group formed a 501(C)3 with a mission to help American Indian people and Tribal Nations affected by wildfires and other disasters recover and become resilient. A decade later, ITLTRF membership has more than doubled. With 15 Tribal Nations serving on its Executive Board of Directors, the ITLTRF is a regional and national model for intertribal cooperation, philanthropy, community preparedness, and recovery. The ITLTRF recently revised its charter to open up its membership statewide and is in the process of expanding nationally. Through corporate and government grants obtained by the ITLTRF, ITLTRF has helped its member tribes and partner secure more than \$1 million in equipment, staffing, and community resources. The Executive Officers are the heart of the organization, and their passion to serve their communities is anchored in their individual and collective memories of their tribal communities' experience surviving wildfires and floods. Councilman Steve Cope (San Pasqual) is the current Chairperson of the Board, Mr. Adam Geisler (La Jolla) is Vice Chairperson, Chairman Robert Smith (Pala) serves as Treasurer, and Councilwoman Laurie Gonzalez (Rincon) serves as Secretary. The vision of the ITLTRF is to gather and share resources for American Indian people to create resilient communities.

Potential collaboration/coordination

Tribes have a strong record of coordinating, sharing, and leveraging resources for emergency services, but there is an uneven level of cooperation and missed opportunities to jointly plan, mitigate, and prepare more effectively for a truly unified regional response to situations.

Although this area of concern is not within SANDAG purview, there are opportunities for coordination and collaboration between the ITLTRF and other established emergency-management organizations that could be explored by other agencies. Following are courses of action to consider:

- Continue to explore opportunities for coordination and collaboration between tribal agencies and organizations
- Provide a central database of existing agreements between tribes and outside responders
- Address problems of communication in emergency events between reservation first responders and outside responders
- Investigate the potential of staging emergency caches of supplies and equipment on tribal lands
- Explore the potential for a tribal seat on the Unified Disaster Council

Public Safety

Public safety is a primary concern on all reservations. As the reservations begin developing their economies, increasing populations of residents and visitors brings corresponding increases in crimes against people and property. Prior to the 1950s, law enforcement was primarily under the authority of the federal government. In many tribal communities, local public safety was enforced through tribal leaders under tribal traditions. With the passage of Public Law 83-280 (PL 280), in 1953, a tremendous shift occurred in the legal authority between tribal, federal, and some state governments, including California.

Legislative context

Public Law 83-280 (PL280) – In 1953, PL 280 was passed by the federal government. as a part of a policy of termination of Indian tribes in the 1950s and early 1960s. Even though terminations were ended and ultimate reversed for many tribes in California, PL 280 continues to be applied. This has resulted in California tribes lagging further and further behind tribes in other states as they have improved and refined their capacity. PL 280 on affected reservations did the following: a) transferred most federal Indian country criminal jurisdiction; b) authorized state criminal jurisdiction – broader scope than previous federal jurisdiction; c) opened state civil courts to suits against Indians; d) after 1968, authorized retrocession upon state’s request and Department of Interior’s acceptance; and d) pursuant the Tribal Law and Order Act, authorized tribes to request that federal authorities reassume concurrent federal jurisdiction.²⁴

Criminal Justice Clearinghouse/Automated Regional Justice Information System – At the regional level, the SANDAG Applied Research Division, in conjunction with the Automated Regional Justice Information System (ARJIS) created the Criminal Justice (CJ) Clearinghouse which provides timely, accurate, and objective information so that policymakers can make informed decisions about resource allocation to prevent, reduce, and control crime. ARJIS is an essential source of regional information on public safety, health, substance abuse, crime and arrest, and crime prevention strategies. The Clearinghouse was initiated as a pilot program in 1977 with state funds. After the pilot program ended in the mid-1990s, the SANDAG Board of Directors saw the value of continuing to fund the Clearinghouse through an annual member assessment from all of the region’s cities and the County. Over time, the primary functions of the Criminal Justice Research Division (CJRD) have evolved to include: (1) compiling crime and arrest trends; (2) serving as a resource for information about crime and justice for member agencies and provider agencies (justice and social services); (3) conducting independent and objective assessments of specific programs geared to address crime and social issues through additional dedicated funding; and (4) providing staff support to the Public Safety Committee (PSC). In recent years, Sycuan joined ARJIS as the first tribal government to be a member.

