

Update on Impacts of Tribal Economic Development Projects in San Diego County



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Prepared for the
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Table of Contents

	<u>Page</u>
Table of Contents _____	iii
List of Tables _____	xii
List of Figures _____	xii
List of Appendices _____	xiii
Acknowledgements _____	xv
Chapter 1 Introduction and Purpose _____	1
Chapter 2 Overview of Indian Nations, Tribes in San Diego County and Gaming _____	3
2.1 Indian Nations _____	3
2.1.1 Ethnic Origin of Local Indian Tribes _____	4
2.1.2 Brief History of the Kumeyaay _____	5
2.2 Land Tenure on Reservations _____	6
2.3 Barriers to Economic Development on Reservations _____	7
2.4 Gaming _____	7
2.4.1 Indian Gaming Regulatory Act _____	9
2.4.2 Gaming Establishments in California and San Diego County _____	9
2.4.3 Regulation of Gaming Operations _____	10
2.4.3.1 Federal Government _____	10
2.4.3.2 State Government _____	11
2.4.3.3 Tribal Government _____	13
2.4.4 Regulation of Uses of Gaming Revenues _____	13
2.4.5 Tribal-State Compact _____	14
Chapter 3 Indian Reservations and Tribal Governments of San Diego County _____	15
3.1 Barona Band of Mission Indians _____	15
3.1.1 Tribal History _____	15
3.1.2 Reservation _____	15
3.1.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base _____	16
3.1.3 Population _____	16
3.1.4 Tribal Government _____	16
3.1.4.1 Gaming Regulation _____	17
3.1.5 Services and Benefits Provided by Tribal Government _____	17
3.1.6 Economic Enterprises _____	17
3.1.6.1 Gaming _____	17
3.1.6.2 Other Businesses _____	18
3.1.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	18
3.1.7.1 Education _____	18
3.1.7.2 Infrastructure _____	18
3.1.7.3 Services to Tribal Members _____	19
3.1.8 State and Regional Economic Impacts _____	19
3.1.9 Community Relations _____	19
3.1.10 Issues and Challenges _____	20
3.2 Campo Band of Kumeyaay Indians _____	21

	<u>Page</u>
3.2.1 Tribal History _____	21
3.2.2 Reservation _____	21
3.2.3 Population _____	22
3.2.4 Tribal Government _____	22
3.2.5 Services and Benefits Provided by Tribal Government _____	22
3.2.6 Economic Enterprises _____	23
3.2.6.1 <i>Gaming</i> _____	23
3.2.6.2 <i>Other Businesses</i> _____	23
3.2.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	23
3.2.7.1 <i>Education</i> _____	23
3.2.7.2 <i>Infrastructure</i> _____	24
3.2.7.3 <i>Services to Tribal Members</i> _____	24
3.2.8 State and Regional Economic Impacts _____	24
3.2.9 Community Relations _____	24
3.2.10 Issues and Challenges _____	24
3.3 Capitan Grande Band of Mission Indians _____	25
3.3.1 Tribal History _____	25
3.3.2 Reservation _____	25
3.3.3 Population _____	25
3.3.4 Tribal Government _____	25
3.3.5 Services and Benefits Provided by Tribal Government _____	25
3.3.6 Economic Enterprises _____	26
3.3.6.1 <i>Gaming</i> _____	26
3.3.6.2 <i>Other Businesses</i> _____	26
3.3.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	26
3.3.7.1 <i>Education</i> _____	26
3.3.7.2 <i>Infrastructure</i> _____	26
3.3.7.3 <i>Services to Tribal Members</i> _____	26
3.3.8 State and Regional Economic Impacts _____	26
3.3.9 Community Relations _____	26
3.3.10 Issues and Challenges _____	26
3.4 Cuyapaipe Band of Mission Indians/ Ewiiapaayp Band of Kumeyaay Indians _____	26
3.4.1 Tribal History _____	26
3.4.2 Reservation _____	27
3.4.2.1 <i>Cuyapaipe Indian Reservation</i> _____	27
3.4.2.2 <i>Proposed Little Cuyapaipe Reservation</i> _____	28
3.4.2.3 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	28
3.4.3 Population _____	29
3.4.4 Tribal Government _____	29
3.4.5 Services and Benefits Provided by Tribal Government _____	29
3.4.6 Economic Enterprises _____	30
3.4.6.1 <i>Gaming</i> _____	30
3.4.6.2 <i>Other Businesses</i> _____	30
3.4.7 Tribal Projects Funded from Gaming and/or Other Revenues _____	30
3.4.7.1 <i>Ewiiapaayp/SIHC, Inc. Agreement for New Clinic Construction and New Funding</i> _____	30
3.4.8 State and Regional Economic Impacts _____	30
3.4.9 Community Relations _____	31
3.4.10 Issues and Challenges _____	31
3.5 Inaja Band of Mission Indians _____	31
3.5.1 Tribal History _____	32

	<u>Page</u>
3.5.2 Reservation	32
3.5.3 Population	32
3.5.4 Tribal Government	32
3.5.5 Services provided by Tribal Government	32
3.5.6 Economic Enterprises	32
3.5.6.1 Gaming	32
3.5.6.2 Other Businesses	32
3.5.7 Tribal Projects Funded From Gaming and/or Other Revenues	32
3.5.7.1 Education	32
3.5.7.2 Infrastructure	32
3.5.7.3 Services to Tribal Members	32
3.5.8 State and Regional Economic Impacts	33
3.5.9 Community Relations	33
3.5.10 Issues and Challenges	33
3.6 Jamul Indian Village	33
3.6.1 Tribal History	33
3.6.2 Reservation	33
3.6.2.1 Fee to Trust Applications and Other Actions Resulting in Expansion of Land Base	34
3.6.3 Population	35
3.6.4 Tribal Government	36
3.6.5 Services and Benefits Provided by Tribal Government	36
3.6.6 Economic Enterprises	36
3.6.6.1 Gaming	36
3.6.6.2 Other Businesses	36
3.6.7 Tribal Projects Funded From Gaming and/or Other Revenues	37
3.6.7.1 Education	37
3.6.7.2 Infrastructure	37
3.6.7.3 Services to Tribal Members	37
3.6.8 State and Regional Economic Impacts	37
3.6.9 Community Relations	38
3.6.10 Issues and Challenges	38
3.7 La Jolla Band of Luiseño Indians	39
3.7.1 Tribal History	39
3.7.2 Reservation	39
3.7.3 Population	40
3.7.4 Tribal Government	40
3.7.5 Services and Benefits Provided by Tribal Government	40
3.7.6 Economic Enterprises	40
3.7.6.1 Gaming	40
3.7.6.2 Other Businesses	40
3.7.7 Tribal Projects Funded From Gaming and/or Other Revenues	41
3.7.7.1 Education	41
3.7.7.2 Infrastructure	41
3.7.7.3 Services to Tribal Members	41
3.7.8 State and Regional Economic Impacts	41
3.7.9 Community Relations	41
3.7.10 Issues and Challenges	41
3.8 La Posta Band of Mission Indians	41

	<u>Page</u>
3.8.1 Tribal History _____	41
3.8.2 Reservation _____	41
3.8.2.1 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	42
3.8.3 Population _____	42
3.8.4 Tribal Government _____	42
3.8.5 Services and Benefits Provided by Tribal Government _____	43
3.8.6 Economic Enterprises _____	43
3.8.6.1 <i>Gaming</i> _____	43
3.8.6.2 <i>Other Businesses</i> _____	43
3.8.7 Tribal Projects Funded From Gaming and /or Other Revenues _____	44
3.8.7.1 <i>Education</i> _____	44
3.8.7.2 <i>Infrastructure</i> _____	44
3.8.7.3 <i>Services to Tribal Members</i> _____	44
3.8.8 State and Regional Economic Impacts _____	44
3.8.9 Community Relations _____	44
3.8.10 Issues and Challenges _____	44
3.9 Los Coyotes Band of Mission Indians _____	45
3.9.1 Tribal History _____	45
3.9.2 Reservation _____	45
3.9.3 Population _____	45
3.9.4 Tribal Government _____	45
3.9.5 Services provided by Tribal Government _____	46
3.9.6 Economic Enterprises _____	46
3.9.6.1 <i>Gaming</i> _____	46
3.9.6.2 <i>Other Businesses</i> _____	46
3.9.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	46
3.9.7.1 <i>Education</i> _____	46
3.9.7.2 <i>Infrastructure</i> _____	46
3.9.7.3 <i>Services to Tribal Members</i> _____	46
3.9.8 State and Regional Economic Impacts _____	46
3.9.9 Community Relations _____	46
3.9.10 Issues and Challenges _____	46
3.10 Manzanita Band of Mission Indians _____	47
3.10.1 Tribal History _____	47
3.10.2 Reservation _____	47
3.10.2.1 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	47
3.10.3 Population _____	47
3.10.4 Tribal Government _____	47
3.10.5 Services and Benefits Provided by Tribal Government _____	47
3.10.5.1 <i>Education</i> _____	47
3.10.5.2 <i>Infrastructure</i> _____	48
3.10.5.3 <i>Services to Tribal Members</i> _____	48
3.10.6 Economic Enterprises _____	48
3.10.6.1 <i>Gaming</i> _____	48
3.10.6.2 <i>Other Businesses</i> _____	48
3.10.7 Tribal Projects Funded from Gaming and/or Other Revenues _____	48
3.10.8 State and Regional Economic Impacts _____	48
3.10.9 Community Relations _____	48
3.10.10 Issues and Challenges _____	48
3.11 Mesa Grande Band of Mission Indians _____	48

	<u>Page</u>
3.11.1 Tribal History _____	49
3.11.2 Reservation _____	49
3.11.2.1 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	49
3.11.3 Population _____	49
3.11.4 Tribal Government _____	49
3.11.5 Services and Benefits Provided by Tribal Government _____	49
3.11.6 Economic Enterprises _____	50
3.11.6.1 <i>Gaming</i> _____	50
3.11.6.2 <i>Other Businesses</i> _____	50
3.11.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	50
3.11.7.1 <i>Education</i> _____	50
3.11.7.2 <i>Infrastructure</i> _____	50
3.11.7.3 <i>Services to Tribal Members</i> _____	50
3.11.8 State and Regional Economic Impacts _____	50
3.11.9 Community Relations _____	50
3.11.10 Issues and Challenges _____	50
3.12 Pala Band of Mission Indians _____	51
3.12.1 Tribal History _____	51
3.12.2 Reservation _____	51
3.12.2.1 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	52
3.12.3 Population _____	52
3.12.4 Tribal Government _____	52
3.12.4.1 <i>Gaming Regulation</i> _____	52
3.12.5 Services and Benefits Provided by Tribal Government _____	52
3.12.6 Economic Enterprises _____	53
3.12.6.1 <i>Gaming</i> _____	53
3.12.6.2 <i>Other Businesses</i> _____	53
3.12.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	54
3.12.7.1 <i>Education</i> _____	54
3.12.7.2 <i>Infrastructure</i> _____	54
3.12.7.3 <i>Services to Tribal Members</i> _____	54
3.12.8 State and Regional Economic Impacts _____	54
3.12.9 Community Relations _____	54
3.12.10 Issues and Challenges _____	54
3.13 Pauma/Yuima Band of Mission Indians _____	55
3.13.1 Tribal History _____	55
3.13.2 Reservation _____	55
3.13.3 Population _____	55
3.13.4 Tribal Government _____	55
3.13.4.1 <i>Gaming Regulation</i> _____	56
3.13.5 Services and Benefits Provided by Tribal Government _____	56
3.13.6 Economic Enterprises _____	56
3.13.6.1 <i>Gaming</i> _____	56
3.13.6.2 <i>Other Businesses</i> _____	57
3.13.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	57
3.13.7.1 <i>Education</i> _____	57
3.13.7.2 <i>Infrastructure</i> _____	57
3.13.7.3 <i>Services to Tribal Members</i> _____	57
3.13.8 State and Regional Economic Impacts _____	57

	<u>Page</u>
3.13.9 Community Relations _____	58
3.13.10 Issues and Challenges _____	58
3.14 Rincon San Luiseño Band of Mission Indians _____	58
3.14.1 Tribal History _____	58
3.14.2 Reservation _____	58
3.14.3 Population _____	59
3.14.4 Tribal Government _____	59
3.14.4.1 Gaming Regulation _____	60
3.14.5 Services and Benefits Provided by Tribal Government _____	60
3.14.6 Economic Enterprises _____	60
3.14.6.1 Gaming _____	60
3.14.6.2 Other Businesses _____	61
3.14.7 Tribal Projects Funded from Gaming and/or Other Revenues _____	61
3.14.7.1 Education _____	62
3.14.7.2 Infrastructure _____	62
3.14.7.3 Services to Tribal Members _____	62
3.14.8 State and Regional Economic Impacts _____	63
3.14.9 Community Relations _____	63
3.14.10 Issues and Challenges _____	63
3.15 San Pasqual Band of Mission Indians _____	64
3.15.1 Tribal History _____	64
3.15.2 Reservation _____	64
3.15.3 Population _____	65
3.15.4 Tribal Government _____	65
3.15.4.1 Gaming Regulation _____	65
3.15.5 Services and Benefits Provided by Tribal Government _____	65
3.15.6 Economic Enterprises _____	65
3.15.6.1 Gaming _____	65
3.15.6.2 Other Businesses _____	66
3.15.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	67
3.15.7.1 Education _____	67
3.15.7.2 Infrastructure _____	67
3.15.7.3 Services to Tribal Members _____	67
3.15.8 State and Regional Economic Impacts _____	68
3.15.9 Community Relations _____	68
3.15.10 Issues and Challenges _____	68
3.16 Santa Ysabel Band of Mission Indians _____	68
3.16.1 Tribal History _____	69
3.16.2 Reservation _____	69
3.16.3 Population _____	69
3.16.4 Tribal Government _____	69
3.16.5 Services and Benefits Provided by Tribal Government _____	69
3.16.6 Economic Enterprises _____	69
3.16.6.1 Gaming _____	69
3.16.6.2 Other Businesses _____	69
3.16.7 Tribal Projects Funded From Gaming and/or Other Revenues _____	69
3.16.7.1 Education _____	69
3.16.7.2 Infrastructure _____	70
3.16.7.3 Services to Tribal Members _____	70
3.16.8 State and Regional Economic Impacts _____	70

	<u>Page</u>
3.16.9 Community Relations _____	70
3.16.10 Issues and Challenges _____	70
3.17 Sycuan Band of the Kumeyaay Nation _____	70
3.17.1 Tribal History _____	70
3.17.2 Reservation _____	70
3.17.2.1 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	71
3.17.3 Population _____	71
3.17.4 Tribal Government _____	72
3.17.4.1 <i>Gaming Regulation</i> _____	72
3.17.5 Services and Benefits Provided by Tribal Government _____	72
3.17.6 Economic Enterprises _____	73
3.17.6.1 <i>Gaming</i> _____	73
3.17.6.2 <i>Other Businesses</i> _____	73
3.17.7 Projects Funded From Gaming and/or Other Revenues _____	73
3.17.7.1 <i>Education</i> _____	73
3.17.7.2 <i>Infrastructure</i> _____	74
3.17.7.3 <i>Services to Tribal Members</i> _____	74
3.17.8 State and Regional Economic Impacts _____	74
3.17.9 Community Relations _____	75
3.17.10 Issues and Challenges _____	75
3.18 Viejas Band of Kumeyaay Indians _____	76
3.18.1 Tribal History _____	76
3.18.2 Reservation _____	76
3.18.2.1 <i>Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base</i> _____	76
3.18.3 Population _____	77
3.18.4 Tribal Government _____	77
3.18.4.1 <i>Gaming Regulation</i> _____	77
3.18.5 Services and Benefits Provided by Tribal Government _____	78
3.18.6 Economic Enterprises _____	79
3.18.6.1 <i>Gaming</i> _____	79
3.18.6.2 <i>Other Businesses</i> _____	79
3.18.7 Projects Funded From Gaming and/or Other Revenues _____	80
3.18.7.1 <i>Education</i> _____	80
3.18.7.2 <i>Infrastructure</i> _____	80
3.18.7.3 <i>Services to Tribal Members</i> _____	81
3.18.8 State and Regional Economic Impacts _____	82
3.18.9 Community Relations _____	82
3.18.10 Issues and Challenges _____	83
Chapter 4 Update of Traffic Impacts _____	85
4.1 Introduction and Overview _____	85
4.2 Comparison To Previous Report _____	86
4.2.1 Overall Needs Assessment _____	86
4.2.2 County Arterials Impacted by Tribal Projects _____	87
4.2.3 State Highways Impacted by Tribal Projects _____	87
4.3 Analysis Assumptions And Methodology _____	87
4.3.1 Baseline Conditions _____	87
4.3.2 Analysis Procedures _____	88

	<u>Page</u>
4.3.3 Trip Generation Assumptions _____	88
4.3.4 Road Capacity Needs Criteria _____	89
4.4 Baseline Conditions and Existing Needs _____	89
4.4.1 County-Maintained Arterials Operating Below LOS “D” _____	89
4.4.2 State Highways Operating Below LOS “D” _____	89
4.4.3 Roads on Tribal Lands _____	90
4.5 Road Capacity Needs _____	90
4.5.1 Build-Out Community Road Capacity Needs _____	90
4.5.2 Road Capacity Needs in Vicinity of Compacted Reservations _____	90
4.5.2.1 Barona (Based upon the Barona Ranch Resort and Casino Project) _____	91
4.5.2.2 Campo _____	91
4.5.2.3 Cuyapaipe (Ewiiapaayp) _____	92
4.5.2.4 Jamul _____	92
4.5.2.5 La Jolla _____	92
4.5.2.6 Manzanita _____	92
4.5.2.7 Pala _____	92
4.5.2.8 Pauma _____	93
4.5.2.9 Rincon (Based upon the Harrah’s Rincon Casino and Hotel project) _____	93
4.5.2.10 San Pasqual (Based upon the Valley View Casino and expansion project) _____	93
4.5.2.11 Sycuan (Based upon expansion of casino) _____	93
4.5.2.12 Viejas (Based upon expansion of Outlet Center) _____	93
4.5.3 Common Road Capacity Improvement Needs in Vicinity of North County Reservations _____	93
4.6 Major Arterial/Highway Improvement Project Types and Process _____	94
4.6.1 Major Capital Improvement Projects _____	94
4.6.1.1 Regional Arterial System _____	94
4.6.2 Process for Major Capital Improvement Projects _____	95
4.6.3 Scheduled Capital Improvement Projects _____	97
4.6.3.1 Scheduled Improvement Projects on County Arterials _____	98
4.6.3.2 Scheduled Improvement Projects on State Highways _____	99
4.7 Access Improvements _____	100
4.7.1 State Highways _____	100
4.7.2 County Roads _____	100
4.8 Phased Improvements _____	101
4.8.1 Process Of Identifying Phased Improvements _____	101
4.8.1.1 Road Reviews _____	101
4.8.1.2 Operational improvements _____	103
4.8.1.3 Short-range construction improvements _____	103
4.8.1.4 Long-range roadway construction improvements _____	104
4.9 Arterial/Highway Improvement Cost Estimates _____	104
4.9.1 County Arterials _____	104
4.9.1.1 Miles Impacted by Tribal Projects _____	104
4.9.1.2 Total Cost Estimates to Improve Impacted Arterial Segments _____	104
4.9.2 State Highways _____	105
4.9.3 Fairshare Estimates to Improve Roads Impacted by Tribal Projects _____	105
4.10 Cooperative Agreements _____	109
4.11 Potential Regional Funding Sources _____	109
4.11.1 FUNDING RESOURCES FOR TRIBAL ROADS AND ACCESS ROADS _____	110

	<u>Page</u>
4.12 Future Considerations _____	111
<i>Chapter 5 Impacts on Other County Resources and County Programs and Services</i> _____	113
5.1 Air Resources _____	113
5.1.1 Future Considerations _____	114
5.2 Biological Resources _____	114
5.2.1 Multiple Species Conservation Program (MSCP) _____	114
5.2.2 Future Considerations _____	116
5.3 Community Character/Aesthetics _____	116
5.3.1 Future Considerations _____	117
5.4 Dark Skies _____	117
5.4.1 Future Considerations _____	117
5.5 General Plan 2020 _____	117
5.5.1 Future Considerations _____	118
5.6 Growth Induction _____	119
5.6.1 Future Considerations _____	119
5.7 Hydrology, Water Quality and Quantity _____	119
5.7.1 Future Considerations _____	120
5.8 Public Safety _____	120
5.8.1 Future Considerations _____	122
<i>Chapter 6 Economic, Fiscal, Legislative and Other Issues Related to Tribal Lands and Indian Gaming</i> _____	123
6.1 Economic Impacts _____	123
6.1.1 Tribal, State and Regional Benefits from Gaming _____	123
6.1.2 Revenue Sharing Payments _____	124
6.1.3 Future Considerations _____	126
6.2 Fiscal Impacts of Tribal Economic Enterprises _____	127
6.2.1 Federal and State Taxes _____	127
6.2.2 California and San Diego County Sales and Use Tax _____	127
6.2.3 Sales by On-Reservation Retailers _____	128
6.2.4 County's share of Tribal Revenues Paid to the State _____	129
6.2.5 State Budget _____	130
6.2.6 Future Considerations _____	131
6.3 Indian Gaming Special Distribution Fund _____	131
6.3.1 Future Considerations _____	134
6.4 2003 Compact Renegotiations _____	134
6.4.1 Future Considerations _____	136
6.5 Fee-to-Trust Regulations _____	137
6.5.1 Federal Process _____	137
6.5.1.1 Congressional Action _____	137
6.5.1.2 Department Of Interior-Bureau of Indian Affairs Regulations and Processes _____	137
6.5.2 FTT Applications by San Diego Tribes _____	138
6.5.3 Future Considerations _____	139

	<u>Page</u>
6.6 Tribal-County Cooperative Agreements _____	139
6.6.1 Future Considerations _____	140
6.7 San Luis Rey Indian Water Rights Settlement Act (P.L. 100-675) _____	140
6.7.1 Future Considerations _____	140
6.8 Tribal Recognition _____	140
6.9 Proclamation of Reservation Status for Existing Cuyapaipe Trust Land _____	141
6.9.1 Future Considerations _____	142
6.10 Southern Indian Health Council, Inc. _____	142
6.11 County Tribal Liaison Staff Officer Position _____	143
6.12 California Native Americans Instructional and Reference Resources (S.B. 41) _____	143
Chapter 7 List of References _____	145

List of Tables

	<u>Page</u>
Table 3-1: Jamul 101-Acre Fee-to-Trust Transfer Project and Casino Project	35
Table 4-1: Road Improvement Cost Estimate Summary	108
Table 6-1: Tribal Recipients of Revenue Sharing Payments	126
Table 6-2: Formula for Tribal Sharing of Revenues with the State	132
Table 6-3: Local Gaming Devices and Special Distribution Fund	132

List of Figures

	<u>Page</u>
Figure 4-1: State Highway/County Arterial – Roadway Improvement Process	96
Figure 5-1: Trends in Arrests, Crime Cases and Calls For Service	121

List of Appendices

Appendix A-1:	Maps of Indian Reservations in San Diego County
Appendix A-2:	Maps of Indian Reservations in San Diego County with Tribal-State Compacts
Appendix B-1:	Aerial Photographs of Tribal Development Projects (Flight Date: June 13, 2001)
Appendix B-2:	Aerial Photographs of Tribal Development Projects (Flight Date: March 14, 2002)
Appendix B-3:	Photographs of Barona and Rincon Resort Projects
Appendix C:	Traffic Needs Assessment of Tribal Development Projects in the San Diego Region – Spring 2002
Appendix D-1:	Table of Fee-To-Trust Applications
Appendix D-2:	Maps of Fee-To-Trust Applications
Appendix E:	Comment Letters from Tribes
Appendix F:	Comment Letters from Agencies and Cities
Appendix G:	Comment Letters from Planning Groups and Interested Parties

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Tribal Nations of San Diego County

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Barona Band of Mission Indians, Hon. Clifford LaChappa Sr., Chairman
Campo Band of Mission Indians, Hon. Ralph Goff, Chairman
Cuyapaipe (Ewiiapaayp) Band of Mission Indians, Hon. Harlan Pinto Sr., Chairman
Jamul Indian Village, Hon. Kenneth Meza Sr., Chairman
La Posta Band of Mission Indians, Hon. Gwendolyn Parada, Chairperson
Pala Band of Mission Indians, Hon. Robert Smith, Chairman
Pauma/Yuima Band of Mission Indians, Hon. Christobal C. Devers, Sr., Chairman
Rincon San Luiseño Band of Mission Indians, Hon. John Currier, Chairman
San Pasqual Band of Mission Indians, Hon. Allen E. Lawson, Jr., Chairman
Sycuan Band of the Kumeyaay Nation, Hon. Georgia Tucker, Chairperson
Viejas Band of Kumeyaay Indians, Hon. Steven TeSam, Chairman

Update on Impacts of Tribal Economic Development Projects in San Diego County

Chapter 1 Introduction and Purpose

On November 1, 2000, the Chief Administrative Officer presented the Report on the Potential Impacts of Tribal Gaming on San Diego County (Report) to the San Diego County Board of Supervisors. That Report was intended to provide the Board of Supervisors with preliminary analyses of the potential issues relating to the construction of casinos and related facilities by the County's Tribal Nations. Since the environmental and social settings of each of the reservations are as diverse as the County is, the Report was not intended to be a comprehensive analysis of impacts. The Report was intended to provide an overview of the type of impacts the County could expect to see, and provide a platform which would allow the Board of Supervisors to make informed policy decisions, and provide staff with guidance on review of documents prepared by the Tribes pursuant to the Tribal-State Gaming Compact.

Since November 1, 2000, many Tribes provided information on their government, members, services provided, economic enterprises, state and regional economic impacts of their enterprises, relationships with local governments, neighboring communities and the region, and the issues and challenges they face. Additionally, five new casinos and a 30-slot arcade opened; two gaming facilities have developed into resorts; many fee-to-trust applications were filed; the County received several Environmental Assessments and Environmental Evaluations prepared by the Tribes for their development projects and fee-to-trust applications; some Tribes sent letters of comments; and three cooperative agreements were negotiated and approved.

This Update on Impacts of Tribal Economic Development Projects in San Diego County (Update Report) is intended to provide the Board of Supervisors and the Community with new information on the 17 Tribal Governments in the county; update on the impacts of tribal projects; events, negotiations, and actions taken by the Tribes and the County since November 1, 2000; and upcoming compact negotiations.

Chapter 2 consists of an overview of Indian Nations, Indian Tribes in San Diego County, land tenure on Reservations, and Indian gaming, with emphasis on Indian gaming in California.

Chapter 3 provides information regarding each Tribe's history, Reservation, population, government, services and benefits provided to Tribal Members, economic enterprises, projects funded from its economic enterprises, the state and regional economic impacts of Tribal economic enterprises, its relations with the neighboring communities, and each Tribe's unique issues and challenges. Whenever possible, the information in Chapter 3 was obtained from the Tribes themselves. When Tribes did not provide information, staff attempted to find information from other sources, such as personal communications, Bureau of Indian Affairs documents, newspaper articles and Web sites.

Chapter 4 provides an update on the impacts of Tribal projects on County roads, including changes in the assumptions and scope of the needs assessment analysis since the November 1, 2000 Report.

Chapter 5 provides an update on the impacts of Tribal projects on County resources and programs, other than roads and transportation.

Chapter 6 addresses the economic and fiscal impacts of Indian gaming; current legislative and rulemaking efforts related to various Tribal issues, including the 2003 Compact renegotiations; issues with County revenues and the Special Distribution Fund; fee-to-trust applications; Tribal Liaison position; and other issues related to Tribal lands and gaming.

Chapter 7 consists of the list of references used to prepare this Update Report.

Chapter 2

Overview of Indian Nations, Tribes in San Diego County and Gaming

2.1 Indian Nations

Indian Nations are considered dependent sovereign nations under the protection of the Federal Government. While the U.S. government recognizes tribal sovereignty, the U.S. Congress is recognized by the courts as having the sole right to limit the sovereign powers of Tribes. Tribes have their own laws, and are subject to some Federal laws, including the Endangered Species Act, the Clean Water Act and the Clean Air Act. Few of the state regulations, and none of the County's laws and ordinances, apply on tribal lands. However, gaming Tribes are subject to the provisions of the State-Tribal Compact (Compact).

A major doctrine in Indian law is that state jurisdiction cannot be inferred over Indian lands; it must be granted specifically by Congress. Tribal-state relations are limited to specific areas where the U.S. Congress has delegated authority to states, and to areas where tribes voluntarily choose to work with states. In 1953, for example, Public Law 280 was enacted by which Congress delegated to six states (Alaska, California, Minnesota, Nebraska, Oregon and Wisconsin) criminal jurisdiction, and more limited civil jurisdiction, over Indian Reservations within the boundaries of these states. Public Law 280 restricted the states from assuming regulatory jurisdiction over Reservations.

San Diego County has the largest number of Tribes and Reservations of any county in the nation. There are 18 federally recognized Tribes; 18 Reservations; and 17 Tribal Governments in San Diego County. The reason there are only 17 Tribal Governments is because the Barona and Viejas Bands share a joint-trust patent and joint administrative responsibility for the Capitan Grande Reservation.

