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2014

SAN DIEGO REGIONAL TRIBAL SUMMIT

Friday, April 11, 2014

10 a.m. to 3 p.m.

Hosted by Barona Band of Mission Indians

Barona Resort - Golf Events Center

1932 Wildcat Canyon Road

Lakeside, CA 92040

The 2014 San Diego Regional Tribal Summit will bring together the boards of the Southern California Tribal Chairmen's Association (SCTCA) and SANDAG to discuss issues of interest, identify collaborative opportunities, and set forth strategies for inclusion in San Diego Forward: The Regional Plan.

MEMBER TRIBES

- Barona Band of Mission Indians
- Campo Kumeyaay Nation
- Ewiiaapaayp Band of Kumeyaay Indians
- Iipay Nation of Santa Ysabel
- Inaja-Cosmit Band of Mission Indians
- Jamul Indian Village, A Kumeyaay Nation
- La Jolla Band of Luiseño Indians
- La Posta Band of the Kumeyaay Nation
- Los Coyotes Band of Cahuilla/Cupeño Indians
- Manzanita Band of the Kumeyaay Indians
- Mesa Grande Band of Mission Indians
- Pala Band of Mission Indians
- Pauma-Yuima Band of Luiseño Indians
- Rincon Luiseño Band of Indians
- San Pasqual Band of Diegueño Mission Indians
- Sycuan Band of the Kumeyaay Nation
- Viejas Band of Kumeyaay Indians



Map, Directions, and Bus Routes to Meeting

Driving Directions from San Diego
Take Interstate 8 to State Route 67 North
Travel five miles to the first light
Turn right on Maplevue Street
At the next four-way intersection, turn left on to Ashwood
Ashwood becomes Wildcat Canyon Road
Continue north on Wildcat Canyon Road
Drive five miles to the main entrance of Barona Valley Ranch Resort and Casino
Turn left into the Barona driveway
Turn right towards Golf Events Center
Parking is available in front of the Center
Follow signs to the conference room



The Valley Express Shuttle is available from the following locations:

Depart: Chula Vista, Palomar Street Station (south side)	Depart: National City, Kimball Towers, 1317 D Street	Arrive: Barona	Depart: Barona
8:40 a.m.	8:50 a.m.	9:40 a.m.	4:20 p.m.

Depart: Kearny Mesa, 7700 Raytheon Road (north side)	Depart: Mira Mesa Park-n-Ride, 4929 Mira Mesa Boulevard	Depart: north of Kohl's at New Salem Street	Arrive: Barona	Depart: Barona
8:20 a.m.	8:40 a.m.	8:50 a.m.	9:50 a.m.	3:20 p.m.

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2014 SAN DIEGO REGIONAL TRIBAL SUMMIT

Friday, April 11, 2014

ITEM

1. **NETWORKING AMONG ELECTED OFFICIALS**

(Golf Events Foyer)

This is an opportunity for tribal and non-tribal elected officials to engage each other informally.

2. **WELCOME AND OPENING REMARKS**

Chairman Clifford LaChappa, *Barona Band of Mission Indians*

Chairman Robert Smith, *Pala Band of Mission Indians, SCTCA*

Chairman Jack Dale, SANDAG

+3. **SOVEREIGNTY AND TRIBAL NATIONS IN THE SAN DIEGO REGION**

Chairman Anthony Pico, *Viejas Band of the Kumeyaay Nation, SCTCA*

The United States Constitution and treaties recognize Native American communities as sovereign nations within the territorial boundaries of the United States. In the San Diego region, there are 17 federally recognized tribal governments, with jurisdiction over 18 reservations - the most in any county in the United States. Anthony Pico, Chairman of the Viejas Band of the Kumeyaay Nation, will provide a brief background on sovereignty and the tribal nations in the San Diego region.

4. **SAN DIEGO FORWARD: THE REGIONAL PLAN - VIDEO**

Chairman Jack Dale, SANDAG

San Diego Forward: The Regional Plan will combine a big-picture vision for how our region will grow over the next 35 years, with an implementation program to help make that vision a reality. Working in close partnership with the region's 18 cities and the county government, SANDAG will seek to create an innovative plan for our growing community that fuels our economy, protects our environment, and maintains our quality of life. A video introduction to San Diego Forward: The Regional Plan will be shared.

5. **REVIEW OF POLICY AREAS FOR DISCUSSION**

Chairwoman LaVonne Peck, *La Jolla Band of the Luiseño Indians, SCTCA*

Hon. Lesa Heebner, SANDAG Regional Planning Committee Chair

A. Policy Areas Identified by Tribes

As part of the tribal consultation process for San Diego Forward: The Regional Plan, the SCTCA and SANDAG conducted a survey of tribal nations to determine what areas within San Diego Forward: The Regional Plan were of interest to the tribes. The areas identified were transportation, cultural resources, economic development, energy, and environmental conservation. Chairwoman LaVonne Peck, SCTCA, and Lesa Heebner, SANDAG Regional Planning Committee Chair, will brief the Summit participants on these topic areas to set the context for dialogue.

B. Group Discussion on Policy Areas of Mutual Interest (Lewis Michaelson, Facilitator)

Using an interactive tool, the SCTCA and SANDAG Boards will review the identified policy areas, and with the assistance of a facilitator, will determine those of mutual interest for further discussion.

6. **LUNCHEON**

7. **GROUP DISCUSSION: PRIORITIZE STRATEGIC POLICY AREAS**

Lewis Michaelson, Facilitator

SCTCA and SANDAG Board members will discuss the policy areas described in Agenda Item No. 5, identify collaborative opportunities, and prioritize strategic actions of mutual concern for inclusion in San Diego Forward: The Regional Plan.