Background

PL 280 authorizes state criminal jurisdiction and opened state civil courts to suits against Indians. It has often been misconstrued and it is important to note what it did not do. It did not terminate tribes, nor release trust status of tribal land. It did not make state regulations applicable to Indians, nor did it give taxing authority to states over tribes. Neither did it make county or city laws applicable to tribes. It did not abrogate tribes’ federally protected hunting and fishing rights, nor eliminate the tribes’ civil and criminal jurisdictions.

²⁴ Tribal Court Clearinghouse - A project of the Tribal Law and Policy Institute.
For more information, visit tribal-institute.org/lists/pl280.htm

Further, there are provisions for tribes to retrocede from the Act upon request by the State and with the Department of Interior's acceptance. There is also a provision under the Tribal Law and Order Act for tribes to request that federal authorities reassume concurrent federal jurisdiction.

With the withdrawal of federal support for local law enforcement, tribal nations have, in many cases, become dependent on the local County law enforcement for services. Efforts to increase the local role in law enforcement have met resistance as tribes have pushed for co-licensing or improved response. There is little support on the state level for tribes to retrocede from the Act. According to tribal leaders, County law enforcement has generally been reluctant to enforce tribal laws.

Tribal initiatives

Intertribal Court- The Intertribal Court of Southern California got its start in 2002 when the SCTCA received a U.S. Department of Justice grant. The court began operations in August 2006. Each tribe determines which kinds of cases it will authorize the court to hear. Currently the court hears a wide variety of cases, including peace and security code violations, environmental issues, conservator issues, contracts, tort claims, family law including Indian Child Welfare Act, evictions, enrollment, exclusions, and more. The court hears all evictions for the All Mission Indian Housing Association and handles cases for several tribes not formally part of the tribal court consortium on a case-by-case basis.

Federal Licensing – Several tribes in San Diego County have successfully pursued a federal licensing program for their tribal police allowing the right to investigate and enforce numerous federal laws on tribal lands.

Potential collaboration/coordination

This is a new policy area for consideration. Similar to the Emergency Preparedness/Management, Tribal Nations have the ability to coordinate, share, and leverage resources for public safety, but there are certainly opportunities for collaboration and cooperation between tribes and city, county and state law enforcement agencies to better serve and protect the people who live, work and play on reservations.

- Provide education opportunities for local law enforcement on PL280.
- Identify potential co-licensing opportunities that would allow for enforcement of tribal laws.

2018 San Diego Regional Tribal Summit

At the 2018 San Diego Regional Tribal Summit, the boards of SANDAG and the SCTCA will discuss these regional policy issues and potential collaborative actions for consideration in the 2019 Regional Plan (*Appendix I – Tribal*

Strategic Objectives for Consideration). The 2019 Regional Plan will serve as the long-term planning framework for the San Diego region. It provides a broad context in which local and regional decisions can be made that move the region toward a sustainable future – a future with more choices and opportunities for all residents of the region. In addition to SANDAG, there are many agencies in the region that are responsible for helping to implement the 2019 Regional Plan. It is hoped that the discussion at the Summit will lay the foundation for future policy-level discussions between the tribal nations and relevant agencies.