The 18 Reservations currently cover over 116,000 acres in trust of the federal government, or approximately 4 percent of the region. This acreage is likely to grow as six Tribes have applied to place approximately 1,688 additional acres in trust of the federal government. When the County was established in 1850, Native Americans comprised 77 percent of the county population. Today, there are approximately 5,873 enrolled Tribal Members, and approximately 6,821 persons who live on Indian Reservations.

A map showing the location of the 18 Reservations in San Diego County can be found in *Appendix A -1*. Information on the history of local Native Americans can be obtained from two local universities' websites: <http://www.sandiego.edu/nativeamerican/chronology.html> (University of San Diego) and <http://infodome.sdsu.edu/research/guides/calindians/insdcnty.shtml> (San Diego State University)

When referring to the Indian Nations, the words "Tribe" and "Band" are used interchangeably in this report. However, in other parts of California and in other states, some Indian Nations are called by other names, such as: "Village" or "Rancheria" or "Nation" or "Colony."

2.1.1 Ethnic Origin of Local Indian Tribes

San Diego County's Tribes belong to four groups of original inhabitants of the region: Cahuilla, San Luiseño, Cupeño and Kumeyaay (referred to as "Diegueño" by the Spanish), as shown below. They occupied all of what is now San Diego County.

- The Cahuilla Indians once occupied land surrounding the Salton Sea (formerly called "Cahuilla Lake"). The only Cahuilla Band in San Diego County is the Los Coyotes Band. More information on the history and culture of the Cahuilla can be found at the following web sites: <http://www.aguacaliente.org/CulturalHistory.shtml> and <http://www.cabazonindians.com/who.html>.
- The Cupeño Indians (Cupa) once occupied Cupa, a 10-square mile area at the headwaters of the San Luis Rey River, an area which is now known as Warner's Springs and San Felipe Valley. The Cupa were expelled from their land, and on May 12, 1903, they were forced to march to the Pala Reservation, which was occupied by the Luiseños. This was the first time in U.S. history that two distinct Tribes were forced to live together in one Reservation. More information on the history and culture of the Cupeño Indians can be found on the following Web site: <http://www.palaindians.com/>.
- The Kumeyaay/Diegueño Indians have inhabited the region for approximately 10,000 years; they once lived on land extending from the Pacific Ocean, south to Ensenada in Baja Norte, Mexico, east to the sand dunes in Imperial Valley, and north to Warner Springs Valley. Today, Kumeyaay tribal members are divided into 12 separate bands – Barona, Campo, Capitan Grande, Cuyapaipe (Ewiiapaayp), Inaja-Cosmit, Jamul, La Posta, Manzanita, Mesa Grande, San Pasqual, Santa Ysabel, Sycuan and Viejas; they live on Reservations located in the East County portion of San Diego County.

A bill (ACR 156) by Assembly Member Juan Vargas (D – Chula Vista) to name Interstate 8, from Nimitz Boulevard in San Diego to Greenfield Drive, in El Cajon, the Kumeyaay Highway, became law on June 20, 2002. Co-sponsors of the bill were Assembly Members Christine Kehoe, Howard Wayne and Charlene Zettel. This newly named section of Interstate 8 links to the Kumeyaay Highway from the eastern boundary of El Cajon to the Imperial County line, which was dedicated through legislation authored by Assembly Member Jan Goldsmith in 1997.

For the last few years, a two-week Summer Cultural Program has been held on the Viejas Reservation that consists of traditional Kumeyaay classes, including Kumeyaay language classes and classes on native crafts and games, for the young members of the three Reservations. In this summer's program, language classes were taught by Kumeyaay elders from both sides of the U.S.-Mexico border; and instructors from Kumeyaay villages in Baja California taught pottery and basketry. The Program is designed to teach Indian youth, especially this first generation growing up with casino revenues, to appreciate the practices and sacrifices of their ancestors.

More information on the history and culture of the Kumeyaay can be found on the following web sites: <http://www.campo-kumeyaay.org/>, <http://www.kumeyaay.com/> and <http://www.jamulindianvillage.com/>.

- The San Luiseño Indians (Luiseño) once inhabited 1,500 square miles of coastal Southern California, from Agua Hedionda Creek in the south to Aliso Creek in the north, and from

Santiago Peak in the northwest to east of Palomar Mountain in the southeast. Today, they live on about 35,000 acres divided into five Reservations: La Jolla, Pala, Pauma and Rincon in North San Diego County; and Pechanga in southwest Riverside County.

2.1.2 Brief History of the Kumeyaay

The brief history of the Kumeyaay depicted below, was provided by the Jamul Indian Village Tribe. The history of the three other ethnic groups will be added to the report when Tribes from these groups provide information.

Pre-Contact – For more than 10,000 years, the native people of what is now San Diego County co-existed peacefully with one another. Before the arrival of the Europeans, there were more than 30,000 Kumeyaay living through the San Diego area to 60 miles south of the present border with Mexico. The Kumeyaay were seasonal hunters and gatherers. They organized themselves into clearly defined territories of approximately 10 to 30 miles that included individual and collectively owned properties. Each self-governing band of between 200 and 1,000 members had access to the resources in their territory. The Kumeyaay were accomplished astronomers who used the stars to determine when to plant and harvest their crops. They were also skillful horticulturists who grew grains, grasses, beans, squash, perennials, shrubs, oaks, cactus and corn. The Kumeyaay lived in harmony with the Earth, relying on the things that nature provided to survive.

The site of an ancient Kumeyaay village was recently discovered in the southwestern area of the community of Ramona, in which excavated artifacts appear to date back to around 2,000 years ago. The village may have been occupied until about 1820 by approximately 300 people..

1769-1820 – When the Spanish entered the San Diego area in 1769 to build the first mission, they encountered a thriving population. The mission system, which was designed to convert the Natives to Christianity, destroyed the Kumeyaay way of life, as soldiers scoured the countryside and rounded Natives for conversion and slave labor. The padres converted many Kumeyaay against their will, and used them to build and maintain the missions. The hard labor, changes in diet, segregation of the sexes, and the introduction of new diseases, decimated their population. By the time of mission secularization, the Kumeyaay Nation had dropped to about 3,000 people.

1821-1847 – Following Mexico's independence from Spain in 1821, the missions became parish churches and rancharos. The Mexican government gave large land grants to Mexican nationals, including farms belonging to baptized Kumeyaay. Although some were turned over to Mexican nationals to serve as laborers, many Kumeyaay fled to the mountains, and the population began to increase again.

1848-1920 - The government rarely enforced these rights for Christian Kumeyaay, however, and never did for unconverted Kumeyaay. When gold was discovered in Julian in 1869, land appropriation from the Kumeyaay continued, especially their farmlands and water resources. The population began to drop again as soldiers and settlers consumed local resources. In late 1800s, many homeless Kumeyaay took refuge on a plot near the Jamul Ranch and buried their dead in a nearby cemetery.

Additional information is provided in Chapter 3, under each Kumeyaay Tribe's "Tribal History."

2.2 Land Tenure on Reservations

Reservations have generally been established by Executive Orders, and most of the land within the exterior boundaries of Reservations is owned by Tribes and held in trust by the federal government. Once in trust, lands are not subject to local regulations, and are only subject to state regulations if the U.S. Congress delegates implementation of federal law to the state (P.L. 281).

There are several historical elements, which provide the necessary context for understanding the land ownership and acquisition activities by the Native American Tribes. In addition to the brief chronology of historical events that affected the Kumeyaay, the largest ethnic group in the region, which is presented in Section 2.2.2, above, a discussion follows of the two Acts, which are important elements in understanding why Tribes are allowed to acquire lands through the fee to trust process.

The General Allotment Act of 1887 led to the significant reduction, and physical or cultural fracturing, of Tribal lands. The creation of allotments, and the sale of “surplus” lands to non-Indian buyers, separated previously contiguous Tribal lands, and broke the cultural contiguity of Tribes. By 1934, Congress recognized the need to preserve the cultural heritage of the American Indians, and elected to reverse the trend caused by the Allotment Act by enacting the Indian Reorganization Act of 1934 (IRA). The IRA was intended to stop the alienation of Tribal land needed to support Indians, and to provide for the acquisition of additional acreage by the Tribes. It is under the auspices of the IRA that many of the San Diego County Tribes are seeking to bring land into trust in order to regain lands necessary for sustenance that were lost during the Allotment era.

As a result of the General Allotment Act and the IRA, land ownership on Reservations is very complex, and the description below is admittedly extremely cursory. It is included in this document only to alert the reader about the fact that all of the parcels within the exterior boundaries of a Reservation may not be under the total jurisdiction of that Reservation’s Tribal government.

- **Tribal Lands**: Tribal lands are those lands in the Reservation that are not allotted, assigned, or, in certain circumstances, designated as rights-of-way. These lands are used for community purposes, such as meeting halls, housing, churches, cemeteries, recreation, and tribal income-generating purposes.
- **Assignments**: Assignments are created by the Tribal governments, with the approval of the Bureau of Indian Affairs. They are also considered “tribal land” except that individual tribal members have use rights over those parcels. Assignments cannot be inherited; they lapse to the Tribe with non-use or the death of the assignee. It is not known at this time which Tribes use assignments.
- **Allotments**: Allotments were created by the General Allotment Act of 1887 (also called the Dawes Act), which changed the communal ownership of tribal lands to individual ownership. Each Indian male over 18 years of age was given an allotment of acres, and the rest of the tribal lands, considered excess land, were sold to non-Indians. Additionally, the 1891 Act for the Relief of the Mission Indians contained a provision, which included a 25-year period of trust after which the allottee could apply for the title in fee patent. Once the allottee obtained title to the land, it became subject to property taxes; when those taxes could not be paid, the land was sold, usually to a non-Indian.

Through inheritance or sale, non-Tribal members have gained ownership, or an interest in ownership of these lands. Ownership has become so fractionated that use of the acreage in allotments by the Tribe is nearly impossible. Additionally, rights-of-way across allotted land must be negotiated with each allottee individually.

2.3 Barriers to Economic Development on Reservations

The trust status of most Reservation lands has protected the right of Tribes to occupy the land, but it has also hampered Tribes' economic development because they could not use their land as collateral to secure financing for economic development without waiving their sovereign immunity.

A second barrier to economic development of Reservations is related to their remote locations. In San Diego County, most Reservations are located a considerable distance from urban or suburban communities, and are accessed by rural roads. This factor contributed to Reservations not being served by utility companies until relatively recently. This explains in part why the three Tribes who were the first to engage in gaming were the ones who had the best access to these urban markets.

A third barrier to Tribal development is related to the physical characteristics of most Reservations in San Diego County and land tenure issues. The terrain of most Reservations is such that only small areas of many Reservations are in fact developable due to terrain constraints. Additionally, there are at least four Reservations (La Jolla, Pala, Rincon and Sycuan) with significant developable acreage in allotments over which Tribal Governments do not have jurisdiction, resulting in these Tribes having insufficient land to provide both housing and economic development. This explains in part why some Tribes have purchased additional acreage, and have applied to have these lands placed in trust of the federal government.

Finally, other factors contributed to the isolation and lack of economic development on Reservations, such as the complexity of Indian law and politics; need for Tribes to protect themselves from outsiders; and dependence on federal programs and services, which did not provide for access to good healthcare, education and housing for all Tribal Members.

The Southern California Tribal Chairmen's Association, Inc. (SCTCA) assists the Tribes by facilitating various community-based programs and services. For example, one program through a partnership with Hewlett Packard, which contributed \$5 million to the project, establishes a project named "Tribal Digital Village" that incorporates technology and high-speed Internet connections for the Tribes of San Diego County. This joint project will provide funding for computer equipment and use primarily radio-based antennae to deliver high speed Internet network connections to the Tribes; satellite Internet access will be minimal and only used on an interim basis. The grant will be used to develop programs in education, culture, community development and economic development that can be enhanced by technology. In early spring 2003, it is anticipated that all local Reservations will be linked via a wireless network, and Tribal schools and learning centers will have equipment and training to access the network.

2.4 Gaming

For many Tribes, gaming is seen as an opportunity to regain self-respect, self-determination and self-sufficiency. Before gaming, no local Indian Tribe had found the means to generate

sufficient steady income to begin fulfilling its governmental obligations. To date, Tribes who have operated casinos for several years have been able to provide the following services and benefits for their Members: 1) reduced or eliminated unemployment; 2) improved infrastructure; 3) increased educational opportunities; 4) improved health care and emergency services; and 5) upgraded police and fire protection. These services and benefits are presented in Chapter 3 of this report.

Tribes usually self-finance or borrow money to build their facilities; however, the Santa Inez Band of Chumash Indians recently financed its expansion and hotel construction with \$150 million in bonds sold to mutual fund and insurance fund managers. According to a recent article¹ by Mark Van De Kamp, a News-Press staff writer, it is the first time in California that a bank has underwritten a bond sale for an Indian casino project. In an October 2002 report, Merrill Lynch & Co. stated it expected more “Native American operators to pursue both taxable and tax-exempt financing in the institutional markets to finance growth.”²

Gaming has also provided opportunities for charitable giving. For instance, Sycuan and Viejas contributed over \$7 million in the year 2000 to local and regional charitable and civic organizations, and sponsorships of local sporting events. It is anticipated that new gaming Tribes will also donate generously to their community once capitalization costs are recovered. And the two Tribes who do not yet have a casino, have already committed to donate a portion of their future revenues to charitable and community organizations.

Gaming also benefits non-gaming Tribes in California: Each non-gaming Tribe (i.e. tribes with less than 350 or zero gaming devices) benefits from the success of gaming Tribes via revenue sharing amounting to up to \$1.1 million annually. The first quarterly payments to non-gaming tribes were made in August 2001. A complete listing of the payments can be found in Section 6.1.2 of the report. According to the National Indian Gaming Commission, California gaming tribes are the only Tribes in the nation whose gaming operations help the non-gaming Tribes. Additionally, the three oldest gaming Tribes allocate federal funds they are entitled to for non-gaming Tribes and/or to fund regional Indian programs.

Only the future will tell whether gaming Tribes in San Diego County can continue to compete successfully with each other. Mr. Montie Deer, former Chairman of the National Indian Gaming Commission, was quoted as saying at a 2002 conference at Haskell Law School (Kansas), that:

“Native Americans need to economically diversify so they don’t get left holding the bag when casino revenues drop. And they will drop as cash starved states can be expected to turn to gambling for easy revenues. Meanwhile, Tribes are increasingly competing with one another. There will be losers in markets such as San Diego.”

Many states are in fact looking to gaming revenues to fix budget deficits. A discussion of California’s Governor Davis’ proposal to obtain \$1.5 billion in revenue sharing from gaming Tribes can be found in Section 6.2.4 of this report.

Local and other gaming Tribes in the state and the nation are using gaming revenues to diversify their business enterprises, first in gaming-related businesses, such as hotels, golf courses and

¹ News-Press, “Funding behind Chumash Casino detailed,” July 24, 2002

² The Bond Buyer, “Calif. Development Agency may help finance Indian Resorts,” November 14, 2002

event centers; then in non-gaming related businesses, such as outlet centers, real estate, car dealerships and banks. Additionally, some Tribes are lending expertise and cash to other Tribes. According to a recent article by Sacramento Bee Staff Writer, Steve Wiegand³, the Viejas Band, for instance, uses its controlling interest in the Borrego Springs Bank to help non-gaming Tribes invest money they receive from the Revenue Sharing Fund, or use that money as collateral for development loans; and the San Manuel Band is working with a Tribe near Lake Havasu to build a resort.

The economic and fiscal impacts of Tribal gaming on the region and the State are discussed in Chapter 6 of this report.

2.4.1 Indian Gaming Regulatory Act

The Indian Gaming Regulatory Act (IGRA), enacted in 1988, provides the statutory basis for the operation and regulation of gaming by Indian tribes. Gaming was recognized as a means of promoting Tribal economic development, self-sufficiency and strong Tribal governments. The IGRA defines three types of gaming: Class I gaming as traditional (social and ceremonial) Tribal gaming; Class II gaming as bingo, pull-tabs and related games; and Class III gaming as all forms of gaming that are not Class I or Class II gaming. Class III gaming includes banking card games, electronic games of chance or slot machines, and pari-mutuel betting.

To address states' concerns, IGRA requires that for Class III gaming to be conducted, there must be a Tribal-State compact (Compact) governing the conduct of gaming activities. The IGRA also contains restrictions for gaming to be conducted on trust lands acquired after October 17, 1988.

2.4.2 Gaming Establishments in California and San Diego County

There were 39 small Indian casinos in California prior to September 10, 1999, when most of the Compacts were signed; today, there are 51, and several more under construction or in the planning stages. To date, 64 of the approximately 110 Tribes in California have signed Tribal-State Compacts, and 50 of these Tribes currently operate casinos. One Tribe, the Coyote Valley Band of Pomo Indians, whose Reservation is located near Redwood Valley in Mendocino County, operates a casino without a Compact. Another Tribe, the Agua Caliente Band of Cahuilla Indians in Palm Springs, is the only California Tribe to operate two casinos.

Since the Compacts were signed, 10 new casinos have opened in California, five of which are located in San Diego County. The other five casinos are as follows: 1) Agua Caliente Casino – opened by the Agua Caliente Band of Cahuilla Indians, Riverside County, in April 2001 (the Band's second casino); 2) Black Oak Casino – opened by the Tuolumne Band of Me-Wuk Indians, Tuolumne County, on May 15, 2002; 3) Augustine Casino – opened by the Augustine Band of Mission Indians, Riverside County, on July 18, 2002; 4) Rolling Hills Casino – opened by the Paskenta Band of Nomlaki Indians, Tehama County, on July 30, 2002; and 5) River Rock Casino – opened by the Dry Creek Band of Pomo Indians, Sonoma County, on September 15, 2002.

³ The Sacramento Bee, "Tribes branch out beyond casinos," March 4, 2003

Several casinos in other parts of the state are currently under construction or in the planning stage; and others have been significantly expanded or remodeled. One of these projects impacts San Diego County: just to the north of the San Diego County line, in Riverside County, the Pechanga Band of Luiseño Indians recently opened the largest Indian gambling complex in the state. Pechanga Resort & Casino boasts a new 522-room, 14-story hotel, a 95,000 square foot casino, 41,000 square feet of convention and meeting space, a 1,200-seat concert venue and seven restaurants. The Pechanga complex takes access from Pala Road, with most of the traffic coming from SR 79. However, Pala Road is an extension of Pala Temecula Road, which terminates to the south at Pala Village, on the Pala Reservation; and is the second most popular route between western Riverside County and San Diego County.

With 18 Reservations, eight casinos and a 30-slot arcade, San Diego County is currently the County in California with the greatest number of Reservations and greatest number of Indian gaming facilities. Additionally, two of the Tribes in the County (Cuyapaipe and Jamul) are currently actively pursuing opening a casino; two of the existing casinos (Barona and Rincon) recently opened permanent facilities with accompanying resort facilities; and one (Pala) is planning to open a new hotel this summer.

2.4.3 Regulation of Gaming Operations

2.4.3.1 Federal Government

The Indian Gaming Regulatory Act (IGRA), enacted in 1988, provides the statutory basis for the operation and regulation of gaming by Indian tribes, including the establishment of independent Federal regulatory authority and Federal standards for Class II and Class III gaming by Indian tribes; and the establishment of a National Indian Gaming Commission (NIGC), for the purpose of meeting congressional and state concerns, shielding Tribes from organized crime, ensuring that gaming primarily benefits the tribes, and assuring that gaming is conducted fairly and honestly. Class II gaming is regulated by Tribes and the NIGC; Class III gaming is regulated by Tribes and States through compacts, and the NIGC, as shown below.

The federal government regulates tribal gaming on several levels, with the primary federal regulator being the NIGC. Section 2701, et seq. of IGRA contains the regulations related to the establishment of the NIGC; the responsibilities of the NIGC are contained in Title 25, Chapter III, Part 502 (25CFR502). In summary, the NIGC is responsible for: 1) monitoring Indian gaming operations; 2) approving all contracts for the management of gaming operations by non-Tribal parties (management contracts); 3) conducting background investigations on management company officials and principal investors; 4) approving all gaming related Tribal ordinances; 5) assisting with background investigations conducted by the Tribes of key gaming employees and management officials; 6) reviewing and conducting audits of the books, records and security procedures of gaming operations; and 7) initiating enforcement actions when necessary to ensure integrity of gaming operations. Gaming tribes fund the NIGC via fees on their gross revenues.

Under IGRA, a Tribe may enter into a management contract for the operation of a casino, provided the contract is approved by the Chairman of the NIGC. The Contracts Division of the NIGC is responsible for reviewing all gaming management contracts between Tribes and outside entities, to ensure that the contracts meet the provisions of IGRA; the managers are suitable; and Tribes are protected from lopsided splits of profits with their partners who supply them with needed capital. Since many of these contracts involve construction and development, the contract approval process also requires compliance with NEPA. These contracts usually involve

fees based upon a percentage of the net revenues of a casino. The IGRA provides that outside management companies may charge up to 30 percent of net casino revenues, although the percentage may be allowed to exceed 30 percent but not 40 percent; and the contract term may not exceed five years, although in certain circumstances, the term may exceed five years but not seven years.

The County of San Diego has had the opportunity to interact with the NIGC by reviewing and commenting on environmental documents, which accompanied a Tribe's request for approval of a management contract. Specifically, the County commented on the Environmental Assessments prepared for the Pala permanent casino, the Rincon permanent casino and the San Pasqual interim and permanent casinos. On March 21, 2001, the County also sent a formal request to the NIGC asking for approval of final environmental documents to be conditioned upon the successful negotiation of agreements between Tribes and the County to ensure that off-Reservation impacts to County roads were adequately mitigated. This request, although not formally acknowledged by officials of NIGC, appears to have made a difference, as the County was in fact able to negotiate agreements with Rincon and San Pasqual Bands.

The NIGC is currently hampered by inadequate resources to fulfill all its responsibilities. On July 25, 2001, in testimony to the Senate Committee on Indian Affairs' Oversight Hearing on IGRA, NIGC's then Chairman Montie Deer made the following statement: "With the rapid growth in the industry, and the explosion of work coming out of California, we are simply not keeping up. For example, with my current force of auditors, it will take between 20 and 30 years to conduct an audit of the internal controls of every Indian casino." Sycuan Casino was the first California Indian casino to benefit from an extensive audit of its compliance with NIGC's minimum internal standards. These standards apply to cash-handling, surveillance and record-keeping practices. The NIGC is asking Congress to increase its budget so it can keep up with the growth in Indian gaming; and is planning to open an additional office in California.

Tribal casinos also fall under U.S. Department of Treasury Title 31 regulations governing financial transactions to prohibit money laundering; and are subject to U.S. Justice Department and FBI investigations when it appears violations of federal law are incurred. Tribal gaming facilities are also subject to health and safety regulations of the federal Occupational Safety and Health Administration and the Environmental Protection Agency. Finally, Tribal gaming proceeds are also subject to oversight by the Bureau of Indian Affairs.

2.4.3.2 State Government

Since IGRA was enacted in 1988, States regulate Class III Tribal gaming at a level negotiated through the Tribal-State Compacts. In California, most of the Compacts were signed in September 1999; they provide that two State entities, the Gambling Control Commission and the Division of Gambling Control, have distinct powers and responsibilities for regulating Tribal gaming in the state.

2.4.3.2.1 Tribal-State Compact

All Tribal-State Compacts entered into between California Tribes and Governor Davis have the same provisions. A boilerplate Compact can be found on the California Gambling Control Commission's Web site at: <http://www.cgcc.ca.gov/tsc.doc>. Highlights of the major provisions are shown below.

- Scope of Class III gaming, including an option for off-track betting (pari-mutuel);
- Maximum number of slot machines per Tribe is 2,000;
- Maximum number of casinos is two per Reservation;
- Graduated fees paid to State after first two years of Compact to be allocated by Legislature for: a) programs for gambling addiction; b) support of impacted state and local government agencies; and c) compensation for state regulatory costs;
- Revenue sharing with non-gaming Tribes up to \$1 million annually per non-gaming Tribe;
- Regulatory oversight of gaming operations by State gaming agency;
- Separate agreement concerning labor, which allows for union representation for employees;
- Tribe must adopt and comply with standards no less stringent than state public health standards for food and beverage handling; standards no less stringent than federal water quality and state safe drinking water standards; and standards of either the building and safety codes of County or the Uniform Building Codes, such compliance to be determined by the Tribal Gaming Agency;
- Prior to commencement of a project, Tribe must determine significant adverse impacts on off-Reservation environment; submit environmental documents for review by state and local governments and public; consult with local government; and meet with public in vicinity of Reservation to obtain comments; and
- During project construction, Tribe must keep local government and public apprised of project's progress; and make good faith efforts to mitigate off-reservation significant impacts.
- Compacts are valid until 2020.

2.4.3.2.2 California Gambling Control Commission

The California Gambling Control Commission (Commission) was established as a stand-alone entity in State government, whose members were appointed by the Governor. The Commission, under the Gambling Control Act, and pursuant to the Governor's Executive Order D-29-01, has jurisdiction over operation, concentration and supervision of gambling establishments. The Commission, which was appointed by the Governor, acts as the policy and regulatory body over all gambling establishments in the State. In addition, the Commission, pursuant to the Governor's Executive Order D-31-01, under the Tribal-State Compacts is ordered to: 1) administer the gaming device license draw process; 2) control, collect and account for all license fees; and 3) ensure that the allocation of gaming devices among California Indian Tribes does not exceed the allowable number provided in the Compacts. Included within this responsibility is serving as the Trustee for the Revenue Sharing Trust Fund, and Administrator of the Special Distribution Fund.

The Commission is currently addressing some of provisions of the Compacts that are subject to interpretation. One of these provisions concerns the total number of slot machines available statewide. On June 19, 2002, the Commission determined the statewide cap on Indian casino slot machines to be 51,000, which amounts to 2,753 more machines being available for licensing. Some Tribes oppose the authority of the Commission on slot distribution. Another critical issue the Commission is currently addressing relates to the amount of money each affected Tribe owes

the Special Distribution Fund, and when those payments are due. For more discussion of this issue, see Section 6.3 of the Report.

2.4.3.2.3 California Division of Gambling Control

The State is ultimately responsible for ensuring compliance with all aspects of the Compact. The Division of Gambling Control within the California Department of Justice is the investigative and enforcement/compliance arm of the State Gaming Agency, with responsibility of oversight of the Tribes' regulatory processes. The Division was established as a function of the Department of Justice, which is headed by the Attorney General.

The Division's responsibilities fall into two general categories: licensing and compliance and enforcement. Its licensing staff conducts in-depth background investigations on key employees. The Division's finding of suitability is binding on the Tribes. The Division also has the authority to investigate vendors and those who provide financing to the Tribes for gaming purposes, either directly or indirectly. The Compliance and Enforcement staff is responsible for monitoring the conduct of casinos to ensure that they are operating in compliance with the law. Agents and investigative auditors inspect gambling premises, examine gambling equipment; audit papers, books and records. The Division is also responsible for ensuring all new slot machines meet established technical standards.

2.4.3.3 Tribal Government

Tribes have the primary responsibility for on-site regulation of their gaming operations, with the State of California providing oversight. They do so through tribal gaming commissions, compliance officers, tribal law enforcement officers and/or tribal courts, and extensive surveillance systems. Tribal gaming commissions employ attorneys, auditors, law enforcement personnel and experienced regulators. Nationwide, research conducted by the National Indian Gaming Association (NIGA) reports that tribal governments spend \$212 million annually to regulate gaming operations. This compares with \$155 million states spend for regulatory activities covering commercial casinos and riverboat gaming. The NIGA research also reports that tribal gaming operations employ 2,750 regulatory employees, as compared to 981 regulators for riverboat gaming; 720 for Atlantic City; and 432 for Nevada gaming operations.

2.4.4 Regulation of Uses of Gaming Revenues

Section 11 of IGRA stipulates that net revenues from any tribal gaming are not to be used for purposes other than as shown below:

- To fund tribal government operations or programs;
- To provide for the general welfare of the Indian tribe and its members;
- To promote tribal economic development;
- To donate to charitable organizations; or
- To help fund operations of local government agencies.

Section 11 of IGRA also allows a portion of net revenues to be used to make per capita payments to tribal members. Distribution of net revenues from gaming must be conducted pursuant to a Tribal Revenue Allocation Plan, which must be approved by the Secretary of Interior. To date, four Bands – Barona, Pala Rincon and Viejas – make per capita payments to their members.

Additionally, as mentioned in Section 2.5.3.1 of the report, Tribes with management contracts, such as Rincon, may be responsible for paying up to 30 or 40 percent of net gaming revenues to an outside management company.

2.4.5 Tribal-State Compact

Twelve of the County Tribes have a Compact with the State. These 12 Tribes are: Barona, Campo, Cuyapaipe (Ewiiapaayp), Jamul, La Jolla, Manzanita Pala, Pauma, Rincon, San Pasqual, Sycuan and Viejas. Of these 12 Tribes, three - Barona, Sycuan and Viejas - already had casinos before they signed the Tribal-State Compact. Expansion of operations at these three casinos since the Compacts were signed, have consisted of complete Class III gaming operations, new restaurants and entertainment venues.