Members of the public wishing to speak to the Summit participants on this item of the agenda will be called on after the discussion. Please complete a speaker's slip and present the slip to a SANDAG staff member.

8. **PUBLIC COMMENT/COMMUNICATIONS**

Chairman Jack Dale, SANDAG

Members of the public may address the Summit participants on any issue not related to the specific agenda items but within SANDAG purview under this item.

9. **NEXT STEPS AND CLOSING REMARKS**

Chairman Robert Smith, *Pala Band of Mission Indians*, SCTCA

Chairman Jack Dale, SANDAG



2014

SAN DIEGO REGIONAL TRIBAL SUMMIT

POLICY DISCUSSION PAPER

TRIBAL SOVEREIGN NATIONS AND PLANNING IN A REGIONAL LANDSCAPE

April 2014

Direct questions and comments to:

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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 17 federally recognized tribal governments with jurisdiction over 18 reservations — the most in any county in the United States (Attachment A – Tribal Lands in San Diego Region Map).

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 Moving Ahead for Progress in the 21st Century (MAP-21) reinforces federal emphasis on tribal government participation. President Obama in his November 5, 2009, Memorandum on Tribal Consultation (Federal Register, Vol. 74, No. 215, 11/9/09) reiterated the directive for 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; facilitate communication and consultations between tribes and state agencies; and review state legislation and regulations affecting tribes and provide recommendations.

At the regional level, there are minimal guidelines for consultation. How consultation should occur is left to the Metropolitan Planning Organizations (MPOs) and the tribal governments. Over the last ten years, the San Diego Association of Governments (SANDAG), as an MPO, 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 cycle of the RTP process, 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 that will inform the discussion between SANDAG and the SCTCA at the 2014 San Diego Regional Tribal Summit.

San Diego Forward: The Regional Plan

San Diego Forward: The Regional Plan, led by the 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 a 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, the 2050 RTP/Sustainable Communities Strategy (SCS), was approved by the SANDAG Board of Directors in October of 2011. An innovation in this cycle is that SANDAG is combining the Regional Comprehensive Plan (RCP) with the update of the RTP. The SANDAG Board of Directors has approved the following vision and goals to guide San Diego Forward: The Regional Plan.



To provide innovative mobility choices and planning to support a sustainable and healthy region, a vibrant economy, and an outstanding quality of life for all.

As sovereign nations within the boundaries of the San Diego region, it is important that the region's tribes engage in shaping San Diego Forward: The Regional Plan. Using the government-to-government framework in place, SANDAG and the SCTCA developed a Tribal Consultation Plan for San Diego Forward: The Regional Plan during the fall of 2012 (Attachment B: San Diego Forward Tribal Consultation Plan). It was approved by the SCTCA Board in November of 2012 and by the SANDAG Board of Directors in January 2013. The elements of the Tribal Consultation Plan include:

- **An Informational workshop:** A workshop for Tribal Leaders regarding the SANDAG role in regional planning and regional issues.
- **Survey of Tribal Nations on Policy Issues:** Based on discussions at the informational workshop, SCTCA and SANDAG staff developed a survey that was distributed to all tribal nations to identify priority regional issues.
- A **Policy Workshop** was held with the tribal nations supported by SANDAG and SCTCA staff focused on the regional issues identified in the survey to elicit ideas for collaborative strategies in the selected policy areas.
- The **Tribal Transportation Working Group (Working Group)** has been and will continue to provide input into the development of each stage of San Diego Forward: The Regional Plan. In addition, the Working Group has been providing updates to the SCTCA on San Diego Forward: The Regional Plan and identifying transportation projects of concern to tribal nations and working to include individual Tribal Transportation Plans in the San Diego Forward: The Regional Plan document.
- Based on the input provided, SCTCA and SANDAG staffs have prepared this **Policy Paper** to serve as a basis for dialogue between the tribal nations and SANDAG.
- The 2014 **San Diego Regional Tribal Summit** will be convened between the SANDAG and the SCTCA Boards as a means of timely and meaningful input in the process to develop San Diego Forward: The Regional Plan. Key policy issues will be discussed for consideration in the Regional Plan and a potential collaborative agenda will be developed.

The proposed objectives for the Regional Plan with regard to tribal nations and regional transportation planning are to:

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

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 has changed considerably in recent years. With the advent of gaming, local perceptions, according to various tribal leaders, have changed. 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 being developed on a case-by-case basis in various parts of the country. As the 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 (Attachment C – California Native American Trust Lands).¹ 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),

¹ 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.

who live in the southern part of the county from the coast to the mountains and all the way to what is today Baja California (Attachment D – 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.² Most of the current tribal reservations were established by the end of the 19th century; however, several were established well into the 20th century.³ Today, these four ethnic groups are distributed across 18 reservations and are represented by 17 federally recognized tribal governments as shown in Table 1.⁴

As domestic sovereign nations⁵, 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.⁶ Native American reservations currently cover more than 127,000 acres in the San Diego region, approximately four percent of the region’s land base.

² 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.

³ 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.

⁴ 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 land inside that reservation territory to build the El Capitan Reservoir. Capitan Grande is currently uninhabited and jointly managed by the Barona and Viejas tribal governments.

⁵ As defined in the United States Constitution.

⁶ 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.