SAN DIEGO REGIONAL TRIBAL SUMMIT

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APPENDICES



**2019 REGIONAL PLAN -
TRIBAL CONSULTATION PLAN**
(July 2017 – September 2019)



Task	Completion Date
<p>1. Kick-off and Assessment</p> <p>Convene an informational workshop on the content of San Diego Forward: The Regional Plan (Regional Plan) to establish familiarity with the existing Regional Plan and the role of tribal nations in the regional context.</p> <p>Format: Specially convened meeting or incorporated into a Southern California Tribal Chairmen’s Association (SCTCA) Board meeting</p>	<p align="right">July/ August 2017</p>
<p>2. Convene Leadership Meetings between SANDAG and SCTCA</p> <p>Engaging the tribal leaders in a smaller setting will enable the leadership to get to know each other prior to the San Diego Regional Tribal Summit (Summit) in April 2018 and facilitate a meaningful dialogue, which can inform the Tribal Consultation Plan for the 2019 Regional Plan, as well as other regional issues such as transportation funding strategies.</p>	<p align="right">Ongoing</p>
<p>3. Policy Area Listening Sessions</p> <ul style="list-style-type: none"> • Convene series of workshops in summer/fall 2017 to discuss the tribal perspective on collaborative regional policy areas (non-transportation) identified in the Regional Plan including: <ul style="list-style-type: none"> • Cultural Resources • Energy • Economic Development • Environmental Conservation • These listening sessions would be gather subject matter experts from as many of the tribes as possible to meet with SANDAG subject matter experts and generate a dialogue on issues of common concern and potential collaborative strategies for consideration. • The results from the listening sessions would be brought to the SCTCA Board and SANDAG Borders Committee for discussion, and incorporated into the Summit policy paper. 	<p align="right">Fall 2017</p>
<p>4. Transportation Issues Collaboration</p> <ul style="list-style-type: none"> • The Interagency Technical Working Group on Tribal Transportation Issues (Working Group) would serve as the Advisory Group for the transportation elements of the Regional Plan and implementation of the <i>Intraregional Tribal Transportation Strategy</i> developed as a near-term action of the Regional Plan. • At key decision-making points for the 2019 Regional Plan, the Working Group will provide recommendations to the SCTCA for tribal consideration and relay this input to the SANDAG Transportation Committee through their representation on that Policy Advisory Committee. • The Working Group will provide a forum for action related to the transportation issues in the Regional Plan, including the inclusion of Long-Range Tribal Transportation Plans in the Regional Plan. 	<p align="right">Ongoing</p>

5. Develop Tribal Policy Paper for Regional Plan **Winter 2018**

- Based on the outcomes of the series of policy workshops and the Working Group, SANDAG/SCTCA staff will prepare a policy paper on the tribal perspective for the Regional Plan.
- The paper will be taken to the SCTCA Board and Borders Committee for review and comment.
- The policy paper will serve as the basis for discussion at the Summit

6. Convene San Diego Regional Tribal Summit **Spring 2018**

- At a timely and meaningful moment in the process of developing the 2019 Regional Plan, the Summit will be convened between the Boards of SANDAG and the SCTCA to discuss key policy issues for inclusion in the Regional Plan and a potential collaborative agenda.
- The discussion will include collaborative strategies and strategic actions that can be taken on identified policy issues.
- The strategic actions agreed upon in the Summit will be included in the Regional Plan, as well as issues of concern to tribal nations.

7. Incorporate Tribal Issues into the Draft Regional Plan **Spring 2019**

- Collaborate on drafting Tribal Consultation Chapter and other tribal elements in the draft Regional Plan.
- Incorporate strategic actions identified at the Summit.

8. Collaborate on outreach for Draft Regional Plan **Fall 2019**

The SCTCA will support outreach to all tribal nations to collect input/comments on the draft 2019 Regional Plan from their tribal communities.

Approved:

June 20, 2017: Southern California Tribal Chairmen’s Association Board meeting

July 28, 2017: As part of the Public Involvement Plan for the Regional Plan

Aboriginal Territory

OF THE
Kumeyaay / Diegueño Nation





CHARTER

Interagency Technical Working Group on Tribal Transportation Issues

PURPOSE

The purpose of the Interagency Technical Working Group on Tribal Transportation Issues (Working Group) is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region, including SANDAG, Caltrans, the County of San Diego, and the transit operators. In partnership with the Reservation Transportation Authority (RTA), the Working Group will monitor and provide input on the implementation of the strategies and planning activities related to transportation mutually developed through the San Diego Regional Tribal Summit. There is currently no other working group that can serve this function.

LINE OF REPORTING

The Working Group reports to the Borders Committee and the Transportation Committee, which report to the Board of Directors on tribal-related transportation activities.