Since the release of the November 2000 Report, five new casinos, each with Class III gaming, have opened on the following Reservations: Campo, Pala, Pauma, Rincon and San Pasqual. Additionally, a 30-slot arcade was opened on the La Jolla Reservation; Rincon's permanent facility, Harrah's Rincon Casino and Resort, opened on August 8, 2002; Barona opened its permanent casino and new hotel in December 2002; and Pala begun construction of its new hotel. A discussion of each of these facilities is provided in Chapter 3 of this report.

The Cuyapaipe (Ewiiapaayp) and Jamul Indian Village Bands are currently actively pursuing developing Class III gaming facilities. The La Jolla Band hopes that their arcade is the beginning of a project that could include a larger gaming facility, hotel and golf course. The Manzanita Band is considering building a small casino, less than 350 slot machines, as part of developing outdoor recreation facilities.

Two Tribes, La Posta and Santa Ysabel, have requested to enter into negotiations with the State for the purpose of entering into a Tribal-State Compact. To date, no progress on these two requests has been made, although it is anticipated that during the upcoming Compact renegotiations, both Tribes may be able to successfully negotiate a compact with the Governor.

Chapter 3

Indian Reservations and Tribal Governments of San Diego County

Maps showing the location of the 18 Reservations in San Diego County can be found in *Appendix A-1*. Aerial photographs of Reservations with gaming or other developments can be found in *Appendices B-1* and *B-2*. Except for the photos of Barona, these photographs were taken by County staff on June 13, 2001 and March 14, 2002 thanks to the courtesy of the Sheriff's Division of Aerial Support To Regional Enforcement Agencies (ASTREA). *Appendix B-3* contains photos of Barona and Rincon's new permanent gaming facilities and hotels.

3.1 Barona Band of Mission Indians

The Barona Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Barona Indian Reservation. The Barona Band of Kumeyaay Indians is one of the 12 Kumeyaay Bands in San Diego County.

3.1.1 Tribal History

- The Lipay-Tipay, a branch of the Kumeyaay, are the ancestors of the Barona Band of Mission Indians.
- The Barona Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13299) as "Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California." Barona identifies itself as "Barona Band of Mission Indians."
- The Barona Band continues to share a joint-trust patent with the Viejas Band for the 15,000 remaining acres of the Capitan Grande Reservation.

3.1.2 Reservation

- An Executive Order of 1875 established the Capitan Grande Reservation, and several Bands, including the Barona Band's ancestors, were forced to move to that Reservation.
- In early 1930's, City of San Diego bought the heart of the Capitan Grande Reservation as a site to build El Capitan Reservoir and the San Diego River Dam, forcing the Kumeyaay Indians who lived there to move.
- The Barona Reservation was established by the Act of Congress of 1932, 47 Stat. 146, which provided that the members of the Capitan Grande Band were authorized to use the proceeds of the condemnation to reestablish themselves, individually or as groups, on substitute reservation lands to be purchased with those proceeds. Some members pooled their shares of the proceeds of the condemnation to purchase the Barona Ranch, which is today the Barona Reservation, and moved to its current location in 1932; another group of members pooled their shares to buy what is now the Viejas Reservation; and 12 members purchased individual properties in San Diego and the county.
- The Barona Reservation consists of approximately 6,385 acres in the foothills of San Diego County, midway between the communities of Lakeside and Ramona; it encompasses the Barona Valley and the surrounding hillsides. Padre Barona Creek runs through the Reservation, exiting at the southwestern boundary and eventually emptying

into San Vicente Reservoir, which is owned by City of San Diego. (See map in Appendix A-1)

- Access to the Reservation is via Wildcat Canyon Road, a County-maintained two-lane winding road, which connects the Communities of Lakeside and Ramona.
- Non-commercial uses on the Reservation include the following: Approximately 125 residences in several neighborhoods; Barona Mission with cemetery, priest's house, Sunday School and Tot Lot playground; fire station; community garden; community center; recreational facilities; museum; fire station; tribal security and tribal offices.
- Existing tribal commercial uses on the Reservation include: A permanent casino, hotel, wedding chapel, event center, parking structure, golf course, gas station and convenience store.
- Tribal commercial uses scheduled for December 2002 opening: permanent casino and hotel.
- Non-Tribal commercial uses on the Reservation: Barona Speedway, a ¼ mile clay oval race track, and a track operated by the California Mini Motorcycles Association.

3.1.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- On December 27, 2000, Congress enacted the California Indian Land Transfer Act of 2000, which added 5.03 acres of formally public domain land to the Reservation, for non-gaming purposes.
- The Band also owns in fee certain parcels that are the subject of an application to the BIA requesting that the United States take title to, in trust status for the Band, as shown in *Appendices D-1 and D-2*.
 - 5 parcels totaling 585 acres to be used as a buffer zone from development, Tribal housing and resource protection.
- The County has been notified that the following parcels have been conveyed to the U.S. Government in trust for the Band:
 - 7 parcels totaling 385.15 acres to be used for future home sites for Tribal Members.

3.1.3 Population

- Enrollment: 453 (including children).
- Approximately 500 persons live on Reservation, including approximately 350 Tribal Members.

3.1.4 Tribal Government

- Band is governed by General Council, which is comprised of approximately 240 voting members. The General Council elects the Tribal Council; meets monthly; gives direction to the Tribal Council; and can veto any decision of the Tribal Council.
- The Tribal Council is composed of seven elected tribal officials with staggered four-year terms; it meets weekly and sets policy for the Band. It also determines tribal membership

based on direct descent from the families forced from Capitan Grande who pooled their shares of dam site purchase money to buy Barona Reservation

- The Tribal Council adopted a Tribal Environmental Policy Ordinance on 2/29/00.

3.1.4.1 Gaming Regulation

- The Barona Gaming Commission regulates casino activities. It is comprised of appointed tribal members who cannot be employed by the Tribe or the casino in any other aspect, and one attorney appointed by the tribe.

3.1.5 Services and Benefits Provided by Tribal Government

- Water and sanitation
- Fire protection and emergency services
- Security services
- Recreation
- Education (K-12 schooling and college scholarships)
- Library
- Road maintenance and construction
- Maintenance of wells
- Limited home maintenance for seniors
- Employment opportunities
- Health benefits
- Per capita distribution of gaming revenue

3.1.6 Economic Enterprises

3.1.6.1 Gaming

- In 1983, the Band established the first tribal bingo hall in California; and in 1994, Band completed a major “Big Top” expansion.
- Band Signed Tribal-State Compact on September 10, 1999; Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- The Barona Gaming Commission is composed of five members who are appointed by the Tribe.
- The temporary casino, which has now been closed, employed 2,200 people; operated 2,000 gaming machines; and drew 6,000 – 7,000 patrons daily. No alcohol was served in the casino.

- On 7/19/01, the Band announced that it had secured a \$200 million loan to build the Barona Valley Ranch & Casino; Bank of America and Wells Fargo & Co. are the underwriters.
- Barona Valley Ranch Resort & Casino, which was completed in December 2002, covers 283 acres adjacent to the interim 38-acre gaming facility. Project cost, including Barona Creek Golf Club, a championship golf course, was \$260 million. Barona Valley Ranch Resort & Casino consists of: casino (300,000 square feet, two stories, including a 20,000 sq. ft conference/events center and eight different eating establishments); hotel (eight-story with 397 rooms, pool and two tennis courts); “smart” parking garage (five-story 2,270-spaces); Golf Events Center; and wedding chapel. Employment at the new complex is anticipated to reach 3,000.
- In September 2002, Barona Band applied for a liquor license with the California Department of Alcohol Beverage Control (ABC) for the hotel, restaurants, golf course and Event Center. The review of the application and protests filed against it, is still underway.
- Interim casino and related structures may be converted to office space and a daycare center for employees.

3.1.6.2 Other Businesses

- Band opened a \$600,000 gas station with a convenience store.
- The Barona Creek Golf Course, a \$12 million 18-hole tournament level golf course, opened January 13, 2001 weekend.

3.1.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.1.7.1 Education

- Band provides college scholarships up to \$15,000/year for tribal members who want to attend college; however, the Education Committee approves scholarships for greater amounts, if needed.
- The Barona School was expanded to a K-12 Charter School, with tutoring/computer center, library, Head Start program.
- In 2000, opened of the Barona Cultural Center and Museum, with nearly 700 Native American artifacts.
- Barona Museum has teamed up with Barona Indian Charter School to present programs on language, ancient and modern Indian culture and Indian history to the School.

3.1.7.2 Infrastructure

- Spends \$400,000/year on an emergency services department that includes a fire station and paramedic services.
- Installed a 850,000 gallon water storage tank and added fire hydrants throughout the Reservation, which made it possible for homes to qualify for fire insurance.

- Invested \$3.3 million for a new wastewater treatment plant with capacity of 750,000 gallons per day.
- Spent nearly \$2.5 million on road construction and maintenance.

3.1.7.3 Services to Tribal Members

- Provides 100% medical, dental and vision insurance coverage for all tribal members and their non-tribal spouses and dependents.
- Supervises and manages funding and construction of new homes for members.
- Established a Senior Home Improvement Program that funds the rehabilitation of seniors' homes to acceptable levels.
- Renovated the Community Center; built a gymnasium and ball fields.
- Instituted per capita sharing of gaming revenue.

3.1.8 State and Regional Economic Impacts

- Eliminated unemployment and welfare dependency on the Reservation.
- Contributed to reduction in unemployment and welfare dependency among the 2000+ non-Indians employed at the Casino.
- Band hired approximately 600 additional employees to work at the new hotel, nearly all are non-tribal members or Native Americans.
- Has invested over \$297 million for prior expansion of interim casino, golf course, parking structure, gas station, permanent casino and hotel.
- Estimates \$60 million payroll in 2001; was \$57 million in 1999.
- Estimates expenditures of \$125 million on goods and services in 2001; spent \$53.9 million in 1999.
- Contracts with 2,624 vendors/contractors, nearly all from San Diego County.
- For 1997-2001, Barona Band's total charitable contributions, separate from those of the Barona Casino, were \$1,000,642.48. The Barona Band's total charitable contributions through the Barona Casino for 1994-2001 were \$4,605,188.89, including sponsorships.

3.1.9 Community Relations

The Tribe maintains good relations on a largely informal basis with many agencies of the state and county government, as well as civic organizations, as shown below:

- Although the Tribe is not required to obey orders from state courts concerning withholding back child support or spousal support payments from its 2,200+ employees, the Tribe has voluntarily established a procedure whereby holders of those state court judgments can apply to have their state court judgments converted into Tribal judgments, which the Tribe enforces.
- The Tribe has contracted for increased levels of service with the California Highway Patrol, both for the Reservation and Wildcat Canyon Road.

- The Tribe intermittently hosts community events, such as the annual picnic and fundraiser of Mothers Against Drunk Drivers (MADD).
- On each Labor Day weekend, the Tribe sponsors an annual pow-wow, which is attended by hundreds of non-Indians.
- The Tribe, along with United Parcel Service, provided the bulk of the funds for the purchase of a suitable building for a community-based boxing and athletic club, with educational services, serving a largely Hispanic population in Chula Vista.
- The Barona Fire Department is often the first responder to local fires, both on and off the Reservation, under mutual aid agreements with other local fire agencies.
- Through Barona Medical Services, the Tribe provides emergency medical services and transportation, not only on the Reservation, but also from a base in El Cajon.
- The Tribe is a frequent and major donor to many charitable and civic organizations, from the St. Vincent de Paul Village and the San Diego Aztecs to local soccer organizations and a new cardiac care wing at Scripps Hospital.
- In response to complaints from neighbors about noise from the motocross track, the Tribe instituted changes in hours and operations so that current noise levels do not exceed the standards of San Diego County, even though those standards do not apply on the Reservation.
- Due to unusually severe fire danger in the Summer of 2002, the Tribe voluntarily decided to cancel its annual Fourth of July fireworks display.
- Band entered into a partnership with Grossmont Community College, Cross-Cultural Studies Program, whereby beginning Spring semester of 2003, the Barona Museum will be an off-campus site for college credit. The first class to be offered at the Museum will be on the history and culture of California Indians.

3.1.10 Issues and Challenges

The Barona Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Barona Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the Tribal Members who not only elect their government, but also vote on issues related to the land.

- Barona Tribal Council is attempting to build on its existing good relations with local governments and community organizations to forge alliances based on common interests regarding law enforcement, community services, community facilities, environmental protection, etc., in ways that recognize the sovereignty of the Tribe.
 - Regarding environmental protection, the Tribe has been awarded a General Assistance Program grant by the EPA for FY 2003. With the grant, the Tribe intends to inventory the environmental needs of the Reservation; and seek other funding, as well as using its own funds, to maintain and improve water quality, air quality, solid waste disposal, and other environmental matters. To the extent appropriate, the Tribe is interested in working voluntarily with other local

government agencies on subjects such as watershed management (Regional Water Quality Control Board); adoption of a tribal habitat conservation plan that is consistent with that of San Diego County; and funding a fair share of road improvements for roads leading immediately to the Reservation(San Diego County).

- A further challenge is expanding and diversifying the Reservation economy. Gaming is a means to an end - not an end in itself. The end is economic self-sufficiency. The Barona Band is investigating other economic ventures that will stand on their own but will also complement the existing businesses, such as the casino and hotel.
- Another challenge is improving opportunities and services for Tribal Members as the Tribal population is expanding. Housing needs must be met, together with services to support such housing. In the future, a sewage collection system may replace the existing septic tanks for homes; roads and increased fire and other services are also needed. Cultural and related services are in demand to preserve heritage as well as increased health and educational opportunities. Finally, seniors have increasing and special needs that the Tribal Government seeks to meet.

3.2 Campo Band of Kumeyaay Indians⁴

The Campo Band of Kumeyaay Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Campo Indian Reservation. The Campo Band of Kumeyaay Indians is one of the 12 Kumeyaay Bands in San Diego County.

3.2.1 Tribal History

The Campo Band of Kumeyaay Indians is a federally recognized Indian tribe listed in the Federal Register (Vol. 65, No. 49, pg. 13299) as “Campo Band of Diegueño Mission Indians of the Campo Indian Reservation, California.” Band identifies itself as “Campo Band of Kumeyaay Indians.”

3.2.2 Reservation

- Reservation was established on February 10, 1893, under the authority of the Act of January 12, 1891; it was approximately one square mile. This portion of the Reservation is now known as “Old Campo.” Eighty (80) acres were added on February 2, 1907 and 13,610 acres were added on December 14, 1911.
- Approximately 15,480-acres in size, the Campo Reservation consists of two separate portions of land located off Interstate 8 and State Route 94. The first is a small portion of land (approximately one square mile) located off State Route 94, while the second portion (approximately 23 square miles) is located approximately 2 miles east of the smaller section. The La Posta and Manzanita Reservations abut the Campo Reservation to the North. (*See Appendix A*)

⁴ The information in this section was not provided by the Tribe, but was gleaned from other sources.

- Governmental and non-commercial tribal land uses on the Reservation: Tribal offices, including Tribal EPA, 131 residences church, cemetery, fire station, health clinic, Education Center, including Continuation School, Head Start, child care, construction office, Community Center, and an office of the Tribal Temporary Assistance for Needy Families (TANF).
- Commercial uses on the Reservation: A permanent casino, Travel and Truck Center, and cement/sand & gravel plant.

3.2.3 Population

- Enrollment: 203 Tribal Members.
- Approximately 120 persons live on the Reservation.

3.2.4 Tribal Government

- The Campo Reservation is governed under authority of the Campo Constitution passed by the Tribal community on July 13, 1975.
- The Campo Band's democratic government consists of two levels: General Council and Executive Committee.
- The General Council, which consists of all of the Band's 200 adult voting members (18 & older), elects the Executive Committee. The last election was held on April 22, 2000.
- The Executive Committee is composed of seven members elected to four-year terms. The Committee executes policies and resolutions passed by the General Council. Some powers of the General Council have been delegated by resolution to the Committee; however, all matters involving the leasing or selling of tribal assets must go to the General Council for approval.
- The General Council also formed three tribal governmental entities: Muht-Hei, Inc. (MHI), a tribally chartered corporation, to act as the economic arm of the Tribe; Tribal Housing Authority to work with the U.S. Department of Housing and Urban Development (HUD) to purchase the HUD-built homes and to address housing needs on the Reservation; and the Campo Environmental Protection Agency (CEPA) to regulate environmental quality on the Reservation, and develop environmental management programs.

3.2.5 Services and Benefits Provided by Tribal Government

- Fire protection
- Emergency medical services
- Sanitation services
- Water distribution and storage
- Medical and dental services
- Education-support services

3.2.6 Economic Enterprises

Historically, the Campo Band generated income primarily from leasing pastureland to non-tribal ranchers. Between 1988 and mid-1991, the Band also earned income by leasing land for a sand mining operation to a non-tribal company.

3.2.6.1 Gaming

- Signed Tribal-State Compact on September 10, 1999. The Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- The Golden Acorn Casino opened on August 15, 2001. The Casino is approximately 60,000 square foot in size, including approximately 25,000-square feet of gaming space, 750 slot machines, and food service seating for 250. Since September 20, 2001, the Casino offers full beverage service.

3.2.6.2 Other Businesses

- The Campo Truck and Travel Center opened on October 12, 2001. The Center includes 1) a truck stop with diesel gasoline pumps, parking berths for 96 tractor-trailers, a lounge with phones and computer hook-ups, and shower and laundry facilities; 2) a gas station; and 3) a convenience store.
- Band plans to open a 100-room, 55,000 square foot hotel adjacent to the Casino by 2004. Hotel facility would include banquet/meeting rooms.
- Muht-Hei Solid Waste Management Facility: Band leased the landfill site to Muht-Hei, which entered into an agreement with Campo Resource Recovery LLC to develop a Class III landfill on 400 of the 600-acre. .
- Campo Materials Company: In mid-1991, the Band assumed ownership and management of the sand mining operation, which may be reactivated once new equipment is installed. This enterprise employs six people; it is a commercial venture, which also serves the needs of the Band. The Campo Materials Corporation produces roughly 10,000 tons per month of feldspar sand.

3.2.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.2.7.1 Education

- Recently, the Band built the Campo Education Center, which offers K-12 tutoring, and education and training services for all Members; it also houses a library.
- The Campo educational program provides transportation, tuition and books to Members who wish to further their education.
- The Band operates a Head Start Program for preschoolers, which is attended by children of the Campo Band as well as children from the La Posta Band.
- A Continuation School is also located on the Reservation.

3.2.7.2 Infrastructure

- Community Center, including basketball court and ball field.
- Under construction in the lower Diabold Creek drainage is a groundwater-fed lake, which after completion can be used for swimming and fishing.
- In 1976, the Campo Band adopted an Overall Economic Development Plan as a framework for long term planning; and in 1978, the Band adopted its first land use plan. The land use plan includes six land use categories on the Reservation: Wilderness, Residential/Grazing/Agriculture, Civic, Tribal Enterprise, Commercial and Industrial.
- Two new water tanks (up to 300,000 gallon total capacity) for fire fighting.

3.2.7.3 Services to Tribal Members

- Employment at Casino for approximately 50 tribal members.
- Health services provided at the satellite clinic of the Southern Indian Health Council.

3.2.8 State and Regional Economic Impacts

- Number of jobs created in 2001: 505 at Casino. Many employees come from Imperial County.
- Investment in Casino and Truck and Travel Center: \$30 million
- Estimated payroll at Casino: \$13 million
- No information is available on number of employees at Truck and Travel Center, goods and services purchased, or number of vendors.

3.2.9 Community Relations

Band is assisting State Department of Parks and Recreation in establishing the Camp Lockett State Historic Park in Campo.

3.2.10 Issues and Challenges

The Campo Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Campo Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the Tribal Members who not only elect their government, but also vote on issues related to the land. The Campo Tribal Government has many priorities, which include the following:

- Provide approximately 60 housing units
- Foster economic development
- Improve health care
- Provide additional educational opportunities
- Develop recreational services
- Update the Emergency Response and Preparedness Plan currently in place
- Restore most of the Reservation to its pre-European state

3.3 Capitan Grande Band of Mission Indians

The Capitan Grande Band of Mission Indians is a federally recognized Indian Tribe, consisting of the Barona and Viejas Groups, who are the successors-in-interest exercising sovereign authority over the lands of the Capitan Grande Indian Reservation.

3.3.1 Tribal History

- The Band is a federally recognized Indian tribe listed in the Federal Register (Vol. 65, No. 49, pg. 13299) as “Capitan Grande Band of Diegueño Mission Indians of California: Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California “ and “Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.”
- Until 1932, members of the Capitan Grande Band resided in two settlements (El Capitan Village and Los Conejos Village) on the Capitan Grande reservation, which was established by Presidential Executive Order in 1875.
- In the 1930’s, City of San Diego acquired the heart of the Reservation to build a reservoir. Proceeds from this forced sale were held in trust by the federal government, and tribal members were allowed to determine whether they wanted to continue living as part of a group or individually. Most members of the El Capitan Village elected to pool their share of the proceeds to purchase the Barona Ranch, which ultimately became the Barona Reservation. Similarly, most members of the Los Conejos Village chose to pool their share of the proceeds to purchase the Baron Long Ranch in the Viejas Valley, which ultimately became the Viejas Reservation. These groups are now recognized by the United States as the Barona and Viejas (Baron Long) Groups of Capitan Grande Band of Mission Indians of the Barona and Viejas Reservations, California.
- Some members of the Capitan Grande Band chose to use their share of the proceeds from the sale to buy property in San Diego as individuals holding title in their own name. These individuals, who are not members of the Barona Band or the Viejas Band, and who are sometimes referred to as the Shahook Group, applied to the Department of Interior for recognition as a separate tribe in the 1990’s. The Department rejected their request.

3.3.2 Reservation

- The remaining Capitan Grande Reservation consists of 15,753.40 acres.
- The Barona and Viejas Groups have been deemed by the Department of Interior to be the successors-in-interest to the Capitan Grande Band for all purposes.

3.3.3 Population

- The Capitan Grande has no resident population.

3.3.4 Tribal Government

The Barona and Viejas Bands are the successors-in-interest for all purposes, and currently exercise joint authority over the Capitan Grande Reservation.

3.3.5 Services and Benefits Provided by Tribal Government

Services and benefits for Capitan Grande are provided through the Barona and Viejas Bands.

3.3.6 Economic Enterprises**3.3.6.1 Gaming**

Not Applicable

3.3.6.2 Other Businesses

Not Applicable

3.3.7 Tribal Projects Funded From Gaming and/or Other Revenues**3.3.7.1 Education**

Not Applicable

3.3.7.2 Infrastructure

Not Applicable

3.3.7.3 Services to Tribal Members

Not Applicable

3.3.8 State and Regional Economic Impacts

Not Applicable

3.3.9 Community Relations

Not Applicable

3.3.10 Issues and Challenges

Not Applicable

3.4 *Cuyapaipe Band of Mission Indians/ Ewiiapaayp Band of Kumeyaay Indians*

The Cuyapaipe Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Cuyapaipe Indian Reservation. The Band is one of the 12 Kumeyaay Bands in San Diego County.

3.4.1 Tribal History

- The Cuyapaipe Band is a federally recognized Indian tribe listed in the Federal Register (Vol. 65, No. 49, pg. 13299) as “The Cuyapaipe Community of Diegueño Mission Indians of the Cuyapaipe Reservation, California.” The BIA uses the name “Cuyapaipe Band of Mission Indians.” The Band identifies itself as “Ewiiapaayp Band of Kumeyaay Indians.”
- The Tribe has petitioned the BIA to change its name to “The Ewiiapaayp Band of Kumeyaay Indians;” however, this change can take years to effect. "Ewiiapaayp" is the Kumeyaay language word meaning "leaning rock." This rock is on a high ridge of the Cuyapaipe Reservation and served as the touchstone and site-marker in the

Kumeyaay's travels from the coast to the mountains and desert beyond. The inland Kumeyaay Bands were centered at the present-day Cuyapaipe Indian Reservation.

- The past tribal Chairman of the Band, Tony J. Pinto, and his sister Rosalie Pinto Robertson and brother Chris Pinto (both deceased), performed their duties as Kwaaypaay (captain or band chief), and ritual leaders, acting as intermediaries protecting them and their people from the external world. Their grandfather, Paayon, the last Kuchut kwataay (tribal chief) of the Kumeyaay, their father Jim McCarty Hilmep and their uncle Jose Hilmep, who were also Kwaaypaay, taught Chairman Pinto, and his brothers and sister, the religious and cultural traditions of the Kumeyaay, as well as the duties and responsibilities of leadership to protect and care for the people and to protect the Cuyapaipe Indian Reservation land and sacred places whenever possible.
- Past Chairman Tony Pinto and his 4 brothers (Albert, Alfred, Chris and Anthony) all served in the U.S. armed forces in WWII, and Tony was wounded in battle during the invasion of Italy. After the war, Tony and sister Rosalie and brother Chris, along with other traditional leaders in southern California participated in the Mission Indian Federation opposing policies of the Bureau of Indian Affairs, which the traditional leaders felt would damage their people. They participated in the Mission Indians Claims case, provided information to the Bureau of Land Management to protect sacred places and cemeteries from secular desecration, and actively encouraged younger Kumeyaay to train and participate in the religious ceremonial singing and leadership. They also brought the existence of the plight of the Paipai and Kumeyaay Indians of northern Baja Mexico to the attention of the Mexican government.

3.4.2 Reservation

The Cuyapaipe Indian Reservation is located in the Laguna Mountains. It was established on February 10, 1893 under authority of the Act of January 12, 1891, and Act of the U.S. Congress (26 Stat. 712 - 714 c.65). The Band is currently seeking to obtain formal Reservation status for approximately 10 acres held in trust in its name, which are located west of the Viejas Reservation, in the Community of Alpine.

3.4.2.1 Cuyapaipe Indian Reservation

- The Cuyapaipe Indian Reservation consists of 4,102 acres in the Laguna Mountains, roughly 12 miles north of Campo. *(See map in Appendix A-1)*
- Most of the Reservation (98%) consists of rocky ridges and steep hillsides between 5,000 and 6,500 feet. Access to the Reservation is via a 12-mile, narrow, steeply graded, winding and poorly maintained dirt road.
- There are eight home sites on the Reservation.
- There are no public utilities available on the Reservation, including no telephone service, no mobile telephone or radio service, no gas or electricity, and no treatment system for wastewater, solid waste, or drinking water.
- On December 27, 2000, Congress enacted the California Indian Land Transfer Act of 2000, which added 432 acres to the Reservation; all of these acres are on ridge tops or in steep slopes.

3.4.2.2 Proposed Little Cuyapaipe Reservation

- On December 11, 2001, the BIA issued a 30-day Notice of Proposed Action – Proclamation - stating that the Band has requested to receive a formal Reservation proclamation for an 8.6-acre parcel located at 4058 Willows Road in Alpine, which was established in trust on April 1, 1986, and a 1.42 -acre parcel located at 4054 Willows Road, which was accepted in trust on October 29, 1997. The parcels are located approximately 0.25 miles east of the West Willows Road exit, off of Interstate 8, in the Community of Alpine. *(See map in Appendix D-2)*
- The Ewiiapaayp Tribal Government office currently resides on the 1.42-acre parcel, and the remainder of the site is currently leased to the Southern Indian Health Council, Inc. (“SIHC, Inc.”), a state of California chartered non-profit corporation, created to meet the health care needs of seven of the Kumeyaay Bands.

3.4.2.3 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- The Band also owns in fee certain parcels that are the subject of applications to the BIA requesting that the United States take title to in trust status for the Band. The Band’s latest applications are summarized below, and are shown on a map and table in *Appendices D-1 and D-2*.
- On May 14, 2001, the Band applied to take an additional 18.10 acres (APN 404-080-24), which is known as the Walker property, into trust. The parcel is located south of Interstate 8, directly across from the existing trust lands. It takes access from Alpine Boulevard, approximately ½ mile east of the Willows Road Exit. This land, if and when it is established in trust for the Band, would be leased to the SIHC, Inc. and host their new health clinic upon relocation of the clinic from the current site.

The Regional Director of the Southern Agency Office of the BIA issued a “Finding of No Significant Impact” (FONSI), and on June 27, 2002, issued a “Notice of Decision” to have this property accepted trust by the federal government for the Band. The Viejas Tribe appealed both decisions. On July 22, 2002, Assistant Secretary Neal McCaleb withdrew the Regional Director’s decision in order to “thoroughly review the application before issuing a decision on behalf of the Department.” On July 25, 2002, the County filed an appeal of the Southern Agency Office’s environmental assessment and FONSI.

- On February 14, 2002, the BIA transmitted to the County a notice of application to place approximately 18.95 acres (APN 404-090-07), which is known as the Salerno parcel and is located on Alpine Boulevard, in Alpine, California. The site is approximately one-half of a mile from the Willows Road freeway exit from east bound Interstate 8, and east of the aforementioned 18.10-acre Walker parcel.
- On July 1, 2002, the Band filed applications to have the following properties accepted into trust by the Federal Government:
 - Approximately 1.72 acres (APN 404-060-39), located at 4160 Willows Road, in Alpine, California. The site is located approximately 0.4 miles from the Willows Road freeway exit from eastbound Interstate 8.