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 Mission Indians of the Kumeyaay Nation
Capitan Grande	Joint Power Authority between Barona and Viejas
Ewiiapaayp	Ewiiapaayp Band of Kumeyaay Indians ⁷
Inaja and Cosmit	Inaja Cosmit Band of Diegueño Mission Indians
Jamul Indian Village	Jamul Indian Village. A Kumeyaay Nation
La Jolla	La Jolla Band of Luiseño Indians
La Posta**	La Posta Band of the Kumeyaay Nation
Los Coyotes	Los Coyotes Band of Cahuilla/Cupeño Indians
Manzanita	Manzanita Band of Diegueño Mission Indians
Mesa Grande	Mesa Grande Band of Diegueño 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 Diegueno Mission Indians
Santa Ysabel**	lipay Nation of Santa Ysabel
Sycuan*	Sycuan Band of the Kumeyaay Nation
Viejas*	Viejas Band of the Kumeyaay Indians

Source: SANGIS, Bureau of Indian Affairs; *tribe with gaming facility **tribe that has closed gaming facility

Current Conditions

A number of planning issues surround these reservations, as they are all located in remote areas outside of incorporated areas. 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.

⁷ Several official sources alternately refer to the Ewiiapaayp tribe by the Spanish spelling “Cuyapaipa.”

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.⁸ 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 the states should have in that activity.⁹ 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 eight tribal gaming facilities, which is the greatest number of Indian gaming facilities in any county in the United States (Table 1).¹⁰

Gaming-related and other types of development have led to rapid economic growth for number of tribes, while also providing jobs and stimulating the regional economy.¹¹ 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.¹² Those tribes who do not have gaming facilities continue to have economic development, transportation, and infrastructure needs, which have not been met.

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. The planning framework used for the regional transportation plans is one of concentrating development in existing, more urban areas and connecting transit to appropriate smart growth opportunity areas. 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 in place for exchanging information regarding long-term land use and transportation plans on tribal lands for the purposes of regional planning.

⁸ Neuman, Lisa. 2005. "Commentary: From Clean Water to Casinos: Why Sovereignty is Important to Native Americans." *Maine Policy Review*. Vol. 13(2): 30-32

⁹ *California vs. Cabazon Band of Mission Indians*, 480 US 202 (1987).

¹⁰ Two smaller gaming facilities – La Posta and Santa Ysabel – have recently closed down operations. Viejas recently added a hotel to its facility, and Pala, Rincon, and Sycuan expanded their existing hotels/parking facilities.

¹¹ For additional discussion on the impact of tribal gaming in California, see The Center for California Native Nations, "An Impact Analysis of Tribal Government Gaming in California." University of California at Riverside. January 2006

¹² 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.

Tribal Transportation

More than ten years ago, 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 needs assessments related to tribal developments, which intensified after the enactment of the federal IGRA. In its 2003 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.

The county undertook a traffic impact assessment and, based on that information, 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, 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 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. Eight tribal gaming facilities are currently in operation. The estimated square footage of each facility is shown in Attachment E – Square Footage of Gaming Facilities for Trip Generation Estimates. It is anticipated, that through government-to-government discussions with tribal governments, more accurate protocols can be developed for assessing traffic impacts.

At the same time that 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 isolated from the regional transportation system. Although all non-gaming tribes¹³ in San Diego County receive funding from gaming tribes from the Revenue Sharing Trust Fund (RSTF)¹⁴ to support the administration of their nations, their physical isolation from the regional transportation system-- 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 support the needs of federally recognized tribal reservations.

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,

¹³ 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.

¹⁴ 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.calindian.org/nl_fall2001.htm

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.

Others environmental challenges are unique to tribal lands because of their sovereign status. For example, many reservations in the region are located 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, environmental 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 environmental 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 rather than only to federal and state agencies, 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.

Over the past 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, all three principal transportation planning agencies in the region have tribal liaisons: SANDAG, Caltrans, and the County of San Diego.

Public Agencies

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: (a) establish close coordination and early project involvement with tribal governments to streamline funding, environmental, and project delivery processes in areas on or near reservations; (b) ensure that Caltrans programs do not adversely affect important California Native American sites, traditions, or practices; (c) encourage cooperation between other agencies and local tribal governments; (d) assist with training, information dissemination, and project delivery; and (e) consider Tribal Employment Rights Ordinance (TERO) from individual tribes for employment and contracting opportunities for Native Americans on Caltrans projects on or near reservations.

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.

SANDAG: It is through the Borders Committee that SANDAG has been pursuing government-to-government relations with tribal governments in the 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). Following the 2006 San Diego Regional Tribal Summit, the SCTCA and SANDAG signed an historic Memorandum of Understanding (MOU) in which the SCTCA joined SANDAG, with representatives on the Board of Directors and all Policy Advisory Committees. 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.

Intertribal Organizations

Intertribal organizations play a key role as facilitators for this regional government-to-government framework. SANDAG has a strong working relationship with two key intertribal associations to strengthen communication, coordination, and collaboration with area tribes.

SCTCA: The SCTCA is a multiservice, nonprofit corporation established in 1972 by a consortium of 19 federally recognized Indian tribes in Southern California. The primary mission of 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 comprised 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.

Reservation Transportation Authority (RTA): The RTA, founded in 1998, is a consortium of Southern California Indian tribal governments designated as a Public Law 93-638 contracting entity that provides transportation education, planning, and program administration for tribal government members. Their intertribal service area includes tribes in San Bernardino, Riverside, San Diego, and Imperial Valley (Attachment F – RTA Intertribal Service Area for Riverside and San Diego). At a technical level, SANDAG and the RTA have collaborated on a number of tribal transportation planning projects, particularly in the area of mobility management in recent years.