RESPONSIBILITIES

The Working Group responsibilities include reviewing current activities and plans being implemented by SANDAG and the tribal governments in an effort to coordinate programs, address issues of concern, and ensure that the needs and issues of tribal governments are being incorporated into the transportation planning process at the regional level. The Working Group will provide feedback and comments on current and planned activities and provide technical advice on the implementation of these activities. The Working Group also assists with the associated outreach to the tribal community on transportation issues of regional significance.

MEMBERSHIP

The voting membership of the Working Group shall be comprised of one representative from each of the federally recognized tribal governments and California tribes in San Diego County. These voting members shall be appointed by the leadership of their respective tribes for a term of one calendar year. Caltrans, the County of San Diego, the Reservation Transportation Authority, Metropolitan Transit System and North County Transit District shall each be entitled to appoint one advisory member of the working group. Each entity represented in the working group, whether voting or advisory, may additionally appoint an alternate representative to serve in the primary member's absence. Any member who misses two meetings in a row or three meetings in a calendar year shall be removed and replaced by that member's alternate, if any. Should a vacancy occur in the position of a primary or alternate member, a represented entity shall be entitled to appoint a replacement representative.



MEETING TIME AND LOCATION

The Working Group will meet quarterly as determined by the group. The location will rotate among tribal reservations, and, when deemed appropriate, at the SANDAG offices. Whenever possible, locations will alternate between southern and northern reservations to allow everyone to attend.

SELECTION OF THE CHAIR

The Working Group shall have two "Co-Chairs" – a Tribal Leader and a SANDAG Executive Team representative. In addition, the Working Group shall have a second Tribal Co-Chair, to serve in the capacity of Tribal "Vice-Chair," in the event that the first Tribal Co-Chair is unavailable for the meeting.

The Tribal Co-Chairs will be elected by the voting members of the group every two years, and the representative from SANDAG's Executive Team will be appointed by its Executive Director.

DURATION OF EXISTENCE

The Working Group will continue as long as the tribal governments and participating agencies determine that it serves as an effective means of communication and coordination, subject to annual review.



INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES

MEMBERSHIP

The purpose of the Interagency Technical Working Group on Tribal Transportation Issues (Working Group) is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region including SANDAG, Caltrans, the County of San Diego, and the transit operators. The Working Group monitors and provides input on the implementation of the strategies and planning activities related to transportation, mutually developed through the San Diego Regional Tribal Summit.

The Working Group reports to the Borders Committee, which reports to the Board of Directors on tribal-related transportation activities. The Working Group meets quarterly. The location rotates among tribal reservations and, when deemed appropriate, the SANDAG offices.

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TRIBAL CO-CHAIR

Erica Pinto

Tribal Chair, Jamul Indian Village of California

TRIBAL VICE CHAIR

Andrew Orosco, Jr.

Tribal Planning Director, San Pasqual Band of Diegueño Indians

MEMBERS (TRIBAL GOVERNMENTS)

Edwin "Thorpe" Romero

Tribal Chair, Barona Band of Mission Indians

Angela Elliott Santos

Tribal Chair, Manzanita Band of the Kumeyaay Nation

Harry Cuero, Jr.

Vice Chair, Campo Band of Mission Indians

Robert Smith

Tribal Chair, Pala Band of Mission Indians

William Micklin

Executive Director, Ewiiapaayp Band of Kumeyaay Indians

Dale Brush

Councilmember, Pauma Band of Luiseño Indians

Virgil Perez

Tribal Chair, Iipay Nation of Santa Ysabel

Alfonso Kolb Sr.

Councilmember, Rincon Band of Luiseño Indians

Thomas Rodriguez

Tribal Chair, La Jolla Band of Luiseño Indians

Cody Martinez

Tribal Chair, Sycuan Band of Kumeyaay Nation

Eric LaChappa

Tribal Secretary/ Treasurer, La Posta Band of the Kumeyaay Nation

Robert "Cita" Welch, Jr.