- Approximately 0.34 acres (APN 404-061-06), located at 4030 Willows Road, in Alpine, California. The site is located approximately one-third of a mile from the Willows Road freeway exit from east bound Interstate 8.
- Approximately 1.71 acres (APN 404-061-05), located at 4026 Willows Road, in Alpine, California. The site is located approximately one-third of a mile from the Willows Road freeway exit from east bound Interstate 8.
- Approximately 2.22 acres (APN 404-061-04), located at 4028 Willows Road, in Alpine, California. The site is located approximately one-third of a mile from the Willows Road freeway exit from east bound Interstate 8.
- Approximately 4.47 acres (APN 404-061-03), located at 4048 Willows Road, in Alpine, California. The site is located approximately one-third of a mile from the Willows Road freeway exit from east bound Interstate 8.

3.4.3 Population

The Band has eight enrolled members. The Band explains the reason for such a small enrollment, as follows:

“Due to the inaccessibility of the Cuyapaipe Reservation, the U.S. Government established an Indian school on the more accessible Campo Reservation. Cuyapaipe families with school age children were re-located from the Cuyapaipe Reservation to the Reservations of Campo, La Posta, Laguna (since terminated), and Manzanita, in order for Cuyapaipe children to attend school. Cuyapaipe families with children moved to these other Reservations; dis-enrollments in the Cuyapaipe Band followed; and the lack of utilities, roads, and any kind of employment opportunity, resulted in the Cuyapaipe Band’s enrollment consisting of only eight tribal members, today.”

3.4.4 Tribal Government

- The Ewiiapaayp Band’s tribal members govern themselves as a General Council, composed of all members under their Tribal constitution enacted in 1973. Tribal officials elected are Harlan Pinto Sr., Chairman, and Michael Garcia, Vice Chairman. Appointed officials are Vivian Silva, Tribal Secretary/ Treasurer, and William Micklin, Executive Director.
- The Ewiiapaayp Tribal Government is a self-governance tribe in accordance with Indian Self-Determination and Education Assistance Act, P.L. 93-638, as amended. (25 U.S.C. § 450 *et seq.*)

3.4.5 Services and Benefits Provided by Tribal Government

- Bureau of Indian Affairs programs administered by the Tribe under self-governance.
- Environmental Protection Agency programs.
- Economic development through the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 *et seq.*, and the Tribal-State gaming compact.

3.4.6 Economic Enterprises

3.4.6.1 Gaming

- The Band signed a Tribal-State Compact on September 10, 1999. The Compact was approved by the Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. The Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- The Band plans to build a casino in accordance with the Tribal-State Compact on the front six acres of the proposed Little Cuyapaipe Reservation after the existing SIHC Inc. clinic is relocated to the back of the proposed Reservation. The tribal government has determined that the site was suitable for this use.
- The Band has reserved 1,000 slot machines for its future casino.

3.4.6.2 Other Businesses

The Band has determined that commercial economic development is not feasible on the Cuyapaipe Indian Reservation in the Laguna Mountains. The only land the Band has developed, and hopes to build a casino on, is the land that is currently in trust of the federal government in the Community of Alpine.

3.4.7 Tribal Projects Funded from Gaming and/or Other Revenues

3.4.7.1 Ewiiapaayp/SIHC, Inc. Agreement for New Clinic Construction and New Funding

- Southern Indian Health Council (SIHC), Inc., a California Public Benefit Corporation, operates a health clinic on the Cuyapaipe (Ewiiapaayp) trust lands in Alpine. See Section 6. 10 of the report for more details on the SIHC, Inc.
- On December 18, 2000, the SIHC, Inc., Board of Directors voted to enter into an Agreement with the Band. Pursuant to the Agreement, SIHC, Inc. will receive: a \$5 million clinic in Alpine on Willows Road and later another \$5 million clinic on Alpine Boulevard; a \$1.5 million clinic on the Campo Reservation; and 2% to 8% of the Cuyapaipe (Ewiiapaayp) Band’s net gaming revenues over the term of the Agreement.
- Action by the BIA on the Fee-to-Trust application for the Walker property may obviate the need to build the new clinic facility on the proposed Little Cuyapaipe Reservation, and instead permit the immediate construction of a new clinic on the Walker property.
- The Band’s contributions of gaming revenues to the SIHC, Inc. would allow further expansion of existing services at the clinic, and evaluation of new urgent care services, which are much needed in the East County.

3.4.8 State and Regional Economic Impacts

- SIHC, Inc. clinics are the only health care facilities serving the East County. The SIHC, Inc. services the health care needs of Alpine and other communities of East San Diego

County. Over 50% of the annual visitors to the SIHC, Inc. clinics are non-Indian residents of East County.

- The closing of Scripps East Hospital, and the scarcity and over-utilization of emergency room beds serving East San Diego County, make the prospect of new urgent care services at the SIHC, Inc. Alpine Clinic, due to the Band's construction of the clinic, and proposed contribution of new funding, an important opportunity for the East County.

3.4.9 Community Relations

- Band is currently actively soliciting community input on proposed new clinic in Alpine, and is committed to work with Alpine community as plans evolve.
- Band has formed the Alpine Advisory Group, comprised of nine leading citizens of the Alpine community.
- Band has met periodically with elected and appointed officials of the County, State, and Federal Governments, and initiated negotiations for a Cooperative Agreement with the County related to the future clinic on the 18.10-acre Walker property.
- Band has committed to make its best effort to reasonably mitigate any potential significant effects on off-Reservation lands directly caused by the construction of new SIHC, Inc. clinics and future casino.
- If the Band is granted the right to build a casino, it intends to make donations to charitable organizations and local government agencies in the Alpine community with health, educational and community activity causes to be primary considerations.

3.4.10 Issues and Challenges

The Cuyapaipe (Ewiiapaayp) Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Cuyapaipe (Ewiiapaayp) Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on all issues not delegated to Tribal officials. The Cuyapaipe (Ewiiapaayp) Tribal Government has many challenges, three of which are as follows:

- Develop the new SIHC, Inc. Alpine Clinic in compliance with the National Environment Protection Act (NEPA).
- Develop the proposed casino in compliance with NEPA and the Tribal-State Compact.

3.5 Inaja Band of Mission Indians⁵

The Inaja Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Inaja-Cosmit Indian Reservation. The Inaja Band of Kumeyaay Indians is one of the 12 Kumeyaay Bands in San Diego County.

⁵ The information in this section was not provided by the Tribe, but was gleaned from other sources.

3.5.1 Tribal History

- The Inaja Band is a federally recognized Indian tribe listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Inaja Band of Diegueño Mission Indians of the Inaja and Cosmit Reservation, California.” The Band identifies itself as “Inaja Band of Mission Indians.”
- No other information is available at this time.

3.5.2 Reservation

- Executive Order of December 27, 1875 established the Reservation. On February 10, 1893, the Reservation was enlarged under authority of the Act of January 12, 1891.
- The Reservation covers approximately 846 acres northwest of Lake Cuyamaca in the eastern part of San Diego County.
- Currently, there is no development of any kind on the Reservation, which has no utility services.
- No other information is available at this time.

3.5.3 Population

- Enrollment: 18 Members
- No other information is available at this time.

3.5.4 Tribal Government

No information is available at this time.

3.5.5 Services provided by Tribal Government

No information is available at this time.

3.5.6 Economic Enterprises

No information is available at this time.

3.5.6.1 Gaming

The Band has not signed a Tribal-State Compact, and there is no gaming on the Reservation.

3.5.6.2 Other Businesses

No information is available at this time.

3.5.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.5.7.1 Education

No information is available at this time.

3.5.7.2 Infrastructure

No information is available at this time.

3.5.7.3 Services to Tribal Members

No information is available at this time.

3.5.8 State and Regional Economic Impacts

No information is available at this time.

3.5.9 Community Relations

No information is available at this time.

3.5.10 Issues and Challenges

The Inaja Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Inaja Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the Tribal Members who not only elect their government, but also vote on issues related to the land.

3.6 Jamul Indian Village

The Jamul Indian Village is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Jamul Indian Village Reservation. The Jamul Indian Village is one of the 12 Kumeyaay Bands in San Diego County.

3.6.1 Tribal History

- Jamul Indian Village became recognized as a community under Section 19 of the Indian Reorganization Act (IRA) of June 18, 1934, as amended on December 12, 1980.
- The Band began their application for federal recognition in 1975.
- The Jamul Band was listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Jamul Indian Village of California” in 1981.
- The Tribe’s Constitution was officially signed in 1981.
- Artifacts and remnants of an ancient Kumeyaay village were found during the construction of the Rancho Jamul Estates, near the Reservation.

3.6.2 Reservation

- The Band began their application for federal Reservation status in 1975. The Jamul Indian Village attained Indian Reservation status in 1981. It sits on approximately six acres of land, and is situated 10 miles southeast of the City of El Cajon, in the community of Jamul. (*See Appendix A-1*)
- The Donald and Lawrence Daly grant deed of December 12, 1978 for 4.66 acres was accepted into trust on December 21, 1978. An additional 1.372 acres was accepted into trust on July 2, 1982, through conveyance by the Roman Catholic Bishop in San Diego, bringing the total acreage for the Reservation to 6.032 acres.
- Governmental and non-Commercial uses on Reservation: Governmental offices; 15 dwelling units; San Javier Church; cemetery; and Tribal library.
- There are no commercial uses currently on Reservation.

- The Rural Fire Protection District (RFPD) fire station is not located on the Reservation; however, it is located on lands owned by the Jamul Band, which are leased to the District for \$1.00/year.

3.6.2.1 Fee to Trust Applications and Other Actions Resulting in Expansion of Land Base

- The Band has filed a Fee-to-Trust application for 101 acres (three parcels of 87, 10 and 4 acres, respectively), which are located to the west and north of the existing Indian Village Reservation. The parcels that are the subject of this application are shown on a map and table in *Appendices D-1* and *D-2*.
- The original application proposed the following uses: existing residences and Tribal Government and Health Center would be relocated to the 10-acre parcel, which borders Melody Lane; and the access road to the Casino, an 800-space employee parking lot and a new wastewater treatment plant would be constructed on the 87-acre parcel, which also fronts on Melody Lane. When the lease to RFPD expires, the access road to the Casino would be relocated to the 4-acre parcel, and a new fire station would be built on the 87-acre parcel.
 - On November 9, 2001, the Regional Director, Pacific Region, for the BIA issued a decision proposing to accept the three parcels in trust and a Finding of No Significant Impact (FONSI). The County was one of three parties who appealed the decision.
 - On April 2, 2002, a notice was published in the Federal Register advising that the BIA intends to prepare an Environmental Impact Statement (EIS) for the proposed fee-to-trust transfer and casino project.
- On December 18, 2002, the BIA, Pacific Regional Office, issued a new Notice of Gaming-Related Land Acquisition Application, withdrawing their prior May 22, 2001 Notice, due to the Jamul Band having amended their original application by adding a 300-room hotel to their proposal. As described in the Draft Environmental Impact Statement (DEIS), dated December 2002, which accompanied the Notice, and which was distributed mid-January 2003, the preferred project would be built in two phases, with the second phase beginning in 2009, upon expiration of the lease with RFPD, as shown in Table 3-1, on the next page.

Table 3-1: Jamul 101-Acre Fee-to-Trust Transfer Project and Casino Project

Parcels	Phase A	Phase B
Existing Trust Lands (Jamul Indian Village Reservation) (6± acres)	<ul style="list-style-type: none"> ▪ Removal of 15 residences and government buildings ▪ Construction of a dedicated parking area for church and cemetery ▪ 2-story, 205,194 square-foot casino building, including a 73,469 square-foot gaming area 	<ul style="list-style-type: none"> ▪ 24,000 sq.ft. Event Center
Parcel #1 (4 acres)		<ul style="list-style-type: none"> ▪ 300-room hotel (222,985 sq.ft.)
Parcel #2 (87 acres)	<ul style="list-style-type: none"> ▪ 7-story parking garage providing approximately 2,550 parking spaces; ▪ 30,000 sq.ft. Human Resources building ▪ Fire station ▪ Three Conservation Areas totaling 57.7 acres to be managed under a Conservation and Revegetation Program; ▪ New wastewater treatment and disposal facility; ▪ Recycled water seasonal storage reservoir ▪ Bus and R.V. parking area with 50 parking spaces 	<ul style="list-style-type: none"> ▪ 300± employee parking spaces
Parcel #3 10± acres, north of Melody Road	<ul style="list-style-type: none"> ▪ Relocation of 15 existing residences ▪ Construction of three new residences ▪ 10,000 sq.ft. Tribal Government and Health Center, with 330-space parking area ▪ Buffer area around existing drainage channel 	

3.6.3 Population

- Enrollment: 56 enrolled members, 18 of whom currently reside on the Reservation. Due to shortage of land, other members are not able to live on Reservation.
- There are a total of 86 residents on the Reservation.
- The unemployment rate for Tribal Members is 78 percent.

- Approximately 23 percent of the employed work force is living below the poverty level.

3.6.4 Tribal Government

- The Band's IRA Constitution was approved on July 7, 1981. It provides in part for the democratic election of the Executive Council.
- The General Council elects a five-member Executive Council for two-year terms; provides direction to the Executive Council; and has the power to veto any plan presented by the Executive Council.
- The Executive Council acts as the governing body for tribal affairs. The tribal membership and the BIA currently recognize the following individuals as the elected officials of the current tribal government: Kenneth A. Meza, Chairman; Carlene Chamberlain, Vice Chairman; and Bill Mesa, Adolph Thing and Erica Pinto, Executive Council Members.
- The Jamul Indian Village tribal government has never had a sustained revenue stream.

3.6.5 Services and Benefits Provided by Tribal Government

Due to shortage of funds, the Jamul Village Tribal Government is only able to provide modest assistance to some of its tribal elders. Other services and programs are seasonal and depend on sparse grants to function. Tribal Members currently need but do not receive services and benefits, such as adequate housing, healthcare, education, scholarships and infrastructure.

3.6.6 Economic Enterprises

There are no economic enterprises currently on Reservation.

3.6.6.1 Gaming

- Band signed Tribal-State Compact on October 5, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary's approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- Following the federal guidelines and requirements, the Band is seeking approval of a Management Agreement from the NIGC to allow Lakes Kean Argovitz Resorts – California, LLC. (LKAR-CA) to develop and manage the proposed casino.
- The DEIS for the 101-acre fee to trust action, gaming management contract and the construction of casino and support facilities, underwent public review through March 3, 2003. The proposed project is described in Table 3-1, above.
- The Band is planning to build a gaming facility that meets all of the federal and tribal-state compact requirements on the original six acres of land the Band holds in trust with the federal government, regardless of what happens with the trust application, which is discussed in Section 3.6.2.1.

3.6.6.2 Other Businesses

- The Band currently has a lease with RFPD through January 1, 2009. The RFPD pays the Tribal government \$1.00 per year for the length of the lease.

- The Band has no other businesses or economic opportunities.

3.6.7 Tribal Projects Funded From Gaming and/or Other Revenues

- Currently, the Tribal Government has no revenue stream independent of grants from the Federal government. Only a few tribal services are provided.
- The Band has prepared a traveling exhibit detailing the cultural history of Kumeyaay Indians and Jamul Indian Village. This exhibit began touring schools, universities, libraries and public forums in October 2000. To date, more than 7,000 students have had an opportunity to view this educational experience. The Band makes this exhibit on its culture and history available to the public free of charge. More information can be obtained about this exhibit and other educational activities the Band is undertaking, on its Web site www.jamulindianvillage.com.

3.6.7.1 Education

Education is the number one priority for the Band.

- Some Tribal Members actively participate in language restoration classes; and Chairman Meza teaches Kumeyaay language classes at D-Q University on the Sycuan Reservation.
- Tribal library.

3.6.7.2 Infrastructure

- Proposed wastewater treatment plant will serve new tribal housing units.
- A Tribal Government and Health Center would be located north of the existing Village, on 10 of the 101 acres the Band has applied to put into trust.
- The Band will provide housing units for each of the tribal members, and roads, electricity; water and sewage disposal for those housing units, on 10 of the 101 acres the Band is looking to put into trust.
- Fire station to be constructed on the fee-to-trust lands will service the Jamul Reservation facilities, and Band will secure a reciprocal services agreement with other response entities in the area.

3.6.7.3 Services to Tribal Members

- Sanitation services.
- Environmental protection.
- As has been the case for other gaming Reservations, once the casino is built and operating, gaming revenues will help the Tribe provide basic services to its Members, such as better housing and employment opportunities; provide an improved quality of life for Members; allow for preservation of its culture and heritage for future generations; and allow the Tribal Government to upgrade equipment, hire additional staff and expand environmental, health and safety programs.

3.6.8 State and Regional Economic Impacts

- Gaming will eliminate unemployment among tribal members.

- Gaming revenues will provide employment to residents of surrounding communities. It is anticipated that most employees will come from the immediate area.
- The DEIS states in Section 4.7.1 that construction of facilities is expected to cost approximately \$118 million, and would generate approximately 939 short-term construction jobs; operation of the casino and support facilities would generate 1,827 jobs, of which 958 would be net new permanent jobs once the two phases are completed.
- The Band is committed to purchasing goods and services from local vendors and providers.

3.6.9 Community Relations

- Over the past two years, the Band has held several meetings for Jamul residents, providing information about the gaming project. Future meetings will also be held with the community as the project progresses. The Band also continues to outreach to elected officials, and local groups and organizations.
- The Band publishes a bi-monthly newsletter, “The Village Voice,” which provides updates and information to the surrounding community about the Band’s plans for the future, and the Band advertises regularly in the media about its plans for the future, including many presentations to local groups and organizations.
- The offer presented to the RFPD to relocate was to contribute approximately \$22 million over a 20-year period for the construction, staffing, equipment and operation of a new fire station.⁶
- Band provides a substantial benefit to the RFPD, and indirectly to the community, through its nominal lease to the RFPD on land for which Band currently pays \$4,973.58 in taxes per the 2002-2003 roll.
- On February 4, 2003, Band held a Press Conference to introduce the Jamul Community Foundation, a non-profit foundation to allocate a portion of their future net win revenues to charitable and educational activities within a 12-mile radius of the Village, once the 1500 slot machines are operational.
- The Band continues to work with all of the Tribal Nations in San Diego County to ensure that Indian gaming has a positive impact on local communities.
- Additional community relations efforts by the Jamul Band are documented on the Tribe’s website (<http://www.jamulindianvillage.com/>)

3.6.10 Issues and Challenges

The Jamul Indian Village Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Jamul Indian Village Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their

⁶ The District rejected the offer and discontinued negotiations until the necessary BIA approvals to conduct gaming were given.

government, but also vote on issues related to the land. The Jamul Indian Village Tribal Government has many challenges and priorities, which include the following:

- A primary challenge for the Band is the very small size of the Reservation and the consequent lack of economic opportunity. This is an issue not many bands are faced with.
- Preserving precious Kumeyaay resources and culture.
- Balancing the need for economic development with the need to preserve and enhance the natural environment.
- Providing adequate housing and services to tribal members.
- Providing health care and emergency services to tribal members.
- Providing educational and other opportunities to the youth, making certain that our youth receive diplomas and not welfare. This will greatly affect their self-esteem and courage.
- Improving the quality of life for everyone on the Reservation by providing infrastructure and development.
- Ensuring the Jamul Valley has adequate fire and emergency protection.
- Building projects that compliment the Jamul Valley, and gives back to the local community.
- Continuing to build bridges and long-term relationships with the local community. The Band's ancestors have been here for 10,000 years, and the Jamul Village Reservation is the only home the tribal members have.
- Looking forward to uniting the community around an enterprise that everyone can benefit from.

3.7 *La Jolla Band of Luiseño Indians*

The La Jolla Band of Luiseño Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the La Jolla Indian Reservation. The La Jolla Band of Luiseño Indians is one of five Bands of Luiseño Indians.

3.7.1 Tribal History

- The La Jolla Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “La Jolla Band of Luiseño Mission Indians of the La Jolla Reservation, California.”
- The Luiseno Indians called themselves the “Payomkawichum” people.
- No other information is available at this time.

3.7.2 Reservation

- The present Reservation was established on September 13, 1892, under authority of the Act of January 12, 1981.
- The Reservation covers 7,957.31 acres of which 583.94 acres are in allotments.

- The Reservation is located off of SR 76, in the foothills of Palomar Mountain, on the banks of the San Luis Rey River, adjacent to the Rincon Reservation. (*See map in Appendix A-1*)
- Governmental and non-commercial uses on the Reservation: Tribal offices and approximately 175 homes.
- Commercial uses on the Reservation: Sengme Oaks Water park, La Jolla Campground, La Jolla Indian Trading Post with a 30-slot machine arcade, and a gas station; and two racetracks.

3.7.3 Population

- Enrollment: approximately 700 tribal members.
- Approximately 300 persons live on the Reservation.

3.7.4 Tribal Government

- Constitution was adopted on September 7, 1995; the BIA approved it on December 19, 1995.
- The General Council, consisting of all members 21 years of age or older; it elects the five-member Tribal Council. Tribal Council Members serve two-year terms.
- No other information available at this time.

3.7.5 Services and Benefits Provided by Tribal Government

No information is available at this time.

3.7.6 Economic Enterprises

3.7.6.1 Gaming

- Signed Tribal-State Compact on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- On May 20, 2002, Band opened a 30-slot arcade in its store, which employs approximately 18 persons.
- Band spent approximately \$200,000 to secure the 30 slot machines and less than \$30,000 to remodel the store.

3.7.6.2 Other Businesses

- The Band operates the Sengme Oaks Water Park, a 2,400-acre campground with hundreds of undesignated campsites, and the La Jolla Trading Post convenience store and gas station. The Water Park is opened weekends from Memorial Day through Labor Day; and the Campground, which first opened in 1932, operates from March through November.
- Two racetracks, an off-road track and a paved track, are also found in the family-oriented recreation complex.

3.7.7 Tribal Projects Funded From Gaming and/or Other Revenues

To date, the Band's main source of income has come from the La Jolla Indian Campground - approximately \$450,000 a year.

3.7.7.1 Education

No information is available at this time.

3.7.7.2 Infrastructure

No information is available at this time.

3.7.7.3 Services to Tribal Members

No information is available at this time.

3.7.8 State and Regional Economic Impacts

No information is available at this time.

3.7.9 Community Relations

No information is available at this time.

3.7.10 Issues and Challenges

The La Jolla Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the La Jolla Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. The La Jolla Tribal Government has many priorities, which include the following:

- Year-around family oriented recreational facilities with cabins.
- Building and operating a water bottling plant.
- Developing eco-tourism opportunities on the Reservation.
- Opening a small casino and resort complex.

3.8 *La Posta Band of Mission Indians*

The La Posta Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the La Posta Indian Reservation. The La Posta Band of Mission Indians is one of the 12 Kumeyaay Bands in San Diego County. The Kumeyaay Indians have been in San Diego County for at least 10,000 years, and controlled most of the land, which is today San Diego County, and a substantial part of northern Mexico.

3.8.1 Tribal History

- The La Posta Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as "La Posta Band of Diegueño Mission Indians of the La Posta Indian Reservation, California." La Posta identifies itself as "La Posta Band of Mission Indians."

3.8.2 Reservation

- The Reservation was established on February 10, 1893 under the authority of the Act of January 12, 1891.

- The Reservation is located along Interstate 8, west of and adjacent to the Campo and Manzanita Reservations, approximately 60 miles east of the City of San Diego. (*See Appendix A-1*)
- It covers 3,556.49 acres and is in two parts: An area of approximately six square miles; and a smaller section, called “Little La Posta”, approximately 200 acres in size, which lies within two miles of the northwest corner of the main Reservation.
- Prior to 1900, tribal homes were built in small communities, in areas with access water and oak trees. Between 1900 and 1960, home sites were gradually dispersed due to the introduction of electricity, well technology, and the automobile. From 1960 to the present, the economies of scale in modern home building resulted in housing being clustered in one area of the Reservation.
- Governmental and non-commercial uses on Reservation: Tribal Community Building that houses Tribal offices, and meeting and recreational facilities; 10 residential units, four active drinking wells; a small man-made reservoir that has served flood control and recreational purposes; Youth Regional Treatment Center, operated by the Southern Indian Health Clinic (SIHC), including a 20-bed intensive residential treatment program for Indian youth, ages 12 to 18, with substance abuse and primary or secondary psychiatric diagnosis, as well as an adult out-patient facility.
- There are no commercial uses currently on the Reservation. A sand mining operation was conducted by a non-Indian operator prior to the Band owning the land. Band is working with the BIA and Bureau of Land Management to accomplish site reclamation and closure.

3.8.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- The Band has filed a Fee-to-Trust application for 115.24 acres (Spencer property) to secure access to the western portion of the Reservation, which was cut off from effective access or use when Interstate 8 was constructed across the southwestern corner of the Reservation. The parcels that are the subject of this application are shown on a map and table in *Appendices D-1* and *D-2*.
- The BIA issued a FONSI on April 19, 2001.

3.8.3 Population

- Total enrollment: 25 (14 adult members).
- Tribal Members living on Reservation: 19.
- Non-tribal members living on Reservation: 7.

3.8.4 Tribal Government

- Constitution was approved in 1973; amendments are in process.
- Band is governed by a General Council, which consists of all tribal members 18 years of age or older. The General Council decides all matters regarding tribal plans and policies; annual budgets and other expenditures of tribal funds; proposed projects; use of tribal

land and other tribally owned resources. Disputes among individuals may also be brought to the General Council for resolution or mediation.

- Established the La Posta Environmental Protection Agency (LPEPA) in 1997.
- In 2000, the Band adopted its 21st Century Strategic Plan and Economic Development Strategy outlining the Band's short-and long-term goals. More planning processes are currently underway.
- According to the Federal Register of August 13, 2002, Band was a recipient of a \$549,931 grant from the Department of Housing and Urban Development, under the Indian Community Development Block Grant (ICDBG) Program.

3.8.5 Services and Benefits Provided by Tribal Government

- Medical, dental and other health-related services through the SIHC.
- Built 5 residential units under the Housing Improvement Program; and 5 through other means.
- Fire protection through a contract with the Campo Indian Reservation Fire Department.
- Sanitation services via dumpsters with regular collection.
- Maintenance of public buildings.
- Maintenance of drinking water wells: 4 active wells, which are jointly monitored by Tribe, SIHC and Indian Health Services. Two of these wells supply water to housing units; and the other two wells supply water to the tribal administrative and Treatment Center buildings.
- Energy assistance program to subsidize utility bills for needy Tribal Members.
- Tribal security

3.8.6 Economic Enterprises

The Band relies primarily on grant funding to support governmental operations and provide employment opportunities for tribal members in Tribal Administration. Historically, the Band has generated limited independent income primarily by leasing the Reservation land to non-tribal cattle ranchers and sand/gravel mining operators. Additional income has come from land claims settlement, small business leases, easements and other short-term sources.

3.8.6.1 Gaming

La Posta has requested to sign a Tribal-State Compact with the State of California, but the request was placed on hold by the Governor pending resolution of a challenge to Proposition 1A. This issue being resolved, it is anticipated that the Band will be able to negotiate a Compact during the renegotiations in progress.

3.8.6.2 Other Businesses

Recently, the Band sought to assign and expand a long-term lease it had with Four Eagles Materials, LLC, for a material extraction facility in an area historically used for sand and gravel extraction operations. This effort, however, was not successful, and the Band currently has no mining lessee or operations taking place on the Reservation While the Band continues to explore

a variety of opportunities for economic development, it currently has none other than those previously identified.

3.8.7 Tribal Projects Funded From Gaming and /or Other Revenues

The Band uses its small lease income stream and periodic distributions from the Revenue Sharing Trust Fund primarily to support the functioning of the Tribal Government and to supplement the income of tribal members. The Band has yet to develop an adequate steady stream of income to pay for specific tribal projects or services.

3.8.7.1 Education

No other information is available at this time.

3.8.7.2 Infrastructure

No other information is available at this time.

3.8.7.3 Services to Tribal Members

No other information is available at this time.

3.8.8 State and Regional Economic Impacts

Due to the Band's limited population and land base, as well as the currently limited and sporadic nature of its income stream and development activities, these impacts are difficult to quantify, but are assumed to be minimal.

3.8.9 Community Relations

- The La Posta Band enjoys a cooperative working relationship with several County Departments, including Public Works and Planning and Land Use.
- The Band is a member of the Hazardous Incidence Response Team with the County, cities, and other tribal and non-tribal entities.
- The Band continues to be open to cooperative relations with County and other local officials, as well as private citizens, regarding matters of mutual concern, the off-Reservation impacts of tribal activities, and the impacts of off-Reservation activities on the Reservation.

3.8.10 Issues and Challenges

The La Posta Tribal Government faces issues that are unique, such as the Band's small size and lack of an adequate steady stream of income to support formal institutions, as well as issues that are shared with other governments. Like State and local governments, the La Posta Tribal Government is responsible for providing services to tribal members and other Reservation residents, and for developing and implementing policy and planning in keeping with the desires of tribal members.