Policy Level

The regional government-to-government framework for working with tribal nations in the 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. This 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 2006 Summit was tribal representation on SANDAG. 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 the SANDAG signed a MOU on January 26, 2007, memorializing the agreement to have the SCTCA join the SANDAG Board of Directors and Policy Advisory Committees, including the Transportation, Regional Planning, and Public Safety Committees, as advisory members. 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. One of the critical technical outcomes of the 2006 Tribal 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.

Working Group on Tribal Transportation Issues

The Boards of SCTCA and SANDAG approved the charter (Attachment G – 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 13 of the 17 tribes in the region are formal members of the Working Group (Attachment H – Current 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 2011, Barona, Campo, La Posta, Pala, Pauma, Rincon, San Pasqual, Viejas, and Sycuan 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 RTA, 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 2010 San Diego Regional Tribal Summit.

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 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.

SANDAG-RTA Partnership for Tribal Transportation Planning

SANDAG and the RTA signed a MOU in 2005 to collaborate on tribal transportation. SANDAG and the RTA have pursued and obtained funding for a number of tribal transportation planning projects since the 2010 Summit, which are detailed in the next section. The focus of much of the collaborative planning work between the RTA and SANDAG has been in expanding the RTA's mission from transportation infrastructure on tribal reservations to mobility, including transit and transportation demand management (TDM). In so doing, the RTA has become one of several mobility partners of SANDAG, taking the lead on integrating tribal mobility projects into the system, benefiting not only tribes, but the rural population as well.

COLLABORATIVE POLICY AREA: TRIBAL TRANSPORTATION

For the last ten years, the principal area of consultation and collaboration with tribal nations at the regional level has been in tribal transportation. For the 2030 RTP, a set of objectives was established for tribal transportation planning. Through the consultation process, including a survey of tribal transportation needs, a joint technical workshop to analyze the results, and a policy-level summit, a set of cooperative strategies to improve tribal transportation were developed between the SCTCA and the SANDAG Board of Directors. For the 2050 RTP/SCS these strategies were revisited, analyzed for progress made, and prioritized. Table 2 describes these strategic areas and the actions associated with them.

There are four primary transportation-related policy areas that were considered in the 2050 RTP/SCS as a result of the consultation process with tribal governments, and these have continued as areas for future collaboration: roadway infrastructure, funding, transit, and information sharing/data gathering. Attachment I – Milestones in Cooperative Tribal Transportation is a timeline of activities within several strategic areas that have taken place since the 2010 Tribal Summit. The matrix highlights the collaborative nature of all of the various efforts. In some cases tribal nations took the lead, while in other areas the County, Caltrans, SANDAG, or the RTA led the effort. This section includes an update of discussions with the Working Group and the SCTCA on tribal transportation issues, as well as highlights some collaborative actions taken since the last Tribal Summit.

Table 2
Tribal Transportation Strategies for Consideration

Strategic Area	Action
<i>Government-to-Government Framework</i>	Public agencies should understand tribal plans, how they are developed and implemented
	Develop collaborative legislative agenda that benefits the region
<i>Transportation Infrastructure</i>	Identify corridors critical to tribal reservations and coordinate the funding and implementation of relevant studies
	Identify critical regional arterials serving tribal nations which should be included in the RTP
	Coordinate the incorporation of existing Tribal Transportation Plans (TTPs) into the current RTP
<i>Transit</i>	Collaborate on the issue of reverse commuting for tribal enterprise employees and pursuing funding opportunities
	Collaborate on the pursuit of funding opportunities to implement the recommendations from the <i>Tribal Transit Feasibility Study</i>
	Collaborate on the development of a Tribal Transportation Management Association (TTMA) for increased tribal participation in TDM programs region wide.
<i>Transportation Funding</i>	Create opportunities for pooling/leveraging transportation funding for mutually important projects
	Collaborate and advocate for new transportation funding in the region, including transit and TDM
	Identify mechanisms for providing ongoing funding for new or additional transportation programs, including transit services and TDM
<i>Information Sharing/Technical Assistance</i>	Provide ongoing training to tribal governments on funding processes, transportation, and regional planning
	Provide information on technical support for planning and data analysis services to tribal governments parallel to member agencies

Transportation Infrastructure

As with all land use authorities, improvements in transportation infrastructure are a key to improving the potential of each tribal nation’s ability to compete in a global economy and provide access to housing, jobs, education, healthcare, and entertainment for its citizens. Efforts have been made in assisting tribes in increasing their own transportation planning funding through updating their Indian Reservation Roads (IRR) Inventory through the Bureau of Indian Affairs, and tribal governments also have made significant contributions to county and state road infrastructure as part of their mitigation agreements with the County of San Diego.

TTP in 2050 RTP/SCS

The inclusion of TTPs in the 2050 RTP/SCS was identified as a priority action at the 2010 San Diego Regional Tribal Summit. This concept was discussed further at the November 2010 meeting of the SCTCA and various tribes filled out a list stating their level of interest in participating. A basic TTP includes background information about the tribe, existing conditions on their reservation, a

transportation network map, goal statements about their transportation needs, and identification of priority transportation projects. The 2050 RTP included a technical appendix with existing TTPs or updated Tribal Transportation summaries from those tribes that agreed to share their TTPs with SANDAG. Eight of the seventeen tribes in the region submitted their TTPs including: a) Barona Band of Mission Indians; b) Campo Kumeyaay Nation; c) La Jolla Band of Luiseño Indians; d) Pala Band of Mission Indians; e) San Pasqual Band of Diegueño Mission Indians; and f) Viejas Band of Kumeyaay Indians. This is the first time an MPO has included TTPs in its documentation. Although most of the tribal transportation projects fall outside of the RTP, this is an opportunity to document tribal needs at a regional level providing the data to identify projects of mutual concern.