Tribal Chair, Viejas Band of Kumeyaay Nation

Shane Chapparosa

Spokesperson, Los Coyotes Band of Cahuilla and Cupeño Indians

ADVISORY MEMBERS (PUBLIC AGENCIES)

SANDAG CO-CHAIR

Charles "Muggs" Stoll

Director of Land Use and Transportation
Planning, SANDAG

Leonard Gilmore

Transportation Specialist, Bureau of Indian
Affairs, Southern California

Chi Vargas

Tribal Liaison, Caltrans District 11

Noah Alvey

Planning Manager, County of San Diego

Denis Desmond

Manager of Planning, Metropolitan Transit
System

Chris Duddy

Transit Planner, North County Transit District

ADVISORY MEMBERS (INTERTRIBAL AGENCIES)

Denis Turner

Executive Director, Southern California
Tribal Chairmen's Association

**San Diego Forward: The 2019-2050 Regional Plan
Regional Tribal Transportation Collaboration Accomplishments**

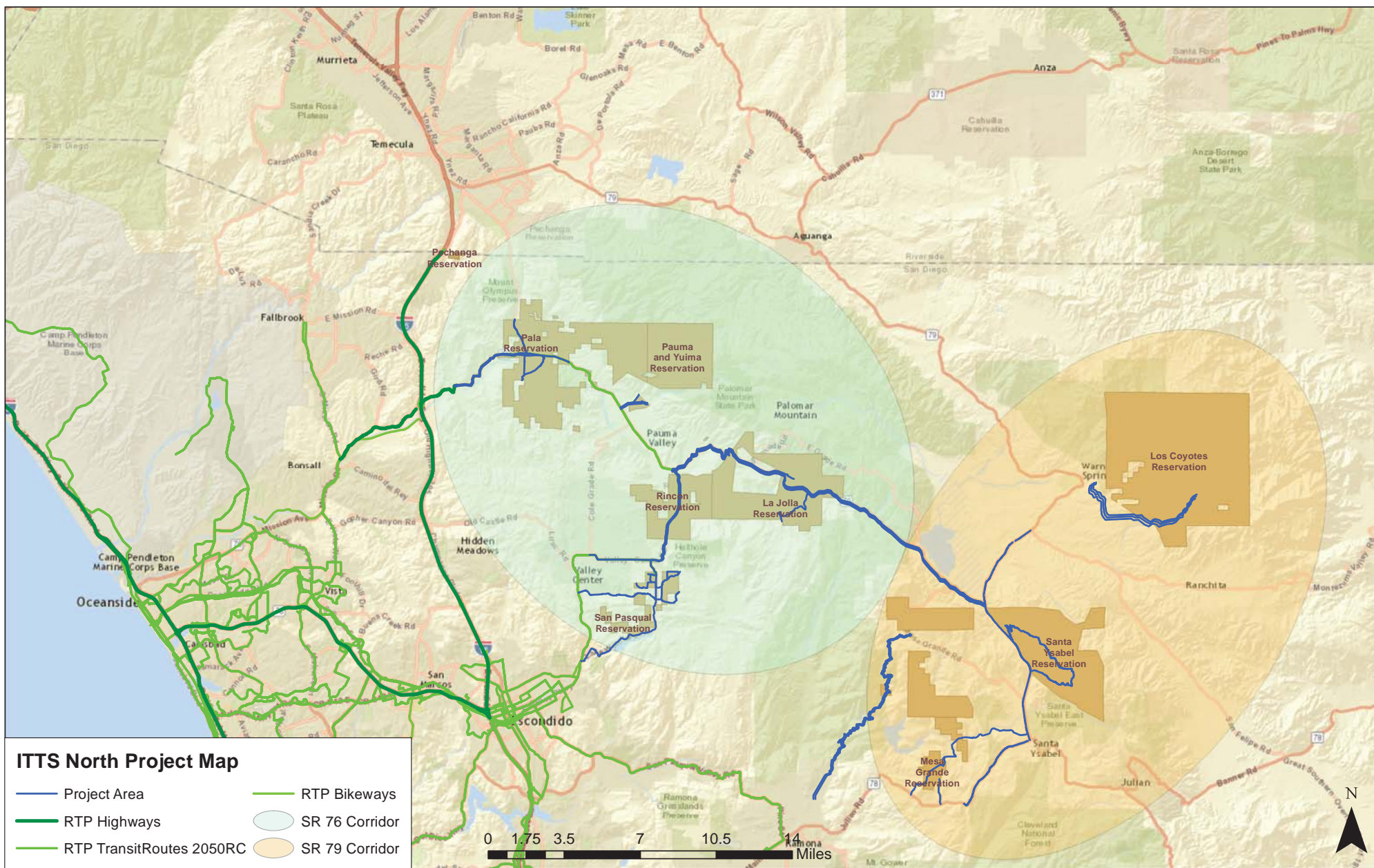
Summary 2006-2018

Strategic Area	Action	Accomplishments
Government-to-Government Framework	Develop collaborative legislative agenda that benefits the region	Supported tribal efforts to pass Assembly Bill 52 (Gatto, 2016)
Transportation Infrastructure	Identify corridors critical to tribal reservations and coordinate the funding and implementation of relevant studies	Developed the Intraregional Tribal Transportation Strategy (2017)
	Identify critical regional arterials serving tribal nations which should be included in the Regional Transportation Plan (RTP)	Developed the Intraregional Tribal Transportation Strategy (2017)
	Coordinate the incorporation of existing Tribal Transportation Plans (TTPs) into the current RTP	8 tribes submitted TTPs for 2050 RTP/Sustainable Communities Strategy (2011) 12 tribes submitted for the 2015 Regional Plan (2015)
Transit	Collaborate on the issue of reverse commuting for tribal enterprise employees and pursue funding opportunities	Collaborated on an assessment of the needs of tribal employees and developed a business/marketing plan for establishing a Tribal TMA (2009)
	Collaborate on the pursuit of funding opportunities to implement the recommendations from the Tribal Transit Feasibility Study	Assisted the Reservation Transportation Authority on development of proposal for the Federal Transit Administration Tribal Transit Program based on recommendations of the Tribal Transit Feasibility Study (2008) <ul style="list-style-type: none"> • Received \$2.1 million in operating funds (annual grants of approximately \$300,000-400,000) to enhance service of North County Transit District (NCTD) Route 388/389 • Received \$1.2 million capital improvement grant in FY 2009 under American Recovery and Reinvestment Act of 2009: <ul style="list-style-type: none"> ○ Constructed a bus stop at the Park & Ride at Interstate 15 (I-15) and State Route 76 (SR 76) ○ Enhancements to bus stops along bus routes 864, 888, 891, 892, and 894