The Band's management and development of its Reservation has also been hampered by the construction of Interstate 8 through the southwest corner of the Reservation (pursuant to the granting of right-of-way for such purpose by the Interior Department without tribal consent, which effectively cut off access to the western portion of the Reservation for several decades. These actions, and the Reservation's relatively remote location, have made it difficult for the Band to attract the wide variety of economic opportunities it desires

The La Posta Tribal Government has many priorities, which include the following:

- Identify and develop independent sources of income.
- Continue to develop land use and economic plans
- Secure access to the western portion of the Reservation.
- Provide additional housing for tribal members.
- Develop members' expertise in governance and administration, and increase participation in Tribal affairs.
- Inventory all living resources within the Reservation as a first step toward developing an integrated resource management plan
- Develop better and more understanding relationships with non-tribal government officials.

3.9 *Los Coyotes Band of Mission Indians*⁷

The Los Coyotes Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Los Coyotes Indian Reservation. The Band is the only Band in the region belonging to the Cahuilla ethnic group.

3.9.1 Tribal History

- The Los Coyotes Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation, California.” Los Coyotes identifies itself as “Los Coyotes Band of Mission Indians.”
- No other information is available at this time.

3.9.2 Reservation

- The Reservation was established under the authority of the Act of January 12, 1891 (26 Stat. 712-714 c.65). Executive Order No. 1914, dated April 13, 1974, transferred lands from the Cleveland National Forest to the Reservation.
- The Reservation covers approximately 26,000 acres, and is located in the Warner Springs area of Northern San Diego County.
- No other information is available at this time.

3.9.3 Population

- Enrollment: 280 tribal members
- Over 200 persons live on Reservation.

3.9.4 Tribal Government

- Governed by Customs and Traditions.
- The General Council elects the seven-member Tribal Council every year.

⁷ The information in this section was not provided by the Tribe, but was gleaned from other sources.

- According to the Federal Register of August 13, 2002, Band was a recipient of a \$550,000 grant from the Department of Housing and Urban Development, under the Indian Community Development Block Grant (ICDBG) Program.
- No other information is available at this time.

3.9.5 Services provided by Tribal Government

No information is available at this time.

3.9.6 Economic Enterprises

3.9.6.1 Gaming

There is no gaming activity on the Reservation, and the Band has not signed a Tribal-State Compact.

3.9.6.2 Other Businesses

No information is available at this time.

3.9.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.9.7.1 Education

No information is available at this time.

3.9.7.2 Infrastructure

No information is available at this time.

3.9.7.3 Services to Tribal Members

No information is available at this time.

3.9.8 State and Regional Economic Impacts

No information is available at this time.

3.9.9 Community Relations

No information is available at this time.

3.9.10 Issues and Challenges

The Los Coyotes Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Los Coyotes Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the Tribal Members who not only elect their government, but also vote on issues related to the land.

No information is available at this time.

3.10 Manzanita Band of Mission Indians⁸

The Manzanita Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Manzanita Indian Reservation. The Manzanita Band of Mission Indians is one of the 12 Kumeyaay Bands in San Diego County. The Kumeyaay Indians have been in San Diego County for at least 10,000 years, and controlled most of the land, which is today San Diego County, and a substantial part of northern Mexico.

3.10.1 Tribal History

- The Manzanita Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Manzanita Band of Diegueño Mission Indians of the Manzanita Reservation, California.” Manzanita identifies itself as “Manzanita Band of Mission Indians.”
- No other information is available at this time.

3.10.2 Reservation

- Reservation was established February 10, 1893 under the authority of the Act of January 11, 1891.
- Original Reservation comprised 3,563 acres. The size of the Reservation was increased by 1,000.78 acres by an Act of Congress, bringing the total acreage to 4,580 acres.
- Reservation is located east of the La Posta Reservation and north of the Campo Reservation. (See Appendix A-1)

3.10.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

On December 27, 2000, Congress enacted the California Indian Land Transfer Act of 2000, which added 1000.78 acres to the Reservation. (See Appendices D-1 and D-2)

3.10.3 Population

- Enrollment: 97 tribal members
- Approximately 45 persons live on the Reservation.

3.10.4 Tribal Government

- IRA Constitution & Bylaws were approved on January 9, 1976.
- General Council elects the tribal officials of the Tribal Council every two years.
- No other information is available at this time.

3.10.5 Services and Benefits Provided by Tribal Government

3.10.5.1 Education

No information available at this time

⁸ The information in this section was not provided by the Tribe, but was gleaned from other sources.

3.10.5.2 Infrastructure

No information available at this time

3.10.5.3 Services to Tribal Members

No information available at this time

3.10.6 Economic Enterprises**3.10.6.1 Gaming**

- Signed Tribal-State Compact on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- Band is considering starting a small gaming facility.

3.10.6.2 Other Businesses

- Band is considering building a motor cross track on approximately 80 acres and a shooting range.

3.10.7 Tribal Projects Funded from Gaming and/or Other Revenues

No information is available at this time.

3.10.8 State and Regional Economic Impacts

No information is available at this time.

3.10.9 Community Relations

No information is available at this time.

3.10.10 Issues and Challenges

The Manzanita Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Manzanita Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. No specific information is available at this time.

3.11 *Mesa Grande Band of Mission Indians*⁹

The Mesa Grande Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Mesa Grande Indian Reservation. The Mesa Grande Band of Mission Indians is one of the 12 Kumeyaay/Diegueño Bands in San Diego County. The Kumeyaay Indians have been in San Diego County for at least 10,000 years, and controlled most of the land, which is today San Diego County, and a substantial part of northern Mexico.

⁹ The information in this section was not provided by the Tribe, but was gleaned from other sources.

3.11.1 Tribal History

- The Mesa Grande Band of Mission Indians is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Mesa Grande Band of Diegueño Mission Indians of the Mesa Grande of the Mesa Grande Reservation, California.” The Band identifies itself as “Mesa Grande Band of Mission Indians.”
- No other information is available at this time.

3.11.2 Reservation

- The Mesa Grande Reservation was established by Executive Order on June 19, 1883, consisting of 120 acres. On January 25, 1988, a 238.15-acre parcel was transferred to the Tribe from the Bureau of Land Management (BLM), however, no legal access was established to that tract of land; and on December 17, 2001, the U.S. Government accepted 882.80 acres in trust for the Band. The Reservation now covers 1,240.95 acres.
- The Reservation is located in northeastern San Diego County, northwest of the community of Santa Ysabel. (*See Appendix A-1*).
- The Band has fully utilized the 120-acre tract and has no legal access to the 238.15 acres, which were transferred by BLM. Additionally, that acreage is not suitable for grazing.
- Governmental and non-commercial uses on Reservation: 22 single-family dwellings, multi-purpose building, and Fire Department.
- There are no commercial uses on Reservation at present; however, the Band proposes a bison ranching operation on the 882.80-acre tract of land.

3.11.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- On September 6, 2001, the Bureau of Indian Affairs issued a Notice of Decision proposing to place 882.80 acres in trust; and on December 17, 2001, the land was taken into trust. (*See Appendices D-1 and D-2*)

3.11.3 Population

- Enrollment: approximately 632 members.
- Approximately 175 persons live on the Reservation.

3.11.4 Tribal Government

- Governing Body of the Band is the General Council, which is composed of all tribal members who are 18 years old or older.
- General Council elects the five-member Business Committee; tribal officials serve five-year terms.
- No other information is available at this time.

3.11.5 Services and Benefits Provided by Tribal Government

No information is available at this time.

3.11.6 Economic Enterprises

Currently, there are no economic enterprises on the Reservation.

3.11.6.1 Gaming

There is no gaming activity on the Reservation, and the Band has not signed a Tribal-State Compact.

3.11.6.2 Other Businesses

- Band proposes to establish a bison ranching operation to create jobs for tribal members, and generate revenues from direct sale of breeding stock and meat animals.
- Bison ranching operation is expected to create support or spin-off businesses, including food specialty items, such as private label buffalo jerky, art and handcrafted items.
- No other information is available at this time.

3.11.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.11.7.1 Education

No information is available at this time.

3.11.7.2 Infrastructure

No information is available at this time.

3.11.7.3 Services to Tribal Members

No information is available at this time.

3.11.8 State and Regional Economic Impacts

No information is available at this time.

3.11.9 Community Relations

No information is available at this time.

3.11.10 Issues and Challenges

The Mesa Grande Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Mesa Grande Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. The Mesa Grande Tribal Government has many priorities, which include the following:

- Obtain funding to build homes for members and their families.
- Develop a bison ranching operation as source of revenue.
- No other information is available at this time.

3.12 Pala Band of Mission Indians¹⁰

The Pala Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Pala Indian Reservation. The Pala Band of Mission Indians is one of the five Bands of Luiseño Indians.

3.12.1 Tribal History

- The Pala Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Pala Band of Luiseño Mission Indians of the Pala Reservation, California.” The Band identifies itself as “Pala Band of Mission Indians.”
- Many of the Pala Indians trace their heritage to Cupa, a 10-square mile area, which their ancestors occupied at the headwaters of the San Luis Rey River. In 1903, the tribe was forced to move to Pala, a Luiseño Reservation. This was the first time in U.S. history that two distinct Indian Tribes were forced to live together on one Reservation.

3.12.2 Reservation

- The Pala Reservation was established by Executive Order of December 27, 1875; Executive Orders of May 3, 1877 and July 24, 1882 restored portions to public domain.
- To date, the Pala Reservation consists of 10,754.77 acres of tribal land, 1,138.05 acres of allotted land and 224.17 acres of fee land, for a total of 12,116.99 acres.
- A large portion of the Reservation is mountainous and rocky, and a major flood zone area from the San Luis Rey River, which runs through the Reservation. The San Luis Rey River passes through the center of the Reservation in an east to west direction, opening into a small valley where the Pala Mission and town site are located. (*See map in Appendix A-1*)
- Primary access to the Reservation is provided by State Route 76 (SR 76), also called Pala Road. Other access routes include County Highway S-16, also known as Pala-Temecula Road, which leads north to the City of Temecula in Riverside County; and Lilac Road, which leads south to the community of Valley Center.
- Governmental and non-commercial uses on the Reservation: Pala Tribal Offices, approximately 400 residences; Cupa Cultural Center; Mission School; Mission San Antonio de Pala; Tribal Cemetery; Boys & Girls Club; fire station; Pala Post Office; 40 acres easement for Highway 76; and recreational pond located between Casino and San Luis Rey River, which was created through sand mining operations prior to construction of the casino.
- Commercial uses on the Reservation: A permanent casino, parking structure, hotel under construction, lease of 700+ acres to Volcan Materials; mini-mart/gas station; market/convenience store; and an abandoned gem mine.

¹⁰ The information in this section was not provided by the Tribe, but was gleaned from other sources.

3.12.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- On December 27, 2000, Congress enacted the California Indian Land Transfer Act of 2000, which added 59.2 acres of formally public domain land to the Reservation, for non-gaming purposes. (*See Appendices D-1 and D-2*)
- Band applied to place approximately 224 acres in trust. All properties have been taken into trust: 20.55 acres (one of former (Pfau parcels); 14.92 acres (Hernandez property) and 8.02 acres (Allers); and 180.07 acres (Ashley & four of the former Pfau parcels)

3.12.3 Population

- Enrollment: 893 tribal members, 650 of whom live on the Reservation.
- Estimated population on Reservation: 1,480 persons.
- Band has one of the largest membership rolls in Southern California.

3.12.4 Tribal Government

- Under Non-IRA Articles of Association
- Governing body is the General Council, which consists of all enrolled members who are 21 years old or older.
- Five-member Executive Committee (Tribal Council) is elected annually in December for a one-year term. The Tribal Council guides and regulates land uses on the Reservation.
- The Tribal Council established a moratorium, which only allows tribal members to either build new homes or bring pre-manufactured homes onto the Reservation. Also, new hook ups to water and cable, which are maintained and administered by the Tribe, are only available to tribal members

3.12.4.1 Gaming Regulation

No information is available at this time.

3.12.5 Services and Benefits Provided by Tribal Government

- Fire protection and emergency medical services.
- Wastewater treatment for approximately 60 percent of onsite residences north of San Luis Rey River.
- Water distribution and storage.
- Maintenance and administration of cable hook ups.
- Sanitation services.
- Security services via Pala's own security force and contract with County Sheriff's Department for one Special Purpose Deputy.
- Recreation.
- Education.

- Per capita payments.

3.12.6 Economic Enterprises

3.12.6.1 Gaming

- Signed Tribal-State Compact on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- The Pala Casino and Entertainment Center, a permanent facility, opened on April 13, 2001; it consists of an 187,300-square foot gaming and entertainment facility on a 24-acre site. The main floor of the casino covers approximately 136,700 square feet and consists of the casino, numerous restaurants and the entertainment facility. All administrative offices, surveillance areas, support services including the Tribal Gaming Authority, and an employee cafeteria are located on a lower level approximately 41,800 square feet in size. A large food storage area is also located on the lower level in an 8,800 square foot facility.
- The main level of the casino houses approximately 60,500 square feet of gaming, consisting of 2,000 slot machines, 46 tables for card games, and separate VIP and non-smoking areas. The main casino area also includes a 20,800 square foot multi-purpose room, which can be configured for a 1,200-seat bingo area, a 2,000 square foot concert theater, a 1,700-seat boxing arena, or a 900-seat banquet hall.
- The facility’s restaurants, located on the main level of the casino, include a 500-seat buffet of which 125 seats are located on an outside veranda, a 100-seat fine dining restaurant, a 40-seat deli, and a coffee and ice cream bar. There is a 60-foot promenade leading to the outdoor veranda, which, in addition to dining areas, contains a 60-seat bar and lounge with a stage for musical guests. In addition, there is a 350-seat entertainment bar and lounge of which 125 seats are located outdoors in a park-like setting. The entertainment lounge has a stage that can be configured to seat 700 for boxing or other entertainment. The remainder of the main level consists of an entrance lobby, bus lobby, a small retail area, restrooms, and miscellaneous support services facilities.
- The Pala Casino and Entertainment Center serves alcohol at two lounges and in five of its restaurants.
- The remainder of the 24-acre development site contains entrance features and a 2,000-space parking area. Parking for buses and a separate bus entrance are located to the northeast of the facility.
- A casino expansion of about 24,000 square feet of new ground floor space; new 507-room hotel; two new restaurants with a 250-person seating capacity; full-service spa, swimming pool, and 10,000 square feet of new meeting space, will open this summer.

3.12.6.2 Other Businesses

- Lease for Volcan Materials of 701.71 acres
- Mini-mart/gas station

- Pala Store
- A 507-room hotel and spa will open this summer.

3.12.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.12.7.1 Education

- Pala Band and Fallbrook Union High School District have negotiated a new adult education program whereby some Spanish-speaking employees at Pala Casino will be learning English on the job. The Casino is providing the training center and the District will pay for textbooks and contract the teacher.
- No information is available at this time.

3.12.7.2 Infrastructure

- New wastewater treatment and disposal facility
- Initiated improvements to water supply and wastewater treatment systems: construction of one new well for the Northern water system and two new wells for the Southern water system; abandonment of five existing wells; minor repairs of three water storage tanks; replacement and upgrading of approximately 14,400 feet of small diameter water distributions mains; installation of 480 residential water meters; replacement of 240 feet of sewer main; and spot repairs of leaking sewer mains.
- No other information is available at this time.

3.12.7.3 Services to Tribal Members

- No other information is available at this time.

3.12.8 State and Regional Economic Impacts

- Casino investment: \$115 million
- Estimated number of employees: 1,500
- Estimated casino payroll: \$50 million

3.12.9 Community Relations

No information is available at this time.

3.12.10 Issues and Challenges

The Pala Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Pala Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. The Pala Tribal Government has many priorities, which include the following:

- Upgrade water supply, distribution and storage systems.
- Provide housing units for Members who wish to reside on the Reservation.
- Master plan the Reservation.
- No other information is available at this time.

3.13 Pauma/Yuima Band of Mission Indians

The Pauma/Yuima Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Pauma & Yuima Indian Reservation. The Pauma/Yuima Band of Mission Indians is one of the five Bands of Luiseño Indians.

3.13.1 Tribal History

- The Pauma Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13300) as “Pauma Band of Luiseño Mission Indians of the Pauma & Yuima Reservation, California.” The Band identifies itself as “Pauma/Yuima Band of Mission Indians.”
- No other information is available at this time.

3.13.2 Reservation

- The Pauma/Yuima Reservation encompasses a total of 5,877 acres. It lies in four tracts, which are a few miles apart. (*See Appendix A-1*)
- The Reservation was established on August 18, 1892 under the authority of the Act of January 12, 1891 (26 Stat. 712-714 c.65).
- The larger tract lies atop the Agua Tibia Mountain Range; it is referred to as “The Mission Reserve.” This parcel remains in its natural state as a forest area.
- Tract 1, referred to as “The Pauma Reservation,” lies between the Pala and Rincon Reservations. Primary access to this tract is via State Route 76 from Interstate 15 and Pauma Reservation Road.
- The Yuima Tracts (Tracts 2 & 3) lie approximately 7 miles to the east of the Pauma Reservation. Access to these tracts is also off of State Route 76.
- Most of the land within the Mission Reserve is characterized by steep terrain. The “Lower Reservations”, Pauma and the Yuima tracts, which total approximately 250 acres, constitute the developable portion of the Reservation.
- Tribal and non-commercial uses on the Reservation include the following: Tribal offices, 47 residential units, the Palomar College/ Pauma Education Center, Saint James Chapel, the Fire Station, After School Program, Tribal Gaming Commission Office, the Tribal agri-business yard and the Reservation Transportation Authority (RTA) yard.
- Commercial uses on the Reservation: An interim casino, and a citrus and avocado agri-business.

3.13.3 Population

- Enrollment: Approximately 200 members
- Estimated population on Reservation: 168, of whom 87 are tribal members.

3.13.4 Tribal Government

- Pauma’s Articles of Association as well as Customs and Traditions are used in the decision making process.

- Pauma's voting membership (General Council) consists of all members 21 years of age and older; they elect the Tribal Council (also known as Business Committee), and establish additional committees to assist in other aspects of the Tribal government.
- The General Council elects the Tribal Chairperson, Vice-Chairperson, Secretary/Treasurer and Committee Member, who are all elected to two-year terms.
- The Tribal Council is responsible for enacting the Articles of Association, tribal policies and tribal ordinances.
- The Tribal Council operates from the Pauma Tribal Complex, which features administrative offices, Tribal Hall, library and classrooms.

3.13.4.1 Gaming Regulation

The Pauma Gaming Commission is comprised of three appointed tribal members. The Commissioners and their staff are responsible for conducting on-site gaming regulation and control to insure compliance with the Tribal-State compact, the provisions of the Indian Gaming Regulatory Act and applicable tribal law.

3.13.5 Services and Benefits Provided by Tribal Government

- Fire protection.
- Education programs.
- Health insurance for Tribal employees.
- Water infrastructure.
- Recreation.
- Solid waste service.
- Employment opportunities.
- Revenue Allocation Plan to make per capita payments to members is expected to be approved by Department of Interior.

3.13.6 Economic Enterprises

3.13.6.1 Gaming

- The Governor signed the Band's Tribal-State Compact on May 1, 2000. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 1, 2000. Compact took effect when the notice of the Secretary's approval was published in the Federal Register/Vol. 65, No 203, on October 19, 2000.
- The interim casino development is located 12 miles east of I-15, on approximately 25 acres of tribal trust land within the Pauma Reservation. Casino Pauma, which opened on May 15, 2001, totals 65,000 gross square feet, and includes a 35,000 square foot gaming area with 850 slot machines; a card games area; a 70-seat bar/lounge; a 200-seat restaurant; a gift shop; 20,000 square feet of office/back house/storage; and a 8,000 square foot warehouse/storage building. In addition, the development includes 1,400 parking stalls. Full beverage service is offered.

- Band runs Casino Pauma and has a development agreement with Pacific Coast Gaming Corporation.
- Band signed a Cooperative Agreement with County for \$1,451,800, which was approved by the Board of Supervisors on July 11, 2001. The Agreement mitigates traffic impacts of both the interim and future permanent casino on Pauma Reservation Road and the intersection of Pauma Reservation Road and SR 76; and includes \$129,000 for off-site improvements on Valley Center Road. On February 25, 2003, as requested by the County, Pauma Band submitted a check of \$132,199 to the County for its share of the cost of construction improvements on Valley Center Road. The amount remitted by the Band was higher than listed in the Agreement because it was adjusted for inflation
- The future permanent casino may consist of 40,000 square feet of gaming area, 1,600 parking spaces, 850 slot machines, and include additional dining facilities. Access to the permanent casino would be off of State Route 76, rather than Pauma Reservation Road.

3.13.6.2 Other Businesses

The Band began its agri-business project in 1985 with a 5-acre parcel planted with avocados. In 1995, the Band began to increase its agri-business acreage by planting oranges, lemons and additional avocados. Currently, the Band has agreements with three local packinghouses. The Band's produce is currently marketed as an export to the Pacific Rim.

3.13.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.13.7.1 Education

- Currently, the Band has limited resources for education.
- The Band has plans to provide financial assistance to tribal members for vocational and higher education.

3.13.7.2 Infrastructure

- Waste water facility for casino.
- Tribal roads.
- Housing assistance.
- Water infrastructure and storage facilities.
- Fire station (volunteer).

3.13.7.3 Services to Tribal Members

- Recreation.
- Youth Wellness Program.

3.13.8 State and Regional Economic Impacts

- Estimated number of employees: 400
- Casino investment: \$40 million
- Annual casino payroll: \$10 million

3.13.9 Community Relations

- Band signed a cooperative agreement with County for road improvements; and made payment of \$132,199 on February 25, 2003.
- Band is not yet in a position to assist with local community assistance.

3.13.10 Issues and Challenges

The Pauma Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Pauma Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the Tribal Members who not only elect their government, but also vote on issues related to the land. The Pauma Tribal Government has many priorities, which include the following:

- Challenges to tribal sovereignty.
- Federal trust relationship.
- Natural resource management.
- Environmental protection.
- Continued education of state and county officials.

3.14 Rincon San Luiseño Band of Mission Indians

The Rincon San Luiseño Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Rincon Indian Reservation. The Rincon San Luiseño Band of Mission Indians is one of the five Bands of Luiseño Indians.

3.14.1 Tribal History

- The Rincon San Luiseño Band of Mission Indians is one of four Bands of Luiseño Indians who have inhabited the northern areas of the region for over 10,000 years. The Luiseños were so named because the Spanish Catholic priests considered them wards of the San Luis Rey Mission, which was founded in 1798.
- The Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13301) as “Rincon Band of Luiseño Mission Indians of the Rincon Reservation, California.” The Band identifies itself as “Rincon San Luiseño Band of Mission Indians.”

3.14.2 Reservation

- The Reservation is located in the San Luis Rey River Valley, east of the Community of Valley Center. (*See Appendix A-1*)
- The Rincon Reservation was created by a Presidential Executive Order in 1875. Another Executive Order in 1882 added acreage, and the final boundaries of the Reservation were established on September 13, 1892, under the authority of the 1891 Act for the Relief of the Mission Indians.
- Approximately 4,200 acres in size, the Reservation is characterized by 1,600 acres that are developable in the valley floor, of which one third is in allotments. On Feb. 7, 2001, the U.S. Fish and Wildlife Service designated approximately 1,100 acres in the valley of the Reservation as critical habitat for the Southwest Arroyo Toad, a federally listed

endangered species pursuant to the Endangered Species Act. This means almost all future development in the valley portion of the Reservation will require formal §7 consultation for a §9 Take Permit under the Act

- Governmental and non-commercial uses on Reservation include the following: Tribal Hall; Education Center; 415 residential units, including a 20-unit mobile home park on allotted land; two churches and one cemetery; Rincon Power Plant; All Tribes American Indian Charter School; All Mission Indian Housing Authority; and \$5.4 million Indian Health Council Clinic, which serves nine reservations and Indians who do not live on reservations. The Clinic is on allotted land.
- Commercial uses on Reservation: Permanent casino; hotel; market, mini-mart and gas station, both privately owned; two trucking companies; Survival Systems (a manufacturer, which makes rescue equipment for ships, and has a long-term lease with the Band); and an inactive sand mining operation.
- In 1991, the Band adopted an emergency moratorium on all residential and commercial development to ensure compatibility of land uses with land use plan, infrastructure, resources, fire and law enforcement services, and air quality

3.14.3 Population

- Enrollment: 550 tribal members, including 504 members 21 years old and older, and 150 Seniors.
- There are approximately 120 pending applications for enrollment.
- Total population on the Reservation: Approximately 1,800 persons, including approximately 50 percent of tribal members.

3.14.4 Tribal Government

- The Rincon Tribal Members are governed by a constitution and bylaws, and a two-tiered government: the General Membership, all enrolled adult Members of the Band, and the democratically elected Tribal Council.
- The General Membership consists of all Members age 21 years or older (approximately 494 voting members). The General Membership elects the Tribal Council (also known as Business Committee), Enrollment Committee and Grievance Committee.
- The General Membership elects the Tribal Chairman, Vice Chairman and three members, all elected to two-year staggered terms
- Unique in Southern California, the Rincon Tribal Council has complete authority to conduct any and all business on behalf of the Tribe, except that the General Membership has authority over granting rights-of-way and making assignments of land.
- The Tribal Council operates from the Rincon Tribal Hall, which features administrative offices, a meeting room, a large multipurpose room where the General Council meets, a tribal museum and a library.
- Rincon Tribal Council constitutes the tribal government and is responsible for enactment of tribal ordinances; and upholding and enforcing the Rincon Constitution, Bylaws and all tribal ordinances.

- According to the Federal Register of August 13, 2002, Band was a recipient of a \$550,000 grant from the Department of Housing and Urban Development, under the Indian Community Development Block Grant (ICDBG) Program.

3.14.4.1 Gaming Regulation

Under the Rincon Tribal Gaming Ordinance, the Gaming Commissioner and staff are responsible for regulating all gaming activities. The Gaming Commission was established on July 25, 2000. It is an independent department, which reports directly to the Business Committee. It is composed of three members and has a staff of investigators and compliance officers.

3.14.5 Services and Benefits Provided by Tribal Government

- Comprehensive health program.
- The Reservation is the site of the Indian Health Council, which serves all of North County's nine reservations, as well as Indians who do not live on a reservation. The Indian Health Council also has a satellite facility on the Santa Ysabel Reservation. In 2000, the clinic served more than 14,000 patients. Staff of the Clinic currently conducts inspections of the casino's kitchens and maintenance areas.
- Provides water from six wells for domestic and agricultural uses.
- Road construction and maintenance.
- Adopted a Canine Control Ordinance and contracted with Friends of the Valley to pick up stray dogs and provide vaccination and neutering services.
- Security services via contract with County Sheriff's Department for one Special Purpose Deputy, which began on August 1, 2002.
- Rincon Environmental Protection Agency (EPA) is fully funded by a four-year Indian Environmental General Assistance Program Grant from the American Indian Environmental Office of the U.S. EPA.
- Band is in process of severing ties with the All Mission Indian Housing Authority (AMIHA); establishing a Tribal Designated Housing Authority to administer the Indian Housing Block Grant Program; and developing its own housing program.
- Adopted a Cash Distribution Fund Ordinance on July 16, 2002, which provides for the largest share of casino revenues (45% of Net Distributable Cash) to be distributed equally to tribal members, aged 21 and older. The Ordinance contains several provisions that provide funds for tribal members under 21 years of age in ways that encourage them to stay in school and earn high school diplomas and degrees in higher education.

3.14.6 Economic Enterprises

3.14.6.1 Gaming

- Band signed Tribal-State Compact on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary's approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.

- Interim Casino:
 - Band opened the first phase of the interim casino on January 11, 2001; 35,000-square foot gaming facility had 759 slot machines; 1,600-person capacity; 420 staff persons, including 80 American Indians and 40 Rincon Tribal Members. Band opened a second temporary (sprung structure to house an additional 1,241 machines on May 13, 2001.
 - Interim casino was closed and torn down in July of 2002, and replaced with permanent facility.
- Permanent Casino:
 - Harrah's Rincon Casino and Hotel was developed and is operated by HCAL Corporation, under a management contract approved by the National Indian Gaming Commission (NIGC).
 - Harrah's Rincon Casino & Resort's Grand Opening took place on August 8, 2002. It occupies approximately 180,000 square feet, and consists of 59,000 square feet of gaming space; a 200-room, 125,000 square foot hotel; and 2,400 parking spaces on approximately 65 gross acres. The Casino also houses 1,800 square feet of retail space; and several restaurants, including a 250-seat buffet restaurant, 125-seat specialty restaurant, 90-seat bar lounge and 50-seat coffee shop.
 - Recently converted 8,500 square feet event area to a gaming area to accommodate slot machines to ease congestion in other parts of the casino and adding 100 slot machines; and created a temporary outdoor concert pavilion while an expanded and permanent entertainment pavilion is undergoing construction. The \$4.1 million remodel began on October 31, 2002.
- Band signed a Cooperative Agreement with County for \$7,030,855, which was approved by the Board of Supervisors on March 20, 2001. The Agreement mitigates traffic impacts of both the interim and permanent casinos on Valley Center Road. As requested by the County, Band made a first payment of \$727,835 on December 6, 2002.