Identified Tribal Corridors and Coordinated Relevant Studies/Projects

Caltrans, the County of San Diego, SANDAG, RTA, and various tribes have been involved in a number of projects and studies since the last Tribal Summit. These include work on state routes, regional arterials, and county/reservation roads.

State Routes/Regional Arterials

Caltrans has noted the following projects funded through State Highway Operation and Protection Program. The projects along the SR 76 were a direct result of recommendations from the Operational Improvement Study that was a collaborative effort between Caltrans, RTA, and the Pala Tribe who provided the local match for the Caltrans grant.

- Pauma Reservation Road Safety Project to install signalized intersection at the SR76
- SR 76/Interstate 15 (I-15) Park-and-Ride – Construction of Bus Stop funded by the Tribal Transit Capital Improvement Program
- SR 76 – Post Mile 24.1 to 34.9 - Cold In-Place recycling and overlay with rubberized concrete
- Valley Center Road – Install signal or roundabout to upgrade Y intersection at SR 76
- SR 79 – Post mile 35.1 to 53 - Applied rubberized asphalt concrete overlay
- Pala Creek Bridge Replacement
- SR 94 – Post Mile 14.9 to 30 – Cold plane and pave overlay with rubberized asphalt concrete, upgraded metal beam guard rail, upgrade curve ramps, and install rumble strips
- SR 94 – Post Mile 30 to 39 – Install slurry seal to preserve pavement integrity, and repair and upgrade metal beam guard rail
- Campo - Campo safety project which involved a curve realignment

County/Reservation Roads

A number of infrastructure projects have been planned, designed, and/or implemented since 2011. These projects are a combination of Caltrans-permitted projects, county-permitted projects, and county Capital Improvement Program projects. These were all projects that involved collaborations between the county Department of Public Works and various tribes.

All of these projects are listed in the matrix of key milestones achieved (Attachment I) and they demonstrate the improvements made in infrastructure serving tribal nations and the unincorporated areas of the county.

Identified Tribal Transportation Projects

Through the Working Group, tribal representatives analyzed the regional transportation system and identified projects of high importance to them. Attachments K and L (Northern and Southern Tribal Corridors) indicate the projects that would benefit their tribal nations improving their mobility, safety, and access to regional assets. Most of these projects fall outside of the RTP level for funding because they are largely regional arterials, county roads and rural highways. The purpose of documenting these projects is to provide a regional picture of the obstacles faced by small land-based tribes whose tribal transportation system is often dependent on rural roads and highways.

Transit/Mobility Planning

An area of tribal transportation planning that has been of increasing importance in recent years is transit and mobility planning. These are two areas in which more short-term solutions to access to the transportation system can be addressed. Through collaborative planning in this area, the RTA, SANDAG, and the two transit agencies have developed innovative projects, which are contributing to improved mobility in the tribal community, as well as for rural residents.

Federal Transit Administration Tribal Transit Grant Program

Traditionally, tribes have focused planning on rural roads and highway accessibility, but under the last federal transportation bill, Safe, Accountable, Flexible, Efficient Transportation Equality Act: A Legacy for Users (SAFETEA-LU), a tribal transit grant program was developed. It has been successful nationwide and funding was increased under MAP-21. San Diego tribes through the RTA have benefited significantly from this grant program. Most recently, the RTA received \$452,710 for FY 2013 and FY 2014 combined.

The Tribal Transit Feasibility Study (2008) provided the technical basis for the Working Group to pursue funding to implement the recommendations. The Working Group directed the RTA to develop a proposal for the Federal Transit Administration (FTA) Tribal Transit program, based on the recommendations of the Tribal Transit Feasibility Study. The RTA has applied successfully from FY 2007 to present for approximately \$2.1 million in operating funds. Although the RTA received the highest level of funding for each cycle as a consortium, the awards were significantly less than the total project costs to fund the entire plan. The Working Group discussed the options available and decided to focus the funds on supporting an enhanced service of one of the North County Transit District (NCTD) routes, Route 388/389, which runs from the Escondido Transit Center through Valley Center to Pala. One of the principal recommendations for the Northern Corridor was to enhance that service and create an express portion of the route that would run up and down the I-15 corridor from the Escondido Transit Center to Pala, completing a service loop and permitting those on the SR 76 corridor to take an express bus to and from the Escondido Transit Center.

In addition to the operating funds provided by the FTA Tribal Transit program, the RTA received a \$1.2 million capital improvement grant in FY 2009 under the American Recovery and Reinvestment Act of 2009. The RTA, in coordination with Caltrans, NCTD, Metropolitan Transit System, and SANDAG constructed a bus stop at the Park-and-Ride at I-15 and SR 76. In addition, the RTA made enhancements to bus stops along rural routes (Routes 864, 888, 891, 892, and 894). Enhancements included replacing or installing bus stop signs or poles, installing solar lights, and adding new stops.

Tribal TDM Outreach

For tribal nations whose lands are in the rural areas, Transportation Demand Management (TDM) is a significant solution to mobility. There have been a number of collaborative projects 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 an approximately 6,000 total employees. In the SR 76 corridor Pala, Pauma, Rincon, and San Pasqual have a total of almost 5,000 employees. 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 TTMA 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.

United We Ride

Tribal residents with disabilities, individuals with limited resources, the elderly, and youth typically have a high degree of transit dependency. This group often requires transportation to get to medical appointments, educational facilities, shopping areas, and employment. Several transportation programs exist, however information about them is disjointed and incomplete. There is no central place for tribal residents to evaluate their options and determine the best way to meet their transportation needs. In 2010 the RTA received a grant for \$198,000 to develop a Tribal Mobility Management Coordination Program to support the mobility needs of elderly Tribal members, youth, disabled, and low-income families.