	Collaborate on the development of a Tribal Transportation Management Association for increased tribal participation in Transportation Demand Management (TDM) programs regionwide	Collaborated on a Tribal Transportation Demand Management Study with funding from Caltrans Environmental Justice Planning Grant to assess the needs of tribal employees and develop a business/marketing plan for establishing a Tribal Transportation Management Association (TTMA) (2009)

Strategic Area	Action	Accomplishments
Transportation Funding	Create opportunities for pooling/leveraging transportation funding for mutually important projects	<p>Collaborated on the update of tribal road inventories</p> <p>Many tribes increased their transportation funding from the IRR program (2007)</p> <p>IRR Program replaced by a new program called TTP:(2008)</p> <ul style="list-style-type: none"> • Funds from the Highway Account Trust Fund are allocated among the Tribes using a new statutory formula <p>Received a grant from the Centers for Disease Control and Prevention Communities Putting Prevention to Work, also known as a “Healthy Communities” grant (2010)</p> <ul style="list-style-type: none"> • La Jolla received \$70,000 to develop a walkability study • Campo received \$10,000 to design a community park
	Collaborate and advocate for new transportation funding in the region, including transit and TDM	<p>Implementation of tribal gaming mitigation agreements:</p> <p>Pala Band of Mission Indians (2008)</p> <ul style="list-style-type: none"> • TDM program supported by SANDAG • Park & Ride facility at the I-15/SR 76 junction • Support for an NCTD bus stop <p>Pauma Band of Luiseño Indians (2008)</p> <ul style="list-style-type: none"> • Fair share contributions for operational improvements on SR 76 East • Commitment to a specific goal of having 20 percent of their employees participate in carpools, vanpools, or other rideshare programs <p>Sycuan Band of the Kumeyaay Nation (2012)</p> <ul style="list-style-type: none"> • Traffic improvements related to the Fee to Trust application¹ <p>La Jolla Band of Luiseño Indians (2016)</p> <ul style="list-style-type: none"> • Successfully competed for statewide Active Transportation grant for the reservation – \$4.1 million
	Identify mechanisms for providing ongoing funding for new or additional transportation programs, including transit services and TDM	Developed the Intraregional Tribal Transportation Strategy (2017)