3.14.6.2 Other Businesses

- A 2,500 square-foot market.

3.14.7 Tribal Projects Funded from Gaming and/or Other Revenues

Cash Distribution Fund Ordinance, which was adopted on July 16, 2002, provides for the following distribution of Net Distributable Cash from revenues from operations at Harrah's Rincon Casino and Resort: 45% for Per Capita Distributions; 25% for tribal government and government operations, including capital improvements and land planning; 14% to promote tribal economic development, including developing and/or expanding business enterprises and investments in land and business opportunities; 13% for reserves; 2% for Community Services, including social welfare, housing, health and nutrition; and 1% for Charitable Contributions.

3.14.7.1 Education

- Children of members attend Valley Center schools. Middle school students from Rincon and other reservations can also attend the new All Tribes American Indian Charter School, which opened in September 2001. Supplemental academic tutoring is available at the Band's Education Center.
- Currently, 60 preschool-aged children receive instruction from the Rincon Head Start Program, which serves children from Rincon, Pala, Pauma and San Pasqual Reservations.
- Construction of a new 5,700 square foot Head Start building was recently completed at a cost of \$495,000; dedication was held on January 24, 2003.
- Daycare is available for children of working members.

3.14.7.2 Infrastructure

- There are 6 miles of roads maintained by the Band.
- The Band maintains six wells, four of which serve 415 residences and the casino and deliver 219,000 gallons per day. Band maintains 1,263,000 gallons of water in storage. Recently, Band directed the drilling of an addition domestic well to provide sufficient capacity to meet future water demand for homes and Harrah's Rincon Casino and Resort.
- Recreational facilities consist of: Baseball field, basketball court and small community park.
- The Rincon Power Plant on Reservation is active at times.
- A \$3 million water reclamation facility, with a peak capacity of 180,000 gallons per day, was recently constructed. The plant uses the Parkson Bio-Lac system, and was designed to handle the permanent casino and hotel, as well as future expansion. At the end of the treatment process, water is either pumped into a percolation pond or sprayed onto a nearby field.
- On October 11, 2002, Band took delivery of its first fire truck designed and fully equipped to fight structural fires.
- Band entered into a new service agreement with the San Pasqual Reservation Fire Department for structural fire protection and emergency medical aid for the Reservation, including the permanent casino and new hotel. Now, for the first time, Rincon Reservation is provided year-round, full-time professional brush and structural fire protection.
- Ambulance transportation is covered by Sycuan Ambulance Service.
- Recently initiated cleanup of the San Luis Rey River bed and a former dump of trash, including appliances, yard refuse and hazardous materials, under the direction of Rincon EPA. As part of the project, signs will be placed marking the critical habitat of the arroyo southwestern toad, a federally-listed endangered species.

3.14.7.3 Services to Tribal Members

- Water service.

- Fire protection
- Trash collection.
- Sanitation.
- Road construction and maintenance.
- Administrative services.
- Recreation.
- Housing.
- Utility subsidy for low income Members.
- Early September 2002, Rincon Business Committee distributed one-time payments of \$500 to each adult member and \$200 for each member under age 21.
- Per capita distribution of 45 percent of net gaming revenues to members 21 years of age, began November 1, 2002.

3.14.8 State and Regional Economic Impacts

- Estimated annual payroll: \$13 million.
- Total interim casino investment: \$22 million.
- Total permanent casino investment by Band: \$125 million
- Permanent casino and hotel development has created 400 construction jobs; and is projected to employ 1,300.

3.14.9 Community Relations

- First Band to sign a Cooperative Agreement with County to mitigate impacts of gaming projects on Valley Center Road. Agreement provides for contributions of \$7,030,855 for improvements to Valley Center Road, including \$6,344,625 to mitigate impacts of Harrah's Rincon Casino & Resort. On December 6, 2002, Band made a first payment of \$727,835 to the County for improvements to Valley Center Road.
- Band has signed a Mutual Aid Agreement with San Pasqual Band for structural fire protection services.
- Band supports Valley Center Western Day, Escondido Street Fair and other events in Valley Center.

3.14.10 Issues and Challenges

The Rincon Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Rincon Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. The Rincon Tribal Government has many priorities, which include the following:

- Development of programs and services for elders and seniors.

- Enforcement of health and safety codes on allotted lands.
- In process of preparing a general plan and master land-use plan for development of Reservation.
- Need to build improved housing for members.
- Need to provide low-income housing and associated retail establishments for employees and their families.

3.15 San Pasqual Band of Mission Indians

The San Pasqual Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the San Pasqual Indian Reservation. The San Pasqual Band of Mission Indians is one of the 12 Kumeyaay Bands in San Diego County. The Kumeyaay Indians have been in San Diego County for at least 10,000 years, and controlled most of the land, which is today San Diego County, and a substantial part of northern Mexico.

3.15.1 Tribal History

- The San Pasqual Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13301) as “San Pasqual Band of Diegueño Mission Indians of California.” The Band identifies itself as “San Pasqual Band of Mission Indians.”
- During the California Mission Era, which started at Mission San Diego in 1769, the name “Diegueño” was what the Native Americans of this region were called. Even to this day, this name is used by some. Before this era, when San Pasqual ancestors were asked who they were, they would say, “Ipai.” This means “the people.”

3.15.2 Reservation

- The current San Pasqual Reservation was established on July 1, 1910 under the authority of the Act of January 12, 1891. This Act was amended with a supplemental Executive Order dated April 15, 1911, which set aside land for a reservoir site to be used in connection with irrigation of land for the Reservation.
- The Reservation is located in Valley Center and approximately 11 miles northeast of Escondido; the Reservation is accessed through North Lake Wohlford Road, which bisects the Reservation. (*See Appendix A-1*)
- The 1,379.58- acre Reservation consists of four non-contiguous tracts. The Tribe also owns 542.58 acres, which are not in trust: 533 acres located near Lake Wohlford, contiguous to Tract C; and a 9.58-acre parcel at the southwest corner of the intersection of Valley Center Road and North Lake Wohlford Road.
- Governmental and non-commercial uses on the Reservation: Tribal Administration Building, Community Center, 204 residential units, Fire Station, Education Center, Office of the Gaming Commission, Environmental Office, and worksite for the Operating Engineers Training Trust.
- Commercial uses on the Reservation: Valley View Casino (Phase I), casino offices, and an inactive decomposed granite pit.

3.15.3 Population

- Enrollment: Approximately 305 tribal members.
- Estimated population on Reservation: 500, including approximately 86 tribal members.
- Estimated future population and housing units for the Reservation are as follows:

<u>Year</u>	<u>Population</u>	<u>Housing</u>
2005	675	280
2010	1,000	400
2020	1,200	500

3.15.4 Tribal Government

- General Council form of government and IRA Constitution and Bylaws approved on October 14, 1971. The Tribe is organized under the Indian Reorganization Act of 1934.
- General Council consists of all members 19 years of age and older. The General Council elect a Business Committee (Tribal Council), which serves two-year terms; and is comprised of a spokesman, vice-spokesman, secretary-treasurer, and two at-large members.
- Annual elections are held on the second Sunday of January in odd-numbered years.
- According to the Federal Register of August 13, 2002, Band was a recipient of a \$550,000 grant from the Department of Housing and Urban Development, under the Indian Community Development Block Grant (ICDBG) Program.

3.15.4.1 Gaming Regulation

The San Pasqual Gaming Commission, which is comprised of three appointed tribal members, who cannot be employed by the Tribe or the casino in any other aspect, is responsible for conducting on-site gaming regulation and control to ensure compliance with the Tribal-State Compact, provisions of the Indian Gaming and Regulatory Act and applicable tribal law.

3.15.5 Services and Benefits Provided by Tribal Government

- Adopted Tribal Employment Right Ordinance (TERO)
- Fire protection and emergency response services
- Educational resources
- Senior meal program
- Burial assistance

3.15.6 Economic Enterprises

Before gaming, on-Reservation employment and income opportunities were limited to government operations.

3.15.6.1 Gaming

- Band signed Tribal-State Compact on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000.

Compact took effect when the notice of the Secretary's approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.

- The Tribe is striving to meet the intent of the Indian Gaming Regulatory Act of 1988, which includes the promotion of tribal economic development, self-sufficiency, and strong tribal governments.
- The San Pasqual Tribe has established a Casino Management Committee consisting of five tribal members appointed by the Tribal Council to oversee the gaming enterprise.
- The San Pasqual Valley View Casino (Phase I), which opened on April 18, 2001, consists of a 40,900 square foot single-story gaming facility on approximately 16 acres. The casino includes approximately 20,160 square feet of gaming area, an approximately 4,100 square foot of dining area, including a buffet facility, and ancillary areas totaling 15,325 square feet. A 30,000-square-foot expansion area is also included in the site development plan.
- The project includes a 40,000-gpd wastewater disposal system with pretreatment gallery, water system development and associated circulation, a commercial grade fire protection system and an estimated 825 parking spaces.
- The Casino employs 31 tribal members (enrolled), 52 lineal descendents and 329 non-Indians, for a total of approximately 430 employees.
- The Casino offers 782 slots, nine card tables, and a 250-seat buffet. Beer and wine are served since March 14, 2002, when the Band received an interim license from the Department of Alcohol and Beverage Control. The Casino serves beer and wine pursuant to State regulations on weekend days and nights, but has restricted serving beer and wine to the hours of 5:00pm – 1:30am on weeknights to allay concerns expressed by the Valley Center School District. Additionally, patrons must be at least 21-years of age to enter the facility.
- Band has reserved 1,218 slot machines.
- In December 2002, Band circulated an Environmental Assessment for the expansion of Valley View Casino. The proposed expansion consists of increasing the existing facility by 56,300 square feet, for a total of 96,754 square feet; and increasing the developed area on the Reservation by approximately eight acres, for a total area of development of 26 acres. The expanded gaming will consist of installing approximately 600 new slot machines; and adding a Nevada-style bingo operation and table games. The gaming expansion is estimated to result in 250 new employees. .
- Band signed a Cooperative Agreement with County for \$6,149,349, which was approved by the Board of Supervisors on June 19, 2001; the Agreement mitigates traffic impacts of both the Phase I casino, and what was envisioned originally as Phase II casino and resort development. County staff will be meeting with the Band's representatives to review the Agreement in light of the current Phase II project, which differs in size and location from the project considered in the Agreement.

3.15.6.2 Other Businesses

There are no businesses other than the Casino on the Reservation.

3.15.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.15.7.1 Education

- Band's Education Department consists of comprehensive programs and services for community members ages 0 to adult.
- Education complex includes a Head Start program through a partnership with Metropolitan Areas Advisory Committee (MAAC).
- The Tribe's Education Program administers a state and federally funded "Even Start" literacy program, in partnership with MAAC and through a partnership with Southern California Tribal Chairmen's Association (SCTCA); and with Valley Center Unified School District for the area of the program that serves young children.
- The Community Resource Center, in partnership with the SCTCA, hosts school retention programs, community college courses, computer and technology programs, and recreation and cultural programs.

3.15.7.2 Infrastructure

- The Reservation is served by the Valley Center Municipal Water District on its west side with approximately 60 metered hookups. The east side of the Reservation primarily uses ground water with approximately 71 metered hookups. There are three wells and a fourth one not yet on line due to a wait for manganese treatment. The Valley Center Municipal Water District serves as backup in case of emergency.
- The San Pasqual Reservation Fire Department is located at 16150 Kumeyaay Way on the San Pasqual Reservation. The Fire Department is staffed 365 days a year, 24 hours a day. There are two fire engines at this time; Band recently purchased a 2000 International type two engine, and also has an older type three engine. Staffing includes a captain, engineer, firefighter and reserves, as well as a Fire Chief on a 40-hour workweek schedule. The Reservation has an automatic aid agreement with Valley Center Fire District, which allows sharing of resources.
- Roads
- Five-acre cemetery

3.15.7.3 Services to Tribal Members

- Employment opportunities
- Educational opportunities
- Water service
- Sanitation coordination
- Recreation
- Housing
- Utility subsidy for low income members

3.15.8 State and Regional Economic Impacts

- The casino employs 31 tribal members (enrolled), 52 lineal descendants and 329 non-Indians, for a total of approximately 430 employees.
- Casino investment: \$30 million
- Annual casino payroll: Approximately \$11 million
- Annual volume of goods and services for casino: Approximately \$45 million
- Casino contracts with approximately 600 vendors, most from the San Diego region.

3.15.9 Community Relations

- Mutual Aid Agreement with Rincon Band for structural fire protection services.
- Band support events in Valley Center and Escondido.
- Signed a Cooperative Agreement with County for \$6,149,349 in contributions for road improvements, including \$5,991,444 to mitigate impacts of the (then) proposed casino/resort project.
- Contributed to the creation of the Kumeyaay-Ipai Interpretive Center on a five-acre site in the City of Poway.

3.15.10 Issues and Challenges

The San Pasqual Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the San Pasqual Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. The San Pasqual Tribal Government has many priorities, which include the following:

- Finalize a new Land Use and Development Plan for the Reservation.
- The Tribe has incurred substantial debt service from development of gaming enterprise and other obligations. While achieving its goal of financial success, the Tribe is challenged to incorporate sharing of gaming revenue with tribal members in the immediate future.

3.16 *Santa Ysabel Band of Mission Indians*¹¹

The Santa Ysabel Band of Mission Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Santa Ysabel Indian Reservation. The Santa Ysabel Band of Mission Indians is one of the 12 Kumeyaay Bands in San Diego County. The Kumeyaay Indians have been in San Diego County for at least 10,000 years, and controlled most of the land, which is today San Diego County, and a substantial part of northern Mexico.

¹¹ The information in this section was not provided by the Tribe, but was gleaned from other sources.

3.16.1 Tribal History

- The Santa Ysabel Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13301) as “Santa Ysabel Band of Diegueño Mission Indians of the Santa Ysabel Reservation, California.” The Band identifies itself as “Santa Ysabel Band of Mission Indians.”
- No other information is available at this time.

3.16.2 Reservation

- The Reservation is located in northern San Diego County, between Lake Henshaw and the Community of Santa Ysabel; it covers 15,526.78 acres. (*See Appendix A*)
- The original Reservation was established by Executive Order of December 27, 1875, and a trust patent was issued on February 10, 1893.
- No other information is available at this time.

3.16.3 Population

- Enrollment: 1,011 members.
- Population living on Reservation: 499 persons.

3.16.4 Tribal Government

- The governing body is the General Council, which elects the Tribal Council to four-year terms.
- According to the Federal Register of August 13, 2002, Band was a recipient of a \$550,000 grant from the Department of Housing and Urban Development, under the Indian Community Development Block Grant (ICDBG) Program.
- No other information is available at this time.

3.16.5 Services and Benefits Provided by Tribal Government

No information is available at this time.

3.16.6 Economic Enterprises

3.16.6.1 Gaming

- The Band has requested to sign a Tribal-State Compact with the State of California, but the request was placed on hold by the Governor pending resolution of a challenge to Proposition 1A. Band may be able to negotiate a compact during compact renegotiations in progress.
- No other information is available at this time.

3.16.6.2 Other Businesses

No information is available at this time.

3.16.7 Tribal Projects Funded From Gaming and/or Other Revenues

3.16.7.1 Education

No information is available at this time.

3.16.7.2 Infrastructure

No information is available at this time.

3.16.7.3 Services to Tribal Members

No information is available at this time.

3.16.8 State and Regional Economic Impacts

No information is available at this time.

3.16.9 Community Relations

- The County Department of Parks and Recreation is acquiring approx. 4,000 acres sharing a boundary with the Reservation from the SR-76 to Volcan Mountain, along Santa Ysabel Creek. The Department will seek and welcome tribal input in planning this open space preserve.
- No other information is available at this time.

3.16.10 Issues and Challenges

The Santa Ysabel Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Santa Ysabel Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land.

- No information is available at this time.

3.17 *Sycuan Band of the Kumeyaay Nation*

The Sycuan Band of the Kumeyaay Nation is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Sycuan Indian Reservation. The Sycuan Band of the Kumeyaay Nation is one of the 12 Kumeyaay Bands in San Diego County.

3.17.1 Tribal History

- The Sycuan Band is listed in the Federal Register (Vol. 65, No. 49, pg. 13301) as “Sycuan Band of Diegueño Mission Indians of California.” The Band identifies itself as “Sycuan Band of the Kumeyaay Nation.”
- For more information on Sycuan’s history, see www.sycuan.org

3.17.2 Reservation

- The 640-acre (one-square mile) Reservation was established by Executive Order of 1875 signed by President U.S. Grant. The Trust patent was issued pursuant to the Mission Indian Relief Act in order to provide the Sycuan Band with a permanent homeland.
- The Reservation is located in Dehesa Valley, in Eastern San Diego County. (*See map in Appendix A-1*)

- Recently, the Reservation was enlarged by 172 acres, commonly known as the Bradley, Big Oak Ranch, Lenore and Cullmer parcels, when these properties were placed into trust by the Secretary of the Interior for the Band. (See Appendices D-1 and D-2)
- The Reservation now consists of 7812.15 acres, of which 224 acres are allotted to individual Indians.
- The Reservation is comprised primarily of mountainous terrain, and is traversed by the North Fork of the Sweetwater River. The Reservation is accessed via Dehesa Road, a County-maintained road, and Sycuan Road, a private road
- Only approximately 230 acres of the original Reservation are usable for agricultural, residential or commercial uses
- Approximately 70% (161 acres) of the original Sycuan Reservation's usable acreage was long ago allotted to individuals, resulting in Sycuan only having approximately 69 acres of the original Reservation available for economic development and housing
- Governmental and non-commercial uses on the Reservation: Tribal offices; 48 residences; fire station and fire department administrative offices; fire department training facility; ambulance service; medical and dental clinic, which serves tribal members, employees, other Indians and residents of surrounding communities; library; day care facility; Learning Center, which includes a satellite campus of the Mountain Empire Unified School District; a Western Association of State Colleges (WASC) accredited satellite campus of D-Q University, an Indian college; gymnasium; Insurance Services, Human Resources; landscape services; Department of Safety; water treatment plant; 750,000-gallon water tank; and a 300,000 gpd-wastewater treatment plant.
- Commercial uses on the Reservation: A casino.
- Other businesses: (See Sec. 3.17.5.2)

3.17.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- Over the last few years, the Band has applied to have several properties placed in trust. (See Appendix D-1)
- Band has been successful in recently conveying title to the U.S. Government in trust for the Band on the following properties: Bradley and Big Oak Ranch, which are 61.36 acres and 27.79 acres in size, respectively; and Lenore & Cullmer properties, which total 82.85 acres.

3.17.3 Population

- Enrollment: 129 members (including children).
- At present, 122 persons live on the Reservation, of which about 107 are tribal members and their immediate family.

3.17.4 Tribal Government

- Governed by General Council, comprised of approximately 68 adult voting members (18 and older). The General Council elects the Tribal Business Committee (Tribal Council), which meets monthly and approves all land use decisions.
- Tribal Business Committee (Tribal Council) is comprised of seven elected tribal officials with four-year terms; it has executive, legislative and judicial powers; meets weekly; and establishes policy.
- The Tribal Council acts as the Tribal Public Water Agency. It is also responsible for the following:
 - Employs 250 people for governmental services.
 - Determines tribal membership(lineal descendency).
 - Community Master Plan

3.17.4.1 Gaming Regulation

- The Sycuan Gaming Commission (Commission) is an independent gaming regulatory agency for the Sycuan Band of the Kumeyaay Nation, established through the adoption, by tribal resolution, of the Tribal Gaming Ordinance (Tribal Law). The Commission is primarily responsible for carrying out the Band's regulatory functions promulgated by federal law and Tribal Law. The Commission is also responsible for enforcement of all other applicable tribal, federal, and Tribal-State gaming compact provisions. Other Commission responsibilities consist of conducting background checks and determining the suitability of licensing for employees, gaming devices, gaming resource suppliers, and protecting Tribal gaming assets. Ensuring the safety of the patrons in the gaming facilities, and ensuring that patrons are treated fairly in any gaming activity, is of paramount importance to the Commission and Tribal Government.
- The Commission consists of four departments: Compliance, Backgrounds, Internal Auditor and Surveillance. All of these departments are overseen by three Gaming Commissioners and an Executive Director. The Commission has complete autonomy from the casino, or its management, and reports directly to the tribal government. In the year 2001, the Sycuan Band spent in excess of \$3 million on gaming regulation activities.

3.17.5 Services and Benefits Provided by Tribal Government

- Water, sewer and sanitation
- Security service
- Emergency medical ambulance, paramedic service, fire suppression and fire prevention services, both on and off the Reservation
- Education: Learning enter; tutors for K-12; college scholarships; a satellite campus of D-Q University
- Library
- Recreation

- Draft Master Plan for Community Development
- Planning, building, public works and environmental services
- Road maintenance and construction
- Maintenance of wells
- Employment opportunities
- Health benefits

3.17.6 Economic Enterprises

3.17.6.1 Gaming

- Band opened a 23,200-square foot Bingo Hall in November 1983, with 26 employees; in 1995, the gaming area consisted of 35,000 square feet. The first phase of the expanded casino began in 1995 and opened on November 15, 2000. The second phase of the older portion of the remodeled gaming facility was completed in May 2001.
- Band signed Compact with State of California on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- Total investment in casino to date: \$90 million.
- The casino building, including gaming, restaurants, theater, offices and back-of-house operations now occupy 292,712 square feet. The gaming area consists of 93,890 square feet.
- Gaming and gaming-related employment: 2,000 persons.
- 2,000 gaming machines are in operation.
- Sycuan Showcase Theater, with 460 seats, recently opened.
- No alcoholic beverages are currently served at the casino.
- All employees receive medical coverage and benefit from a subsidized meal plan.

3.17.6.2 Other Businesses

- Singing Hills Resort at Sycuan, which is operated by the Sycuan Tribal Development Corporation, is a 400-acre complex about three miles west of the Reservation. The Resort includes three golf courses, a 104-room hotel and meeting rooms, two restaurants and 11 tennis courts.

3.17.7 Projects Funded From Gaming and/or Other Revenues

In 2000, Sycuan Tribal Government spent \$24 million on government operations and tribal projects, e.g. housing, roads, education, health care, etc. Additional detail is provided below.

3.17.7.1 Education

- The Sycuan campus of D-Q University was established to provide a community college facility. The University provides language and other training for Kumeyaay heritage and

customs, and University-level educational opportunities for Sycuan and the community at-large.

- The Learning Center provides home study and after-school programs; high school education classes to obtain diplomas; Day care, tutors for K-12, and preschool activities.
- 26 children from Sycuan attend Dehesa Valley Elementary School, out of a total student population of 177
- Scholarships are provided to members.
- Library

3.17.7.2 Infrastructure

- Water Reclamation Plant
- Water Treatment Plant
- Water distribution & storage, consisting of more than 12,000 feet of pipelines; two additional water storage tanks were built in 1999, bringing daily operational water storage capacity to 500,000 gallons of reclaimed water for reuse, and 750,000 gallons of potable water, and bringing the total storage capacity to 1.3 million gallons.
- Off-site sanitary landfill due to topographic restrictions
- Maintenance of 10,000 lineal feet of roadways
- 3 megawatts of emergency back-up generation to assist the region during energy crisis
- Community development
- Landscaping

3.17.7.3 Services to Tribal Members

- Full medical, dental and vision coverage for members
- Tribal housing, healthcare, day care, recreation center, gymnasium, fire and emergency services, security, insurance and administrative services and employment.

3.17.8 State and Regional Economic Impacts

- Eliminated unemployment and welfare dependency on the Reservation
- Contributed to reduction in unemployment and welfare dependency among the hundreds of non-Indians employed at the casino.
- Number of jobs created: 2,250 (including 2,100 for non-Indians).
- Total payroll in 2000: Approximately \$61 million
- Volume of goods and services purchased in 2000: Approximately \$35 million.
- Total number of vendors in 2000: 2,600, most from San Diego County.
- Revenue spent on community, charitable contributions, sponsorships, etc: \$2.1 million in 2000.

- Band's purchase of Singing Hills Resort will generate significant property tax revenue to San Diego County.

3.17.9 Community Relations

- September 25, 2000: Entered into Cooperative Agreement with the County of San Diego to mitigate some of the traffic impacts near the reservation.
- November 11, 2000: Signed an historic Memorandum of Understanding with the Crest/Dehesa/Granite Hills/Harbison Canyon planning group for enhanced relations.
- Continues to work closely with the Crest/Dehesa/Granite Hills/Harbison Canyon Planning Group on planning, transportation, natural resources and economic development projects.
- Contributed \$247,700 towards the widening of Dehesa Road at Dehesa Elementary School.
- Purchased a speed-monitoring trailer for use by the California Highway Patrol for strategic deployment throughout the Dehesa Valley and east County.
- Committed to having a positive impact on the surrounding community.
- Will continue to work with the County of San Diego to develop a government-to-government Memorandum of Understanding to address issues of mutual concern.
- Developed a Tribal Community Master Plan in consultation with the local Planning Group.
- On August 6, 2002, contributed \$25,000 to the Pines Fire Relief Fund to help victims of the Pines Fire.

3.17.10 Issues and Challenges

The Sycuan Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Sycuan Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the Tribal Members who not only elect their government, but also vote on issues related to the land. The Sycuan Tribal Government has many priorities, which include the following:

- Protect Sycuan's sovereignty and preserve the well being of our people.
- Develop self-sufficiency and responsible governance.
- Provide a positive impact on our community.
- Develop strong and effective government-to-government relations with state and local agencies.
- Provide educational and economic opportunities for our people.
- Protect and enhance our natural resources and the environment.
- Continue to improve our quality of life.

3.18 Viejas Band of Kumeyaay Indians

The Viejas Band of Kumeyaay Indians is a self-governing, federally recognized Indian Tribe exercising sovereign authority over the lands of the Viejas Indian Reservation. The Viejas Band of Kumeyaay Indians is one of the 12 Kumeyaay Bands in San Diego County.

3.18.1 Tribal History

- The Viejas Band of Kumeyaay Indians is a federally recognized Indian tribe listed in the Federal Register (Vol. 65, No. 49, pg. 13299) as “Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.” Viejas identifies itself as “Viejas Band of Kumeyaay Indians.”
- The Viejas Band was originally part of the Capitan Grande Reservation, which was established by Executive Order of 1875. The Capitan Grande Reservation included within its boundaries the Los Conejos Village and the Capitan Grande Village.
- In early 1930’s, Congress allowed the City of San Diego to buy the heart of the Reservation to build El Capitan Reservoir and the San Diego River Dam, forcing the Kumeyaay Indians to move. Some 28 families, including members from the Los Conejos Village, purchased the Viejas Valley land, once a ranch owned by Baron Long, and became known as the Viejas Band. The Viejas Band continues to share a joint-trust patent with the Barona Band and joint administrative responsibility for the 15,000 remaining acres of the Capitan Grande Reservation.

3.18.2 Reservation

- Viejas Reservation consists of 1,609 acres, located north of Interstate 8, off Willows Road, near the community of Alpine. Viejas Creek bisects the Reservation. (*See Appendix A-1*)
- Access to the Reservation is by County-maintained two-lane roads - Willows Road, East Willows Road and Viejas Grade Road – and Interstate 8.
- Governmental and non-commercial uses on Reservation: Approximately 140 residential units, which house approximately 800 persons; senior citizens center, two schools, Tribal Government Center, community park, fire station, church and cemetery.
- Commercial uses on Reservation: One casino, an outlet center, and one RV park.
- Other businesses: (*See Sec. 2.18.6.2*)

3.18.2.1 Fee To Trust Applications and Other Actions Resulting in Expansion of Land Base

- The Band has applied to have a total of 839 acres placed in trust, including an application for 433 acres, which the BIA has not yet sent to the County. (*See Appendices D-1 and D-2*)
 - The County has commented on two applications, which together cover 406.23 acres. Most of that land is not proposed for a change in land use.

- Band has also applied to place approximately 433 acres in trust. These properties are contiguous to the Capitan Grande Reservation. The County has not yet received notice of this application from the BIA.

3.18.3 Population

- Enrollment: 289 members (including children).
- About 800 persons live on the Reservation, of whom about 630 are tribal members and their families.

3.18.4 Tribal Government

- The Viejas Band's democratic government consists of two levels: General Council and Tribal Council.
- The General Council, which includes all of the Band's 157 adult voting members, elects the Tribal Chairman and the Tribal Council, and votes on all land use decisions.
- Membership in the Tribe is based on direct descent from the original Capitan Grande Reservation families, including those who resided in the Los Coñejos Village who pooled money to purchase the Baron Long Ranch in Viejas Valley, and moved to the new federally recognized Reservation.
- Members of the Tribal Council, which consists of the Tribal Chairman, Vice Chairman, Secretary, Treasurer and three at-large Council Members, are elected to two-year terms of office. The Tribal Council governs according to the customs and traditions of the Band, exercising executive, legislative and judicial powers. The Tribal Council employs a professional government manager to handle the daily Tribal governmental operations, and oversees and sets policy for all commercial activities of the Band.
- Under the Viejas Tribal Gaming Ordinance, the Gaming Commissioner and staff are responsible for regulating all gaming activity. The Gaming Commissioner reports directly to the Tribal Council, and is independent of casino management. The Gaming Ordinance also establishes a three-member Viejas Gaming Review Board, whose members and alternates are appointed to staggered three-year terms by the Viejas Tribal Council. The Board is responsible for reviewing and approving Viejas gaming regulations promulgated by the Gaming Commissioner, and for hearing appeals related to licensing actions, imposition of fines and patron disputes.
- On June 26, 2002, the General Council approved calendar year 2002 operating and capital budgets for the Viejas Tribal Government of \$61,697,944 and \$13,422,569, respectively.