Transportation Funding

One of the action items established at the 2010 Tribal Summit was the importance of creating opportunities for pooling or leveraging transportation funding.

A major effort under SAFETEA-LU was collaborating on the update of tribal road inventories so that the small land based tribes in the region could access additional funding for transportation planning from the IRR program through the Bureau of Indian Affairs. The new formula in SAFETEA-LU allowed tribes to include city, county, and state highways in their own transportation system as key elements in their own transportation systems. The road ownership didn't change, but

tribes could receive funding for segments of non-tribal roads critical to their own system. Caltrans received a grant to assist tribes in California update their road inventories. The Working Group worked diligently on this effort, working closely with Caltrans. Many tribes were successful in increasing their transportation funding from the IRR program; some increasing their funding from \$6,000 to \$200,000. However, as part of the process of developing MAP-21, large land-based tribes lobbied successfully to return to the old formula, despite a concerted effort from California stakeholders to maintain the existing formula. This was a major setback for tribes with small reservations surrounded by state highways and county roads that form part of their own tribal transportation system because of ingress and egress from the reservation. They can still include portions of state highways, county, and even city roads in their inventories, but the funding formula either does not apply, or in a limited way.

The IRR was replaced by a new program called TTP. The purpose of the TTP is to provide access to basic community services to enhance the quality of life in Indian country (MAP-21 Section 1119; 23 USC 201,202). Funds from the Highway Account Trust Fund will be allocated among the Tribes using a new statutory formula based on tribal population, road mileage, and average tribal shares of SAFETEA-LU IRR funding.

Tribal Mitigation Agreements

An important source of funding for transportation planning and implementation comes from tribal gaming mitigation agreements. San Diego County receives compact-related revenue through funds appropriated from the Indian Gaming Special Distribution Fund to mitigate casinos' effects on local communities. Senate Bill (SB) 621, which became law on January 1, 2004, established the Indian Gaming Local Community Benefit Committees (IGLCBC); made grant funding available to counties, cities and special districts impacted by tribal gaming from the Indian Gaming Special Distribution Fund; and set the rules for eligibility and purposes of the grants. Those gaming tribes who operated 200 or more gaming devices on or before September 1, 1999 contribute a variable portion of their net winnings into the Fund. Today, Barona and Sycuan continue to pay into the Special Distribution Fund and have successfully petitioned for annual appropriations for San Diego County. Since 2003, approximately \$25 million have been distributed through a grant process for projects benefiting various priorities, including Roads, Law Enforcement, Fire Services, Emergency Medical Services, Public Health, Planning and Adjacent Land Uses, etc.¹⁵

In addition, the County of San Diego and several tribal nations have innovative mitigation agreements in place which include components for supporting collaborative transit and TDM initiatives. In 2007, the County of San Diego and the **Pala Band of Mission Indians** entered into an agreement related to the expansion of their gaming facility, which included consideration for future TDM and transit improvements such as: (a) a TDM program being developed by the RTA with assistance from SANDAG; (b) a possible Park-and-Ride facility at the I-15/SR 76 junction; and (c) and support for an NCTD bus stop. Pala was an active member of the RTA's initial TDM Outreach program. In 2008, the County of San Diego and the **Pauma Band of Luiseño** Indians entered into an agreement related to the building of a gaming facility and hotel, which included support for TDM and transit as well as fair share contributions for the operational improvements on the SR 76

¹⁵ Viejas initially contributed to the Indian Gaming Special Distribution Fund, but under its Amended Compact, no longer contributes to this program.

East as determined from the Caltrans Operational Improvements Study. Pauma also made a commitment to a specific goal of having 20 percent of their employees participate daily in carpools, vanpools, or other rideshare programs.

Recently the County of San Diego and **Sycuan Band of the Kumeyaay Nation** entered into an agreement for traffic improvements related to the Fee to Trust application, both Sycuan and the County have provisions, including payments to mitigate loss of tax revenue, construction of intersection improvements, and payments to the county for additional improvements.

Healthy Communities Grants

SANDAG and the County of San Diego received a grant from Centers for Disease Control (CDC) program *Communities Putting Prevention to Work*, which was branded 'Health Communities' in the San Diego region. SANDAG was responsible for implementing several components of the project including a re-granting program. Two tribes successfully competed for a Healthy Works grant: La Jolla and Campo. La Jolla received a \$70,000 grant to develop a walkability study while Campo received \$10,000 to design a community park to encourage children and families to be more physically active.

Information Sharing/Technical Assistance

One of the commitments that resulted from the 2010 Tribal Summit was to provide ongoing training to tribal governments on funding processes and transportation and regional planning. SANDAG has worked closely with the Tribal Transportation Assistance Program (TTAP) currently managed by the National Indian Justice Center (NIJC) under contract with Caltrans, to ensure that tribal nations in San Diego are aware of and have the appropriate and timely information for taking advantage of funding opportunities and other tribal transportation planning training.¹⁶

The NIJC has been invited to the Working Group on a number of occasions to share information and training opportunities with area tribes. The Working Group has resulted in an important venue for discussing statewide transportation issues with San Diego tribes including the California Transportation Plan, the Statewide Strategic Plan, and the implications of new funding formulas for tribes in MAP-21.

In addition, SANDAG, through its Service Bureau, has made technical support available to tribal governments for planning and data analysis services. A number of tribes have taken advantage of the services provided for their own planning efforts.