¹ The process by which a tribe petitions the Department of the Interior to absorb County land owned by the tribe to be converted to reservation land held in trust thereby expanding the reservation.

Strategic Area	Action	Accomplishments
Information Sharing/ Technical Assistance	Agencies will provide ongoing training to tribal governments on funding processes, transportation, and regional planning	Worked closely with the Tribal Transportation Assistance Program (TTAP) managed by National Indian Justice Center (NIJC): <ul style="list-style-type: none"> • NIJC invited to speak on a number of occasions at Working Group meetings
	Provide information on technical support for planning and data analysis services to tribal governments parallel to member agencies	<ul style="list-style-type: none"> • SANDAG makes technical support available to tribal governments for planning and data analysis services • Served as pass through agency for statewide project led by NIJC • Created the Tribal Road Safety Audit Education Program that supports the Western Regional TTAP (2016): <ul style="list-style-type: none"> ○ Caltrans Environmental Justice Grant for \$189,000 to develop an online training program ○ Production of a video, online course, and support materials



San Diego Forward: The 2019-2050 Regional Plan – Tribal Strategic Objectives for Consideration

Strategic Area	Objective
<i>Government-to-Government</i>	<ul style="list-style-type: none"> • Share legislative agendas and explore opportunities to collaborate on legislation of mutual interest that benefits the region
<i>Transportation</i>	<ul style="list-style-type: none"> • Identify critical regional arterials serving tribal nations that should be included in the Regional Transportation Plan
	<ul style="list-style-type: none"> • Coordinate the incorporation of existing Tribal Long-Range Transportation Plans in San Diego Forward: The Regional Plan
	<ul style="list-style-type: none"> • Implement the Intraregional Tribal Transportation Strategy through the Interagency Technical Working Group on Tribal Transportation Issues
<i>Habitat Conservation</i>	<ul style="list-style-type: none"> • Support the protection of habitat from a cultural perspective as well as environmental perspective
	<ul style="list-style-type: none"> • Explore opportunities to engage tribal nations in regional habitat conservation efforts
	<ul style="list-style-type: none"> • Create a regional forum to bring tribes, local jurisdictions, resource agencies, and environmental stakeholders together for better collaboration and coordination
<i>Energy</i>	<ul style="list-style-type: none"> • Explore opportunities to engage tribal nations in regional energy planning coordination
<i>Cultural Resources</i>	<ul style="list-style-type: none"> • Develop methodological template for tribal consultation pursuant to Assembly Bill 52 (AB 52) for the 2019 Regional Plan that will be applied to projects as they come through the Regional Transportation Improvement Program
	<ul style="list-style-type: none"> • Collaborate on a way to provide information regarding the location of culturally significant resources without compromising the preservation of the resource
	<ul style="list-style-type: none"> • Explore ways to collaborate in communicating information regarding legal requirements of tribal consultation (Senate Bill 18/AB 52)
<i>Public Safety*</i>	<ul style="list-style-type: none"> • Provide education opportunities for local law enforcement on Public Law 280
<i>Economic Development*</i>	<ul style="list-style-type: none"> • Seek funding to develop economic benefit analysis of tribal enterprises for the regional economy
<i>Emergency Preparedness</i>	<ul style="list-style-type: none"> • Explore opportunities for coordination and collaboration between the Inter Tribal Long Term Recovery Foundation and other established emergency management organizations

* New Policy Area