3.18.4.1 Gaming Regulation

- Tribal government gaming on the Viejas Reservation is governed in accordance with federal laws. In 1998, the Band adopted by resolution, the Viejas Tribal Gaming Ordinance (Gaming Ordinance) and Tribal Gaming Regulations. These are comprehensive controls similar to those enforced in Nevada, and they govern the Class II and Class III gaming operations of Viejas Casino. The mission of the Viejas Gaming Ordinance, Gaming Regulations and Gaming Commission staff, is to ensure full compliance with all applicable Tribal, Federal and State statutes, as well as the Tribal-

State Gaming Compact; and to protect the integrity of the games for patrons and the Tribe.

- Under the Gaming Ordinance, no activity relating to the operation of Viejas Casino is exempt from review and inspection by the Tribal Gaming Office, nor is any manager or employee exempt from the provision of the Ordinance and regulations.
- The Gaming Ordinance established the tribally funded Viejas Tribal Gaming Office and its staff, with the Viejas Tribal Gaming Commissioner as chief administrative and enforcement officer, reporting solely and directly to the Viejas Tribal Council.
- The Ordinance also established the three-member Viejas Gaming Review Board, whose members and alternates are appointed to staggered three-year terms by the Viejas Tribal Council. The Gaming Review Board is responsible for reviewing and approving Viejas gaming regulations promulgated by the Gaming Commissioner; and hearing appeals, relating to licensing actions, impositions of fines and patron disputes. Board members are not permitted to have any financial interest in Viejas Casino, or its vendors, and they and their immediate families are prohibited from gaming at the facility.
- During 2000, the Viejas Band spent in excess of \$2.5 million on gaming regulation activities, including \$1.3 million to operate an independent Gaming Commissioner's Office, and \$1.2 million for Surveillance Department operations.

3.18.5 Services and Benefits Provided by Tribal Government

- Master land use, environmental planning and resource conservation.
- Water utility, including water quality testing, treatment, storage and distribution.
- State-of-the-art wastewater collection and treatment of non-potable system for irrigation
- Sanitary landfill and solid waste transfer station.
- Right of way road construction, maintenance, signage and repair.
- Professionally managed security department consisting of 170 certified officers to ensure as safe environment for guests, employees and reservation residents.
- Fire protection and emergency medical services.
- Comprehensive health program and comprehensive life insurance program.
- Services to seniors, including meals and recreational programs.
- Cultural programs.
- Archeological and artifact review and repatriation.
- Housing program.
- Educational assistance, college scholarships, after-school tutoring, GED diploma programs in conjunction with Grossmont High School District, and Community College classes in conjunction with Grossmont Community College.
- Recreation and wellness programs.

- Employment opportunities.
- Per capita distribution of gaming revenues.

3.18.6 Economic Enterprises

3.18.6.1 Gaming

- Opened original casino on September 13, 1991 with 80 employees and 10,000 square feet of gaming space.
- Signed Tribal-State Compact on September 10, 1999. Compact was approved by Assistant Secretary – Indian Affairs, Department of the Interior, on May 5, 2000. Compact took effect when the notice of the Secretary’s approval was published in the Federal Register/Vol. 65, No 95, on May 16, 2000.
- Total investment in casino in 2000: \$116,400,000.
- Casino and back-of-the-house operations now occupy more than 250,000 square feet and employ more than 2,400 people.
- Casino operates 2,000 gaming machines, and includes a 1,200 bingo pavilion, card games and Off Track Betting facility.
- Band invested \$2.5 million as of the year 2000 for tribal gaming regulation and surveillance systems. The Viejas Casino Security Department employs more than 150 men and women, who provide security at the casino, casino parking lots and the Viejas Reservation; and provide for traffic and pedestrian safety on Willows Road.
- The Viejas Casino offers a full range of dining and beverage services to players. There are five restaurants with indoor seating for 650 patrons. In addition, the DreamCatcher Showroom can accommodate up to 300 persons for catered events.
- Entrance to gaming areas is limited to those 18 and older.
- Casino offers extensive employee benefits, including a 401(k) matching plan; health insurance, for which the Band paid over \$5 million in 2000; and a subsidized meal plan.
- Viejas Casino was the first California gaming operation to have a collective bargaining agreement with a labor union, Communications Workers of America (CWA).

3.18.6.2 Other Businesses

- The Viejas Band is the sole owner and operator of the \$55 million Viejas Outlet Center (57 stores, 225,000 sq.ft.), the first American Indian-owned retail outlet center. The 25-acre open-air shopping, dining and entertainment complex is themed to reflect a Native American village. It features waterfalls, streams and a harmony of art, color and 50 life-size bronze wildlife sculptures. Guests of the Outlet Center may choose from six restaurants, including Scatterbeans, a tribal member-started coffeehouse, which also features entertainment. There is indoor and outdoor seating to accommodate more than 200 patrons. The Viejas Outlet Center has earned recognition from many trade organizations, civic and professional groups, including the San Diego Orchids Award for Architecture, the International Council of Shopping Centers Award for Innovative

Design, San Diego Magazine “Best of” Award, and the Themed Entertainment Association Outstanding Achievement Award.

- Established in 1975, the Ma Tar-Awa Recreational Vehicle Park and Camp was the first economic development project of the Band. It has 88 trailer hookups and campsites accommodating up to 2,000 guests.
- The Band purchased the 32-acre Alpine Recreational Vehicle Park, which is located outside the Reservation, in June 1998.
- The Viejas Band is the majority stockholder of Borrego Springs Bank, N.A., which was the first American Indian-owned bank in California and second in the nation. The bank has 16 loan production offices and three branch offices. It is ranked among the top 50 SBA lenders in the nation by the Coleman Report (September 2000), and ranked a Premiere performing Bank by the Findley Report for the year ended December 31, 2000.
- The Band partnered with three other Tribes to establish a new economic coalition, Four Fires LLC. (Coalition). The partner Tribes are: the Forest County Potawatomi Community, Wisconsin; Oneida Nation of Wisconsin; San Manuel Band of Mission Indians, San Bernardino County of California. The first project of the Coalition is to build a \$43 million Residence Inn by Marriott in Washington, D.C., in proximity of the Smithsonian’s National Museum of the American Indian (NMAI), which is slated to open mid-2004. Groundbreaking for the hotel was held on March 6, 2003.

3.18.7 Projects Funded From Gaming and/or Other Revenues

In 2000, the Viejas Tribal Government spent \$51,383,646 on government operations and community projects, such as housing, roads, education and health care. In 1999, the Band spent \$34,662,790. An additional \$1,948,039 was spent on San Diego community projects such as charitable contributions and sponsorships. More detail is provided below.

3.18.7.1 Education

- The Viejas Education Center was built in 1999 to provide additional instruction to members and their families, including K-12 tutoring, high school GED program, Home Choice (a home schooling support program), college and cultural courses, physical education and support for organized youth activities, such as the student leadership program.
- Full scholarships for vocational training, college or university education are available to all members who maintain attendance and grade requirements.
- Preschool and structured after-school programs provide supplemental education.
- The Viejas Internship Program allows members to explore careers in tribal government, gaming and other Viejas business enterprises.

3.18.7.2 Infrastructure

- Emergency medical and fire, fire suppression and fire prevention services.
- A state-of-the-art wastewater treatment facility was constructed with an initial investment of \$3.2 million. The facility is undergoing a \$1.2 million expansion that will make the plant one of the most technologically advanced wastewater treatment plants in California.

Phase III is underway and is expected to be completed in June 2003. The project will expand the treatment capabilities of the plant from 200,000 gallons per day to 300,000 gallons per day.

- All uses on Reservation are connected to the wastewater treatment facility, with the last house sewer connection taking place on January 17, 2003.
- Water distribution & storage, consisting of more than 35,000 feet of pipelines. Two additional water storage tanks were built in January 2001, bringing daily operational water storage capacity to 1.3 million gallons.
- In the mid-90's, the Tribal Government built "The People's Park", the first open-air recreation facility to serve members of the Band. The Park includes a youth center, a lighted ball field and picnic areas. Additionally, a gymnasium is in the pre-construction phase.
- In 1999, built a new sanitary landfill and transfer station.
- 22 homes are under construction.
- Housing repair program.
- Restoration of Viejas Creek, a \$1 million plus project.
- Provided funding of approximately \$1.9 million for improvements to Willows Road, including road widening, lighting, drainage, traffic signals and landscaping
- Extensive seeding, plant restoration and wetland restoration projects.
- Resurfacing right of way on Reservation roads, conducting safety improvements and installing signage.
- Installed extensive fencing to keep livestock in designated areas.
- On August 21, 2002, the General Council approved building a horse arena. The new arena will meet the standards set by the National Rodeo Association. Policies for use of the arena are being developed.

3.18.7.3 Services to Tribal Members

- Full medical, dental and vision, mental health and life insurance coverage for Members.
- Senior Center provides lunches, classes, transportation and other assistance to elders.
- Recreation and Wellness Program offers recreational and health related services.
- Summer youth employment and internship programs.
- Cultural programs and Summer Camp.
- Comprehensive educational support from preschool to advanced university degrees.
- On June 19, 2002, the General Council approved the Housing Code and Home Loan Program. Yearly, 10 new home construction loans of up to \$160,000 each, and five remodeling loans for up to \$80,000 each, will be offered to tribal members according to

age, with the oldest members being given the first opportunity. The Program was approved for three years, and funds can only be used for housing on the Reservation.

- Successful completion of financial planning classes mandatory for Viejas minors before they can receive Children's Trust Fund per capita distributions.
- 25% of Viejas tribal members are employed by Viejas Enterprises.

3.18.8 State and Regional Economic Impacts

- Eliminated unemployment and welfare dependency on the Reservation.
- Contributed to reduction in unemployment and welfare dependency among the hundreds of non-Indians employed at the Casino and Outlet Center.
- Number of jobs created in 2000: 2,450 (2,127 in 1999).
- Total payroll in 2000: \$53,840,676 (\$41,102,720 in 1999).
- Viejas Tribal Government has adopted a policy of purchasing goods and services from San Diego County vendors. The business transactions of the Band are shown below:
 - Goods and services purchased in 2000: almost \$57 million (almost \$37 million in 1999)
 - Total number of vendors: 1,800 in 2000 (1,200 in 1999)
- Revenue spent on community, charitable contributions, sponsorships, etc, was \$1,948,039 in 2000 to 450 organizations (was \$1,106,131 in 1999), and since 1995, the Band has spent over \$9 million for these purposes.
- From 1995-2001, the Band has participated in a voluntary intertribal revenue sharing program in conjunction with Barona and Sycuan Bands. The Viejas Band's share to San Diego's non-gaming tribes has totaled \$1.23 million.

3.18.9 Community Relations

- The Viejas Band remains open to mitigating any development-related impacts.
- In the early 1980's, the Viejas Band joined seven other Tribes to form the Southern Indian Health Council (SIHC), a not-for-profit corporation to serve the basic medical needs of Tribal Members.
- The Viejas Band is committed to providing support and funding for the clinic, a tribal and community-based health-care facility.
- Since opening the Viejas Casino in 1991, the Viejas Band has worked to be a good neighbor in East San Diego County, as shown below, in addition to providing major employment and entertainment options to East County residents.
- The first priority of the Viejas Band has been to contribute to and participate in the Alpine area schools, providing funding for the Alpine Community Center, enhancing East County tourism and community events. Commercial decisions made by the Band are made with a consideration to the interests of the larger community in retail, banking and tourist-related entertainment.

- Viejas Band representatives attend Alpine Community Planning Group meetings, and Viejas managers have held positions as Chair of the Alpine Chamber of Commerce and other civic organizations in the community. The Viejas Outlet Center is host site of the East County Tourism Information Center. The Band has also made major financial contributions to the Alpine Sheriff's substation and the Highway Patrol, and has approached the County of San Diego seeking to establish a fund that would permit California State sales taxes collected on the Reservation to go to the Alpine community, with a priority on Sheriff and fire protection.
- In addition to contributions of over \$1 million a year to San Diego County youth, civic, arts and social service organizations, tribal members and employees are active in County Chambers of Commerce, the East County and San Diego Convention and Visitors Bureaus, Taxpayers Association, Urban League, Holiday Bowl, Fleet Week, Caesar Chavez Birthday Celebration, Martin Luther King Breakfast, Holiday Food Drive, and numerous other community organizations and events.
- On March 21, 2002, Band hosted all the Alpine community organizations to a catered luncheon celebrating the long-standing neighbor-to-neighbor relationships between the Band and the Alpine Community.
- The Viejas Band has received many awards and recognition from *San Diego Magazine*, *San Diego Business Journal*, *San Diego Union Tribune* readers' polls, and the *Alpine Sun*.
- The Viejas Band has also received awards and recognition from community organizations, such as the San Diego Boys and Girls Clubs' 2000 Golden Achievement Award and the John Johnson Award from the San Diego Urban League.
- The Viejas Band has taken a leading role in implementing responsible gambling addiction prevention awareness programs, both within the Casino and in the community at large.
- The Viejas Band is committed to providing support and funding for the Southern Indian Health Council clinic, a tribal and community based health-care facility.
- On August 6, 2002, contributed \$10,000 to the Pines Fire Relief Fund to help victims of the Pines Fire.
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3.18.10 Issues and Challenges

The Viejas Tribal Government faces issues that are unique, and issues that are shared with other governments. Like state and local governments, the Viejas Tribal Government is responsible for providing services to the Reservation; and developing policy and planning in keeping with the desires of the tribal members who not only elect their government, but also vote on issues related to the land. The Viejas Tribal Government has many priorities, including the following:

- Planning and developing future economic diversification programs.
- Providing for the health and safety of tribal members and Tribal businesses, including a professional tribal public safety and internal business security force.

- Protecting the environment and natural resources for future generations.
- Caring for tribal elders; educating tribal youth; and strengthening cultural values.
- Creating government expertise and infrastructure to deal with the evolving modern governmental responsibilities.
- Constructing new infrastructure and improving old infrastructure, including roads, sewer and water systems, schools, a new senior center, fire department headquarters, Community Park and gymnasium (in pre-construction phase).
- Educating state and local governments regarding Tribal Government sovereignty.
- Maintaining communication and working relationships based on mutual respect with San Diego County and other local governmental institutions, as well as neighboring communities.
- Implementing the Tribal-State Class III Gaming Compact in an honorable and mutually beneficial manner for all concerned.
- Seeking a seat at the table on Regional Planning Boards, such as SANDAG, on a government-to-government basis.
- Implementing the Tribal-State Class III Gaming Compact in an honorable and mutually beneficial manner for all concerned.
- Protecting the continued use, standards, and survival of the Southern Indian Health Council clinic, and ensuring that the Southern Indian Health Council clinic continues to be viable without a lapse, reduction, or loss of services due to Tribes or the public.

Chapter 4

Update of Traffic Impacts

4.1 Introduction and Overview

The purpose of the report is to identify road improvement needs in the vicinity of Reservations located in the County of San Diego. As sovereign nations, many of the Indian Bands are developing projects on Reservations to improve the economic livelihood of their members. Most of these projects include gaming facilities and resorts.

Due to their location in the backcountry, the Reservations take access from rural two-lane County arterials and/or State highways. Previous land use and transportation planning for the rural backcountry did not assume large scale development on the Indian Reservations. The development and expanded operation of gaming, gaming-related and resort projects, has significantly increased, and will continue to significantly increase, traffic on almost all existing two-lane access roads. A complicating factor is that the location of tribal projects is inflexible in that Tribes do not realistically or politically have the option of locating their projects in places other than the Reservations.

The County has identified traffic to and from the tribal projects as one of the major adverse impacts of these projects. The County acknowledges that tribal development projects are not the only industry that creates a need for road improvements in the County's backcountry. Agriculture, sand and aggregate mining, residential development, recreational industries and other uses all generate traffic on County roads. The County also acknowledges that certain roadways impacted by tribal projects needed improvements prior to development by the Tribes. However, tribal projects have substantially increased traffic volumes on many roads, thereby increasing the severity of congestion and significantly altering traffic operations. As shown in Section 4.9.3 of the report, the general public (County), private developments and tribal developments should share the cost of these needed roadway improvements.

Existing traffic volumes are documented in Section 4.4, Baseline Conditions and Existing Needs, where it is shown that several County roads are operating below or near Level Of Service (LOS) "D." The report utilizes a traffic impact analysis generic to all developments, and provides an assessment similar to that required for other private development projects, but does not claim all of the impacts on these and other roads are caused by tribal projects.

Non-tribal projects are subject to CEQA, and often conditioned to provide road improvements and/or fairshare contributions. Since tribal developments do not require discretionary approval from the County, they are not subject to the same stringent environmental requirements as required by CEQA. As Tribes develop their Reservations, operational and road capacity improvements will be needed to better serve increased traffic volumes in the vicinity of Reservations. The County has coordinated with three Tribes, to date, to address these concerns. These efforts are documented in County/Tribal agreements to improve roadways impacted by casino developments.

Greater efforts will be needed by County, Tribes and SANDAG to develop data that can be used in the regional planning and transportation programs that are underway, to ensure that traffic

projections and infrastructure planning include all of the existing and future tribal development projects.

This report presents the following information and analysis:

- A comparison between the scope and assumptions of the traffic needs assessment utilized in this report to those presented in the November 1, 2000 Report.
- The road capacity and improvement needs associated with current or proposed projects on 12 Reservations within San Diego County. Additional information is provided in *Appendix C, "Traffic Needs Assessment of Tribal Projects within San Diego Region."* The Reservations with road capacity and improvement needs are Barona, Campo, the proposed Cuyapaipe (Ewiiapaayp) Reservation, Jamul, La Jolla, Manzanita, Pala, Pauma, Rincon, San Pasqual, Sycuan and Viejas. However, the Cuyapaipe (Ewiiapaayp) and Manzanita Tribes have not yet submitted specific project descriptions, therefore road improvement needs in the vicinity of these Reservations are only generally discussed.
- The process, time frames, and cost estimates for constructing needed road improvements identified for County arterials. The cost estimates are based upon the number of additional lanes that would be needed to improve the County arterial to LOS "D." A cost per lane mile factor was used to provide a general estimate. The cost per lane mile factor was adjusted to account for road improvements that traverse severe terrain and/or sensitive environmental habitat.
- The funding issues related to road improvements, especially the fact that the costs of the needed improvements exceed the County's ability to finance them. Estimates of the total cost to construct needed improvements to County-maintained arterials is \$150 million; of this amount the Tribes' fairshare for all post-September 1999 projects is estimated to be approximately \$25 million. This was obtained by summing the cost estimates obtained for each of the individual road segments. While Tribal contributions should be used to construct some of the needed road improvements, it is expected that State and/or federal funding will be needed to complete the construction of all of the needed road improvements.

4.2 Comparison To Previous Report

The study provided herein is an update to the November 1, 2000 traffic assessment, entitled "Preliminary Traffic Assessment of Indian Gaming Projects in the San Diego Region."

4.2.1 Overall Needs Assessment

Two major changes to the traffic analysis are included in this report. They were made based upon information that had been obtained after completion of the previous report. The changes include the following: 1) the estimated trip generation rate for an Indian gaming facility was changed from 130 trips per 1,000 square feet of casino area to 100 trips per 1,000 square feet of gaming area, and 2) updated project descriptions were incorporated for several Indian development projects.

4.2.2 County Arterials Impacted by Tribal Projects

In the previous report, levels of service estimated for County arterials were prepared by county staff based upon the County's public road standards' level of service Table. Needed road capacity improvements were then identified. In this report a discussion of operational improvements and a process to identify them is also provided. An example of this kind of analysis is provided for Wildcat Canyon Road.

4.2.3 State Highways Impacted by Tribal Projects

In the previous report, road improvement cost estimates were summarized for both County arterials and State Highways. Caltrans prepared the cost estimates for State highways. Due to the short timeframe in which the previous report was prepared, very general assumptions were made for road capacity, needed improvements and cost estimates for State highways. For instance, where capacity of a two-lane highway was exceeded, it was assumed that these facilities would be widened to four lanes and general cost estimates were made accordingly.

Caltrans staff calculated levels of service for state highways in the vicinity of Reservations, including SR 67, SR 76 and SR 94. Needed improvements were then identified. Caltrans is currently evaluating the feasibility of other interim/phased projects that can accommodate the anticipated traffic volumes without full widening to four lanes. However, a specific set of operational and capacity improvements has not yet been identified. Cost estimates for State highways are not included in this report. When completed by Caltrans, proposed improvements and cost estimates will be included in future revisions to this report.

4.3 Analysis Assumptions And Methodology

4.3.1 Baseline Conditions

Three Bands operated casinos prior to Compacts being signed in September of 1999. They are Barona, Sycuan and Viejas. Some access and frontage improvements were constructed for these facilities; they are documented later in this report. Since September 1999, new casinos opened on the Campo, Pala, Pauma, Rincon and San Pasqual Reservations; and Barona, Sycuan and Viejas expanded or significantly renovated their casinos, and/or expanded or built new commercial/recreational facilities.

Traffic count data was documented for County arterials and State Highways near the Reservations subsequent to the signing of the Tribal State compacts, but prior to the opening of the new and/or expanded tribal projects. These pre-September 1, 1999 -project conditions are included in this report as "baseline conditions."

The traffic data was obtained from the following sources: 2000 Traffic Flow Map for the San Diego Metropolitan Area, which is prepared by the San Diego Association of Governments, and which documents traffic on roads in 1999 and prior; the San Diego County Master Traffic Census (prepared by the County of San Diego, Department of Public Works); and traffic count data included in Environment Assessments prepared for individual Tribal projects. Therefore, baseline traffic conditions include traffic generated by all development existing as of 1999, together with the pre-September 1, 1999 Barona, Sycuan and Viejas projects. They do not include traffic generated by Barona, Sycuan and Viejas' post-September 1, 1999 expanded or new development projects.

4.3.2 Analysis Procedures

A summary of roads operating below LOS “D” under baseline conditions is provided in Section 4.4 of the report. These represent roads with pre-September 1999 existing needs for road improvements. Estimates of the number of trips generated by each of the post-1999 tribal projects, including new and/or expanded tribal projects, were then prepared by distributing trips generated by the post-1999 projects onto the road network in the vicinity of the Reservations, and then adding the trips to the baseline traffic volumes.

A summary of the trip generation assumptions and need assessment criteria used in the assessment is provided below.

4.3.3 Trip Generation Assumptions

San Diego Association of Governments (SANDAG) trip generation rates are typically used to estimate trip generation of land development projects in the San Diego region. SANDAG trip generation rates, however, do not include a trip generation rate for an Indian gaming facility/casino. The trip generation estimates used in the previous traffic assessment were derived from limited data available at that time. This included driveway traffic count data, available for the Barona Casino, and comparisons with Institute of Traffic Engineers (ITE) trip generation data. These sources, however, are not representative of the types of casinos, which have been built or have been proposed.

The casino trip generation rate used in this updated analysis is 100 average daily trips (ADT's) per 1,000 square feet of gaming area. This revised trip generation estimate is used in this traffic impact assessment based upon the review of additional environmental evaluations/assessments submitted for Indian gaming projects; other available studies; review of the more detailed project descriptions; coordination with private traffic consultants; and discussion with representatives for some of the Tribes. The 100 ADT rate reflects a rate that considers local traffic count data for casinos in San Diego County, and information submitted in environmental evaluations for casinos both inside and outside of San Diego County. The 100 ADT rate is an average rate; it may vary on a given day depending upon the size, type and location of Indian gaming project. It may also vary based upon the activities scheduled at the casino.

It should be noted that one casino's trip generation rate may not apply to every casino, as the types of casinos vary. Some may be “high end” and include several accessory uses to encourage customers to stay longer. Others may serve a customer base with a more frequent turnover. Similar to a “high end” sit down restaurant generating fewer trips per square foot than a fast food restaurant, the “high end” casinos will likely generate fewer trips per square foot than some of the focused market or niche casinos. The actual trip rate for each proposed casino will vary dependent upon its size and composition of uses. Over time the trip generation rates may change as the casinos fully develop, the economy changes, business operations are further defined/refined and market focus for each casino is identified.

From January through October 2001, the Reservation Transportation Authority (RTA) collected traffic data for several Reservations that may be used to further refine the County's 100 ADT trip generation rate. According to the RTA study for the Rincon Reservation, current traffic data for roads near the Rincon Casino are less than those estimated in this report. The County has determined that due to recent national events and the downturn in the economy, the traffic volumes shown in the RTA study may not be reflective of the overall future traffic generation that will occur as their business matures and the economy improves. The RTA data is, therefore,

not utilized in this report. The County, however, will continue to work with the RTA and SANDAG to refine the trip generation rate and estimates.

4.3.4 Road Capacity Needs Criteria

Road capacity needs in the vicinity of tribal projects were determined using the same methods the County uses to evaluate potential traffic impacts of private projects submitted to the County for discretionary approval. Road capacity needs and estimates for County arterials and state highways were identified by comparing baseline and projected traffic volumes to the County and Caltrans' Level Of Service (LOS), respectively. Road capacity needs were identified for County arterials and state highways based on the LOS estimates. A need was identified when an arterial or highway would operate below LOS "D," and serve a significant amount from traffic from a Reservation. A percentage of 2% is used by the County to identify significant traffic volume increases on a road operating at or below LOS "D."

4.4 Baseline Conditions and Existing Needs

Operating conditions, prior to the opening of new or expanded Tribal projects were documented for County arterials and State highways in the vicinity of Reservations. These conditions are referred to in this report as "Baseline Conditions." Traffic volumes were obtained from the County of San Diego's Master Traffic Census, and from environmental assessment/evaluations prepared for the various tribal projects. LOS estimates were then prepared based upon the baseline traffic volumes.

Prior to the opening of post-September 1999 new and/or expanded tribal facilities, approximately 23 miles of County arterials and 6.6 miles of State highway in the vicinity of the facilities were operating below LOS "D" and needed capacity improvements. These segments are shown below:

4.4.1 County-Maintained Arterials Operating Below LOS "D"

- Ashwood Street (Willow Road to Mapleview Street) – (1.10 miles)
- Mapleview Street (State Route 67 to Lake Jennings Park Road) – (0.79 miles)
- San Vicente Road (Main Street to Gunn Stage Road) – (5.83 miles)
- Wildcat Canyon Road (Barona entrance to Willow Road) – (5.08 miles)
- Willow Glen Drive (Steele Canyon Road to Jamacha Road/SR 54) – (0.78 miles)
- Valley Center Road (Cole Grade Road south to City of Escondido) – (5.16 miles)
- Willows Road (Interstate 8 to Viejas Casino entrance) – (2.27 miles)
- Dehesa Road (Willow Glen Drive to City of El Cajon) – (1.98 miles)

4.4.2 State Highways Operating Below LOS "D"

- SR 67 (Willow Road to Mapleview Street) – (1.22 miles)
- SR 94 (north of Avocado Boulevard to Lyons Valley Road) – (5.41 miles)

The Barona, Sycuan and Viejas gaming facilities and adjoining uses were originally developed prior to signing of the Tribal-State Compacts. Wildcat Canyon Road, Ashwood Street, Dehesa Road and Willows Road, provide access to these three Reservations, respectively. If the estimated traffic generated by the pre-September 1999 gaming and non-gaming projects on the Barona, Sycuan and Viejas Reservations is subtracted from the baseline volume for these three roads, 9.0 miles of the roads listed above would have operated at or better than LOS D.

Therefore, of the 23 miles of County arterials needing improvements under baseline conditions, approximately 13 miles was due solely to development occurring off Reservations, and approximately 10 miles was due to development of the pre-September 1999 gaming and non-gaming projects on the Barona, Sycuan and Viejas Reservations. Some additional traffic from the Reservations was also generated on portions of San Vicente Road and Mapleview Street, which were operating below LOS D, but the Reservations were not the primary cause of the level of service deficiency.

4.4.3 Roads on Tribal Lands

In May 1999, the California Transportation Commission (CTC) as part of part of a 10-year assessment of California's transportation, rehabilitation, maintenance and operations needs, identified \$275 million in needed road improvements on tribal lands. This was a statewide assessment and details of specific needs on tribal lands in San Diego County are not available at this time. It is likely, however, that substantial road improvements are needed for roads on most Reservations.

4.5 Road Capacity Needs

4.5.1 Build-Out Community Road Capacity Needs

The County of San Diego's General Plan Circulation Element (CE) designates future road classifications and road capacity for County arterials. The ultimate road classifications are identified to service the traffic volumes anticipated to occur at build-out of the County's General Plan land uses. The classifications for most CE roads were designated before Tribal-State Compacts were signed. At that time, the County did not assume intense development on the Indian Reservations.