Safe Journeys: Tribal Road Safety Audit Educational Program

In collaboration with the FHWA, the NIJC received a Caltrans Environmental Justice Grant for \$189,000 to develop an online training program for tribal nations to undertake safety audits of tribal roadways. This was a project to support the Western Regional TTAP in their efforts to provide statewide technical assistance to tribes. The project included the production of a video, online course, and support materials. SANDAG served as the pass through agency for this statewide project and the Working Group served as the advisory group for Southern California tribes.

¹⁶ For more information on Western TTAP program through the NIJC, go to www.nijc.org/ttap.html

FHWA Tribal Transportation Safety Funds

The RTA recently received a \$200,000 grant from the FHWA to develop 16 data-driven tribal transportation safety plans, one for each of its member tribes (including Riverside tribes). Each tribal transportation safety plan will identify transportation safety issues, prioritize activities, and will be coordinated with the State Strategic Highway Safety Plan. The RTA will work closely with tribal personnel, the Working Group, and consultant to prepare the plans.

COLLABORATIVE EMERGING REGIONAL POLICY AREAS

The primary difference between San Diego Forward: The Regional Plan and previous RTPs is the inclusion of broader regional planning policy issues that are part of the RCP. In San Diego Forward: The Regional Plan, tribal nations and SANDAG have an opportunity to identify other policy areas of mutual concern in which strategies for collaboration could be developed.

The policy areas in this section were chosen by the tribes through a survey conducted in the summer of 2013 as part of the tribal consultation process for San Diego Forward: The Regional Plan. Based on the results of the survey, an interactive Policy Workshop was held in November 2013 with tribal nations focused on the regional issues identified to elicit ideas and concepts for collaborative strategies in the selected policy areas. The following represent policy areas in which the tribes and SANDAG intersect in interest and potential collaboration. The four topics that came out of the survey were: Cultural Resources, Economic Development, Energy, and Environmental Conservation. A fifth topic, Emergency Preparedness and Management, was not included in the survey because SANDAG is not the lead agency for this regional work; however, the issue was raised at the 2010 Tribal Summit and the county and tribal nations followed through on recommendations made. 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 who propose development on land that the tribe does not control, but has cultural or religious significance to them.

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) as follows:

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.

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.

Senate Bill 18 (Burton, 2004) (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, sacred sites, features and objects located within the city or county.

Background

Although NEPA and CEQA have consultation requirements, tribal nations have reported that the consultation on specific projects comes too late into the process when decisions have already been made or development is under way. 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 SB18 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.

Tribal Initiatives

In an effort to strengthen legislation to preserve culturally significant and sacred lands, tribes have worked with Assemblyman Mike Gatto to propose an amendment to CEQA, Assembly Bill 52 (Gatto), which would establish a new category-- ‘tribal cultural resources’-- that would consider the tribal cultural value in addition to scientific and archeological value. It would also define California Native Americans as the experts with regard to tribal histories and practices.

Suggested Strategies for Collaboration

Below is a list of potential opportunities for coordination and collaboration regarding cultural resources. These areas were included in the roundtable discussions at the November 2013 workshop.

- Explore potential to collaborate on a way to provide information regarding the location of culturally significant resources without compromising the preservation of the resource
- Explore ways to collaborate in communicating information regarding legal requirements of tribal consultation for local jurisdictions (Senate Bill 18 [SB 18])

Economic Development

Legislative Context

Tribal economic development is complex because laws apply differently to tribal governments than they do to states, counties, and cities. In particular, the laws regarding taxation create the greatest level of confusion. Unlike federal, state, and local governments tribal nations do not have the ability to act as a taxing authority. For example, tribes are not able to levy income taxes or property taxes. Tribes can levy sales and excise taxes but federal policy makes it difficult for most tribes to

utilize tax exempt financing options (generally available to states) to fund construction of government infrastructure.

Existing Conditions

A common misconception is that all tribes have gaming facilities and all that all American Indians are directly benefitting as a result of gaming. In fact, only about 40 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 financially support the tribal members, some barely break even, and some fail altogether leaving tribes in debt.

In the San Diego region, ten tribes had gaming facilities, but two recently closed due to financial difficulties. While gaming has helped many San Diego tribes, gaming comes with no guarantees and some substantial risks. As a result, most local tribes are working to diversify their economic development opportunities.

Complex laws and taxation issues are challenging and often exacerbated by the general lack of knowledge that others have about the different laws to which tribes are subject.

Tribal Initiatives

Each local tribe has their 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 where tribes can support local jurisdictions through a contracting process, such as fire protection.

There are also tribal businesses on tribal land. The businesses tribes choose to develop often times are dependent on the location of the reservation and availability of space. Some examples of businesses that local tribes run, other than 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.

Since the 2010 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 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. These areas were derived from the roundtable discussions at the November 2013 workshop.

- Explore collaborative opportunities to educate local jurisdictions regarding Tribal law and sovereignty to reduce misunderstandings that can be a hindrance to economic development
- Explore potential for tribal governments to partner with local jurisdictions to provide local public services
- Explore possibility to expand economic development opportunities in green energy and eco/cultural tourism

Energy

Energy was identified as one of the top areas of interest for tribal nations in the 2013 survey. With the passage of the federal Energy Self-Determination Act in 2005, 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 degrees of success and difficulties. With the federal Energy Self-Determination Act in 2005 came the ability to establish Tribal Energy Resource Agreements (TERA). 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. Campo and Rincon have already established wind and solar energy projects, respectively. Other tribes in the region have developed smaller scale solar projects.

Tribal governments have identified a number of obstacles hindering the development of tribal energy projects. These obstacles include funding, land availability area, and location.

With regard to funding, the resources available to assist tribes are usually for feasibility studies and not implementation. Another challenge is that smaller projects are often too small and costly to be effective. Wind farms, solar farms, and other large projects are often difficult to achieve because of the large amount of land required. Many reservations are in fairly remote locations and are not close enough to be part of the local municipal electric grid. As such, these tribal areas are often run entirely on propane or diesel powered generators. Also, these reservations are usually reliant on well water, which requires the use of electric pumps.

Tribal Initiatives

Tribes in San Diego County are at various stages of energy development. Some have projects that are already completed, such as Campo and Rincon, others have projects in the construction stage, some are in the planning stages, and others are investigating options. Plans locally range from solar to wind to alternative fuel production. While some tribes seek energy production as an enterprise others seek energy independence.

Possible Collaborative Strategies

Below is a list of potential opportunities areas for coordination and collaboration regarding energy. These areas were derived from the roundtable discussions at the November 2013 workshop.

- 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

Environmental Conservation

In the area of environmental conservation, there are a number of opportunities for collaboration, including creating frameworks for discussing environmental concerns. These 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 habitat program and other habitat conservation programs. For example, after the devastation of the 2007 firestorm, several tribes submitted applications for the *TransNet* Environmental Mitigation Program land management grants. Tribes are eligible entities for these funds, and they could assist those whose lands were devastated by the fires to restore critical habitat.

Legislative Context

Environmental conservation is important to both tribes and local jurisdictions in the San Diego region. However, a lack of information sharing and coordination 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 examples include:

The Multiple Species Conservation Plan and 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. However, tribal nations have concerns including: the lack of inclusion of tribal boundaries; 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 Multiple Habitat Conservation Plan list.

The TransNet Environmental Mitigation Program The *TransNet* Extension Ordinance and Expenditure Plan, approved by the voters in November 2004, includes 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 the land management and monitoring funds, although few have. It should be noted, however, that some grants to other organizations have benefitted the tribes. An example is the grant to Wildlife Services to control a feral pig problem that was affecting areas of the unincorporated area, including several tribal reservations.

Integrated Regional Water Management is a relatively new 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 (DWR) to fund competitive grants for projects that improve water resources management. The 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. In 2007, San Diego published its first IRWM Plan and received \$25 million from DWR to support 19 high-priority water management projects. In 2011, San Diego obtained another \$8 million to support 11 more projects and \$1 million to fund a comprehensive update of the 2007 IRWM Plan. While tribes are included, they have raised concerns that the IRWM grant program projects required CEQA compliance to which the tribes are not subject.

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. Often small non-gaming tribes cannot afford to spend limited resources and staff time on a consultation process.

Tribal Initiatives

Each tribe has their own habitat conservation concerns based on where their land is located and what kind of development plans they have in place. Some tribal lands come more into contact with larger municipalities than others do and the considerations then 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 California Native Plant Society.

Along with individual tribal projects there are also intertribal efforts such as the Kumeyaay Diegueño Land Conservancy (KDLC). This is a collaborative effort among 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 Native American Environmental Protection Coalition (NAEP) is a tribally-driven organization that provides technical assistance, environmental education, professional training, information networking, and inter-tribal coordination. Established in 1997, becoming a 501(c)3 nonprofit in 2006 the NAEP currently has 23 tribes in its membership from Southern California.

Potential Coordination

Below is a list of potential areas for coordination and collaboration regarding environmental conservation. These areas were derived from the roundtable discussions at the November 2013 workshop.

- 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 environmental perspective;
- Create a regional forum to bring tribes, local jurisdictions, resource agencies, environmental stakeholders together for better collaboration and coordination.

Emergency Preparedness/Management

At the 2010 Summit, the need to coordinate on emergency preparedness was identified as an issue area. Issues, such as interagency coordination, community resilience, training, planning, and resource management are all key areas in which tribal nations and the local jurisdictions can and have collaborated. Some of these 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 seven percent of Hazard Mitigation Grant Program funds available to a state for the development of mitigation plans from these entities.

At the state level, the passage and effect of California Assembly Bill 307 on January 1, 2012, created a state and local mechanism for federally recognized tribes to be considered a public agency that may enter into a Joint Power Agreement (JPA). 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 with full member status to HFA and provides access to use 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 Council is comprised of 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 nongovernmental 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. 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 have various levels of capacity and resources for response located on tribal lands along with supporting Tribal Law Enforcement Agencies and Tribal Security Departments on many of the same tribal nations. All of these agencies are funded without revenues from a tax base; and many of these agencies provide services through existing mutual aid agreements to jurisdictions beyond tribal reservation boundaries.

Tribal Initiatives

The 2007 fires in the San Diego region threw in stark relief the importance of these issues, as many reservations were decimated and left in isolation in those initial days following the fires. Out of that disaster, several tribes formed the Intertribal Long-Term Recovery Foundation (ITLTRF) to address the shortcomings demonstrated in the 2007 fires.

After the 2003, 2005, and 2007 wildfires Tribal leadership organized long-term recovery meetings to create as Chairman Mark Romero (Mesa Grande) explains, a “tribal-FEMA-type” organization. The result was the formation of the ITLTRF, a 501(c)3 organization, with a mission to provide disaster services to tribes in the region. The ITLTRF since its inception has built relationships, delivered local training, and collaborated on a local, state, and federal level about issues related to tribal disaster services.

Potential Collaboration/Coordination

Tribes have a strong track 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. Opportunities for coordination and collaboration between the ITLTRF and other established emergency management organizations could be explored.

2014 San Diego Regional Tribal Summit

At the 2014 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 San Diego Forward: The Regional Plan (Attachments M: Transportation Strategies for Consideration; Attachment N: Regional Policy Strategies for Consideration). The Regional Plan serves 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 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.

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