The County of San Diego is updating its current General Plan. Under the proposed update, General Plan 2020 (GP 2020), revisions to land uses and road classifications throughout the unincorporated area will be considered. Detailed traffic forecasts should be prepared which incorporate the proposed land uses on the Reservations. These will provide more accurate projections than those based upon the previous method of hand-distributing traffic on these CE roads. Traffic forecasts, which are being prepared to evaluate the GP 2020 project, will incorporate traffic projections for all the post-1999 Tribal gaming and any other known future Tribal projects.

4.5.2 Road Capacity Needs in Vicinity of Compacted Reservations

Road capacity needs in the vicinity of each compacted Reservation were assessed based on estimated traffic volume increase and impact of added traffic to roadway level of service. Trip generation estimates were prepared based upon project descriptions provided by the Tribes. A trip generation rate of 100 ADT/1,000 square feet of gaming area was used for the casinos, and SANDAG's trip generation rates were generally used for the other uses. The trips were then distributed onto the adjacent road network individually, independent from the traffic generated by the other Reservations; and Roadway Level Of Service Summaries were then prepared.

The trip generation estimates for the Barona, Sycuan and Viejas projects were based upon the trips generated only by the expansion projects, as smaller casinos and the first phase of the Viejas Outlet Center were in operation prior to the Tribal-State Compacts. Traffic generated by the initial phases of these projects was already on the roads and highways and, for the most part,

is reflected in the existing traffic counts (baseline conditions). Traffic volumes on the access roads to these projects substantially increased, and access roads to these casinos were identified under baseline conditions to operate below LOS D.

Road capacity needs were identified for each Reservation by comparing the increased traffic volumes on a road segment to baseline traffic volumes. A road capacity need was identified when traffic volumes on a road in the vicinity of a Reservation increased by more than 2% with a proposed tribal project, and the road segment was currently and/or projected to operate below LOS D.

When compared to baseline conditions, segments of two additional County arterials and one State highway are projected to operate below LOS D as a result of post-September 1999 new and proposed tribal projects. Road capacity improvements are now needed on segments of Lake Wohlford Road, Steele Canyon Road and SR 76.

As a result of this analysis, the need for road capacity improvements has increased on eight County arterials and two State highways. These arterials and highways were already found to be operating below LOS D under baseline conditions. The post-September 1999 individual gaming and resort projects increased traffic volumes on these roads by more than 2%, and in some instances, the length of road segment needing improvement increased.

Road capacity needs in the vicinity of each Reservation were assessed individually based upon the additional traffic each tribal project would separately generate on roads in the vicinity of the individual Reservation. However, in the North County, several Reservations (Pala, Pauma, Rincon, and San Pasqual) are located in close proximity to one another. A needs assessment based upon the combined traffic generation was also needed; it is provided in Section 4.5.3 in this report.

New and/or increased road capacity needs that result from post September 1999 tribal development projects are shown below.

4.5.2.1 Barona (Based upon the Barona Ranch Resort and Casino Project)

- Ashwood Street (Willow Road to Mapleview Street) – (1.10 miles)
- Mapleview Street (SR 67 to Lake Jennings Park Road) – (0.79 miles)
- San Vicente Road (Main Street to Gunn Stage Road) – (5.83 miles)
- Wildcat Canyon Road (Barona Casino entrance to Willow Road) – (5.08 miles)
- Willow Road (SR 67 to Wildcat Canyon Road) – (0.91 miles)
- SR 67 (Willow Road to Mapleview Street) – (1.22 miles)

4.5.2.2 Campo

- The Golden Acorn casino and Truck Stop does not cause any County-maintained arterials or State highways in the vicinity of the proposed project to exceed the LOS D threshold. However, Church Road, Old Highway 80 and on and off ramps to I-8 may be impacted. Additionally, a truck stop has been constructed on the Campo Reservation next to Campo's Golden Acorn Casino,. This will substantially increase the number of truck trips on Church Road, Olde Highway 80 and the freeway ramps to and from Interstate 8.

Maintenance costs for these roads between the truck stop and I-8 are projected to increase due the increased volume of truck traffic.

- It is undetermined at this time whether the proposed 400-acre Class III Campo Landfill would have significant impacts on access roads.

4.5.2.3 Cuyapaipe (Ewiiapaayp)

- The Cuyapaipe Band of Mission Indians has signed a Tribal-State Compact, and intends to build a future casino on its trust land (proposed Little Cuyapaipe Reservation) in Alpine. The Band has not yet submitted a specific project description to the County, therefore the assessment of any future casino is not included in this report. However, it is certain that a casino would increase the need for improvements to Willows Road and access improvements to and from Interstate 8.
- The Band has, however, submitted a project description and environmental assessment to the County for the relocation and expansion of a health clinic. The proposed clinic will take access from Alpine Boulevard. It is estimated that the health clinic will generate 530 ADT's. Improvements will be necessary to bring the access road from the clinic to Alpine Boulevard, and at the intersection of this access road with Alpine Boulevard. The adjacent section of Alpine Boulevard, however, would operate at or better than LOS D and, therefore, is not identified as needing improvements.

4.5.2.4 Jamul

- Steele Canyon Road (Willow Glen Drive to Jamul Drive) – (0.49 miles)
- Willow Glen Drive (Steele Canyon Road to Jamacha Road/SR 54) – (0.78 miles)
- SR 94 (north of Avocado Boulevard to Lyons Valley Road) – (5.41 miles)

4.5.2.5 La Jolla

- The La Jolla Band's Water Park, Campground, Store and accessory uses, were in place prior to the signing of the Tribal-State Compact. Traffic from these uses was already on the roads and is included in the baseline traffic estimates. The small addition of 30 slots, which primarily service existing customers, is not anticipated to generate a substantial number of new trips to and from the site, or necessitate additional improvements to SR 76 or the Reservation's access to SR 76.

4.5.2.6 Manzanita

- The proposed motocross track, casino and shooting range may substantially increase traffic volumes on access roads to the Reservation: BIA Road #11, Crestwood Road and I-8. The increased traffic from the proposed uses may create a need for incremental widening along the access roads and the provision of intersectional improvements at the ramps to I-8/Crestwood Road. The specific needed improvements will be assessed when more information is available from the environmental documents that the Tribe will prepare.

4.5.2.7 Pala

- SR 76 (I-15 to Lilac Road) – (7.07 miles)

4.5.2.8 Pauma

- SR 76 (I-15 to Lilac Road) – (7.07 miles)

4.5.2.9 Rincon (Based upon the Harrah’s Rincon Casino and Hotel project)

- Valley Center Road (Cole Grade Road south to the City of Escondido) – (5.16 miles)

4.5.2.10 San Pasqual (Based upon the Valley View Casino and expansion project)

- Valley Center Road (Woods Valley Road south to the City of Escondido) – (2.69 miles)
- Valley Center Road (Cole Grade Road to Lilac Road) – (1.28 miles)

4.5.2.11 Sycuan (Based upon expansion of casino)

- Dehesa Road (Sycuan Casino entrance to the City of El Cajon) – (5.96 miles)

4.5.2.12 Viejas (Based upon expansion of Outlet Center)

- Willows Road (Interstate 8 to Viejas Casino Entrance) – (2.27 miles)

4.5.3 Common Road Capacity Improvement Needs in Vicinity of North County Reservations

In the North County, four Reservations with operating and/or proposed gaming and resort projects are located in close proximity to one another. These Reservations are: Pala, Pauma, Rincon and San Pasqual. They distribute/attract traffic from many of the same roads. In other words, traffic to and from the individual projects will utilize many of the same roads. For instance, while the main access corridor to the Pala Casino is SR 76, it also attracts traffic from Pauma, Escondido, Valley Center and other communities to the west. However, even though the four gaming facilities distribute/attract traffic to/from many of the same roads, the trip distribution for each of the casinos is different and is reflected in the traffic study.

When all the proposed North County tribal projects are developed and fully operational, the traffic volumes on roads in the vicinity of these Reservations will increase above those identified in the above individual project analysis due to individual project trips using the same road. Individual project trips using the same road were added together along with the existing traffic volume to estimate the combined traffic volume on road segments in the vicinity of the North County Reservations.

Common road capacity needs based upon the combined traffic volumes were then assessed using the same criteria described in the individual analysis. These are referred to herein as common needs, because several Reservations use the same road segments for a large portion of trips to and from the Reservations. A common road capacity need was identified when a significant number (>2%) of a tribal project trips were generated on a road segment that is forecasted to operate below LOS “D” in the combined traffic volume scenario.

When compared to the individual project analysis, no additional County arterials or State highways are projected to operate below LOS “D” as a result of the combined traffic analysis. However the length of one segment of impacted County arterial was increased. This was Valley Center Road between the Rincon Casino entrance and Cole Grade Road.

Since a substantial amount of the individual North County tribal projects utilize roads needing road capacity improvements in the vicinity of other tribal projects, the Reservations have several common road capacity needs. The additional common road capacity needs for each of the four North County Reservations are identified in *Appendix C.*, and are summarized below:

- Lake Wohlford Road (Woods Valley Road to City of Escondido) – (4.74 miles)
- Valley Center Road (Rincon Casino entrance to the Cole Grade Road) – (5.47 miles)
- SR 76 (I-15 to Lilac Road) – (7.07 miles)

4.6 Major Arterial/Highway Improvement Project Types and Process

Arterial and highway improvement projects are implemented to address specific needs. Road improvement projects are often categorized into different types depending upon the scale of need that the road improvement is addressing. A description of different types of road improvements and a discussion of issues related to constructing the different types of improvements are provided herein.

4.6.1 Major Capital Improvement Projects

Major arterial and highway projects typically include construction of a new arterial/highway, or the widening of an existing arterial/highway to provide additional travel lanes along a substantial length of the existing road or highway. The major improvements are typically designed to provide additional capacity and serve long term needs.

Major arterial and highway projects are often constructed with State and/or federal funding. Prior to being eligible for State and/or federal funding they must be included in the Regional Transportation Plan (RTP), which is prepared by the San Diego Association of Governments (SANDAG). Once in the RTP, the projects compete regionally, statewide and nationwide for any available funds.

4.6.1.1 Regional Arterial System

SANDAG’s RTP includes a list of regionally significant arterials. This list is referred to as the “Regional Arterial System (RAS).” Arterials included in the RAS receive prioritization credits when competing with other arterial improvement projects for regional and/or state funding.

Arterials that serve several local Indian Reservations are not currently included in the RAS. Inclusion of roadway arterials in the RAS is a requirement for road improvement projects to be eligible for certain state and/or federal funding. SANDAG is in the process of updating the RAS. On May 8, 2002, the County Board of Supervisors approved a recommendation to add six County arterials to the RAS. The six roads are:

1. Dehesa Road
2. Dye Road/San Vicente Road
3. Lake Wohlford
4. Pala-Temecula Road
5. Wildcat Canyon Road
6. Willows Road

Based on the County’s recommendations, SANDAG revised the criteria for roads that are eligible to be included in the RAS. The revised RAS criteria will include roads that are classified

either a four-lane Major or Collector road and are projected to carry more than 20,000 trips per day.

On July 11, 2002, the SANDAG Transportation Committee approved inclusion of Dehesa Road, Dye Road/San Vicente Road, Lake Wohlford, and Willows Road. These changes are tentative and subject to approval by the SANDAG Board at a future date.

Pala-Temecula Road, Wildcat Canyon Road, and a portion of Dehesa Road will be proposed for addition to the RAS at a future date contingent upon their Circulation Element classification being upgraded to meet the RAS criteria. The County will consider upgrading the classification of these three roads (or road segments) as part of GP2020.

4.6.2 Process for Major Capital Improvement Projects

Major road improvement projects take many years to implement and construct. First, several studies must be completed; then required permits must be obtained, mitigation measures implemented, and right-of-way acquired; and finally, construction can begin. The time frame, from beginning to end, is approximately seven years to implement major road improvements. The list and *Figure 4-1*, below, identify the key steps for implementing a major road improvement project.

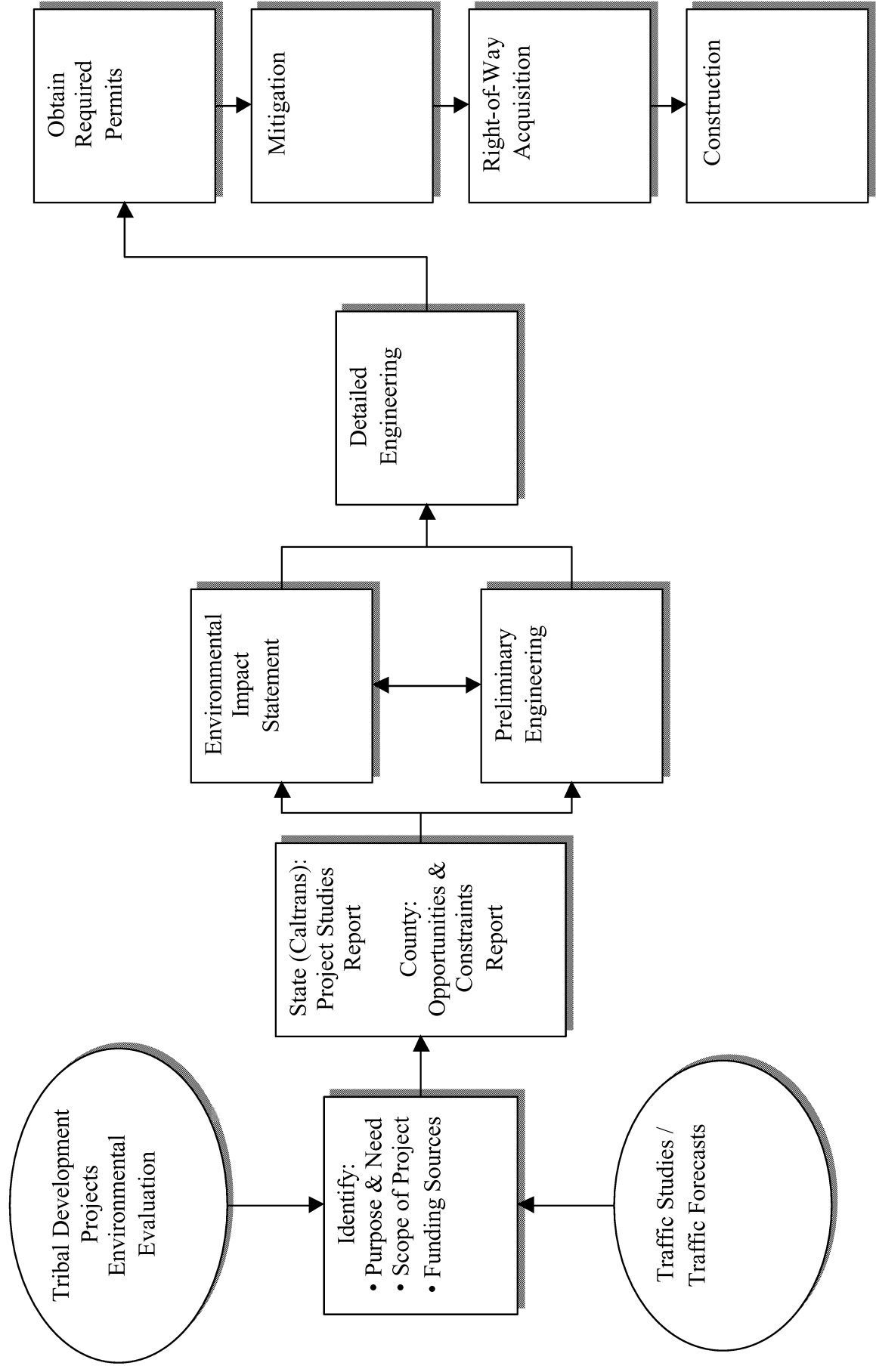
1. Identification of purpose, need and funding;
2. Project Studies Report (for State highways) or an Opportunities and Constraints Report (for County arterials);
3. Environmental Impact Statements/Environmental Impact Reports;
4. Preliminary Engineering, and Detailed Engineering;
5. Required Permits;
6. Mitigation measures implemented;
7. Right-of-Way acquired; and
8. Construction commences.

Over the years, most improvement projects on rural highways have addressed safety and operational concerns such as intersection upgrades, curve corrections, passing lanes, adding shoulders, etc. In recent years, the County and Caltrans have experienced increasing difficulty implementing these operational and safety projects. This is due to the increasing environmental sensitivity in rural corridors that are rich in biological, historical, and visual resources.

Organized resistance to improvement projects within the backcountry communities has also surfaced. For example, residents along Wildcat Canyon Road have voiced opposition to any project that would widen this road to four lanes. In addition, a “passing lanes” project on SR 94 is currently delayed as the Negative Declaration was legally challenged. Caltrans considered the elements of the suit, and agreed that an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) should be prepared. It is anticipated that it will take six to seven years to process that document.

Since major road improvement projects take many years to implement, and require very significant funding, the County and Caltrans are considering implementing and constructing smaller projects along the existing access roads to better service the existing and near term traffic volumes. These smaller projects, which can include access improvements and phased improvements, are discussed in Sections 4.7 and 4.8, respectively.

Figure 4-1: State Highway/County Arterial – Roadway Improvement Process



4.6.3 Scheduled Capital Improvement Projects

Capital improvement programs for the County of San Diego and Caltrans identify arterial and highway projects that will be constructed in the near term. The 2020 Regional Transportation Plan (RTP) adopted by SANDAG in April 2000, identifies arterial and highway projects, which are proposed for construction over the next twenty years. Prior to obtaining certain state and/or federal funding for a specific road improvement project, the project must be included in the RTP. The listing of projects in the RTP, which is updated approximately every two years, is a regional competitive process involving all 18 cities, the County and Caltrans. The Tribes were invited to comment on the draft 2020 RTP, at the same time as other local governmental agencies, but the Tribes did not send comments on the draft.

The San Diego Association of Governments (SANDAG) is the responsible agency for preparing the RTP; and is currently updating it with the preparation of the Mobility 2030 Plan. The County, as a member agency, participates in preparation of the RTP; and is working to ensure that needed road improvement projects in the vicinity of Reservations are included in the 2030 RTP. Once these projects are part of the RTP, they can then compete for funding, such as is allocated through the Regional Transportation Plan Improvement Plan (RTIP) cycle. It is anticipated that the SANDAG Board will adopt the Mobility 2030 Plan in spring or summer 2003.

The County is coordinating with SANDAG to ensure that six roadways serving Indian gaming facilities are included in the Regional Arterial System (RAS), which, if approved by SANDAG's Board of Directors, will result in these roadways being included in the draft 2030 RTP, when it is sent for public review. The Tribes are not represented on the SANDAG Board. The County has encouraged SANDAG to create and identify opportunities for active participation from the Tribes during preparation of the 2030 RTP. SANDAG will again invite the Tribes to comment on the draft 2030 RTP, and it is hoped the Tribes will participate in the review process of that regional planning document.

The County will continue to encourage SANDAG to consider representation from the Tribes to the SANDAG Board and, where appropriate, local planning agencies. Draft County planning documents will be routed to interested Tribes for their review and comment. Active participation from the Tribes has been and will continue to be sought in preparation of regional documents, including General Plan 2020.

Transportation modeling for the GP 2020 project will include forecasting for existing Indian economic development projects, including gaming. In fact, SANDAG has identified Tribal governments as "Target Audiences" in its "Regional Comprehensive Plan Public Involvement and Outreach Strategy," and has plans to consult with the Tribes and others in the region. Additionally, on October 18, 2002, SANDAG held its first "Tribal Governments/SANDAG Board Summit" to initiate discussions on how Tribes and SANDAG could cooperate in the planning and programming of infrastructure and other projects.

County staff has coordinated with SANDAG staff to enter projects identified in this report into the regional transportation forecasting model. As each Tribe's future plans are made known to the County, they will also be entered into the model. Transportation policies and road classifications will be made in large part based upon the 2030 traffic volumes estimated by the regional transportation model. A summary of currently scheduled improvement projects near the Reservations is provided below.

4.6.3.1 Scheduled Improvement Projects on County Arterials

4.6.3.1.1 Dehesa Road

A 2,000-foot section of Dehesa Road near Dehesa Elementary School (in the vicinity of Sloane Canyon Road) has recently been widened. It was widened to improve access to and from the school, and to improve traffic flow along Dehesa Road. The improvements also included the provision of a left turn pocket, improvements to the Dehesa Elementary School driveway and parking lot. The County of San Diego funded the costs associated with the environmental studies and engineering design of the proposed improvements. Additionally, the County of San Diego, Sycuan Band and the Dehesa School District entered into a cooperative agreement, whereby the County paid for the improvements made within the road right of-way and the Sycuan Band paid for the improvements made on the Dehesa School District property. The total cost of the improvements was \$635,000 of which the Sycuan Band contributed approximately \$250,000.

4.6.3.1.2 Valley Center Road

Valley Center Road from Cole Grade Road south to Lake Wohlford Road is included in the County of San Diego's Capital Improvement Program. It is scheduled to be improved from two to four lanes and take three to four years to complete. The majority of funding for this project is from the County's portion of the TransNet sales tax, with the Pauma and Rincon Bands contributing their share of the costs, pursuant to cooperative agreements, which are discussed in Section 4.10 of this report. The timelines for the various phases of the scheduled improvements are as follows:

- South Phase I, from 0.5 mile south of Escondido City limits to one mile south of Banbury Drive, is planned to start construction in September 2003 with a target date for completion of Spring 2004;
- South Phase II, from one mile south of Banbury Drive to Woods Valley Road, is targeted to begin construction Summer 2004;
- North Phase, from Woods Valley Road to and including intersection with Cole Grade Road, is scheduled to begin construction in Summer 2004; and
- Intersection improvements at North Lake Wohlford Road and Valley Center Road are scheduled to begin construction in Summer 2004;
- Construction of the Valley Center Road Bridge at San Luis Rey River is scheduled to begin Fall 2003.

4.6.3.1.3 Wildcat Canyon Road

The County of San Diego has initiated the preparation of an Environmental Impact Report (EIR) for road improvements to Wildcat Canyon Road. At this time, funding is only available to construct the improvements proposed in Phase 1. These improvements consist of widening and re-aligning a 0.9 mile segment of Wildcat Canyon Road, from 1,800 feet north of Muth Valley Road to approximately 100 feet south of Blue Sky Ranch Road; three turnouts; a northbound (uphill) passing lane; and turn lanes at the intersection of Wildcat Canyon Road and Muth Valley Road.

The County of San Diego, Barona Band and the Bureau of Indian Affairs (BIA) are providing funding as follows for the Phase 1 improvements: \$600,000 (County); \$1.4 million (Barona Band); and \$3 million (BIA). On October 8, 2002, the Barona Tribal Council authorized its Chairman to execute an enforceable MOU with San Diego County by which the Barona Band commits to complete the funding of the \$5 million Wildcat Canyon Road improvement project. On November 13, 2002, the Board of Supervisors approved a Cooperative Agreement with the Barona Band whereby the Band will contribute \$1.4 million toward the Wildcat Canyon Road Passing Lane Project.

Although funding for the Phase 1 improvements is currently available, environmental studies must be completed prior to construction of the proposed project. It is anticipated that the EIR will be available for public review during the second quarter of 2003.

County of San Diego Public Works engineers and field staff have conducted field reviews to identify operational and other near term phased improvements that can be implemented and/or constructed in the interim that would improve traffic operations. A discussion of the road review process that was performed for Wildcat Canyon Road is provided in Section 4.8.1.1.4 in this report.

4.6.3.2 Scheduled Improvement Projects on State Highways

4.6.3.2.1 SR 94

Caltrans is scheduled to provide operational improvements to SR 94. Preliminary design and environmental studies for these improvements will take six to seven years to complete. Construction of the improvements will then follow as funding is available.

In addition, SANDAG has completed the Rural Highway Corridor Study. The goal of this study was to develop a strategy for accommodating future traffic in the SR 94 corridor. This study recommended that SR 94 be widened to four lanes from SR 54/SR 94 junction to Steele Canyon Road. It further recommended that SR 94 remain a two-lane highway between Steele Canyon Road and Ribbonwood Road, near the Community of Boulevard.

4.6.3.2.2 SR 76 east of I-15

The 2020 RTP does not include improvements to SR 76 east of I-15, and Caltrans does not currently have any operational or capacity improvements programmed for that portion of SR 76. Under baseline conditions, SR 76 east of I-15 was operating at LOS B. However, as shown earlier in the report, the Tribal development projects on the Pala, Pauma, Rincon and San Pasqual Reservations cause SR 76 to operate below LOS D between I-15 and Lilac Road.

Several land development projects submitted to the County of San Diego for discretionary approval, however, include as conditions of approval fairshare contributions and/or fairshare improvements to the ramps between I-15 and SR 76 and/or operational improvements along SR 76. Timing of the construction of these fairshare improvements is dependent upon construction of these land development projects.

Additionally, Caltrans' March 2002 Transportation Concept Report shows a 2020 concept of four lanes on State Route 76, from I-15 to the eastern boundary of the La Jolla Indian Reservation.

4.6.3.2.3 SR 67

Caltrans does not currently have any operational or capacity improvements programmed to be constructed on SR 67. SANDAG has completed the SR 67 Corridor Study, which identifies needed improvements in the SR 67 corridor. The Study recommended widening SR 67 to six lanes between Vigilante Road and Mussey Grade Road/Dye Street. It also recommended two truck climbing lanes, and the provision of a southern bypass in Ramona by extending Dye Road to San Vicente Road.

The 2020 Regional Transportation Plan (RTP) includes the widening of SR 67 from a four-lane to a six-lane freeway between future SR 52 and Mapleview Street, and from a two-lane to a four-lane freeway from Mapleview Street to Vigilante Road. The additional recommendations made in the SR 67 Corridor Study will be incorporated into the 2030 RTP.

4.7 *Access Improvements*

Access improvements are improvements that are made within and/or adjacent to road right-of-way to enhance access to and from driveways and/or service roads to large development projects. These improvements are typically constructed in the near term prior to opening of a large development.

To ensure safe and adequate access, road improvements have been constructed or proposed at access points from tribal projects to State highways and/or County-maintained roads. These improvements include turn pockets, turn lanes, acceleration/deceleration lanes, traffic signals, sight distance improvements, drainage improvements and right-of-way dedications.

4.7.1 State Highways

Some of the needed access improvements will be located within and/or alongside an existing State highway. These improvements must be made according to State highway standards. For example, Pala has coordinated with Caltrans and constructed access improvements to SR 76 at their own cost. These improvements included a left turn pocket and acceleration/deceleration lanes. The estimated cost for these improvements was not available at the time this report was prepared. The Pauma/Yuima Band is currently coordinating with Caltrans and County staff to obtain permits to construct improvements at the intersection of Pauma Reservation Road and SR 76. A preliminary cost estimate for these improvements is \$700,000. Design for the intersection improvements has not yet been finalized.

4.7.2 County Roads

Several of the needed access improvements will be located within and/or alongside existing County-maintained roads or road easements. These improvements must be made according to County standards. Several Bands have constructed and/or have entered into formal agreements with the County to construct access improvements. For example, the Rincon, San Pasqual and Pauma/Yuima Bands have coordinated with the County to obtain permits for access improvements to Valley Center Road, Lake Wohlford Road and Pauma Reservation Road, respectively. These improvements include sight distance improvements, left turn pockets and/or acceleration/deceleration lanes. The estimated cost of improvements in County right-of-way is \$686,000 for Rincon, \$807,905 for San Pasqual, and \$22,000 for Pauma/Yuima. In addition, the San Pasqual Band also agreed to construct a 17-foot retaining wall to improve sight distance on their Reservation at an additional cost. The Pauma/Yuima Band is also coordinating with the

County to construct widening along Pauma Reservation Road. Pauma's estimated cost for these improvements is \$600,000.

The Barona Band has recently submitted a set of draft improvement plans to the County for access improvements at the entrances to the Barona Casino. These include turn lanes, acceleration/deceleration lanes, and a traffic signal at the main entrance. Detailed cost estimates for these improvements have not yet been prepared.

The Campo Band has submitted striping plans and initiated the preparation of improvement plans for access improvements at the entrances to the Golden Acorn Casino and Truck Stop. These improvements include turn pockets, and increasing curb radii. Since the improvement plans have not yet been finalized, cost estimates for the proposed improvements are not available.

The Viejas Band has constructed road and access improvements to Willows Road along the frontage to the Reservation. These access improvements include the provision of additional travel lanes adjacent to the Viejas Casino and Outlet Center, a traffic signal and turn lanes. Viejas has estimated the cost of these improvements to have been \$1.9 million.

4.8 Phased Improvements

4.8.1 Process Of Identifying Phased Improvements

Phased improvements are developed in recognition that a large-scale road improvement project is currently or will be needed in the future, but the large-scale road improvement is not being constructed at this time. This may be due to the lack of available funding or completion of necessary studies to implement the large-scale project. Phased improvements are developed and designed, to the extent possible, to be consistent with the future large-scale project. They are also designed and implemented to address a specific near term need. Types of phased projects include operational improvements, and short range and long range construction improvements. These are usually distinguished by the time and ease of implementation of the proposed improvements.

The County of San Diego utilizes a Road Review Process to identify operational and/or interim road improvements that can improve traffic operations and traffic flow along specified corridors. Deficiencies on and along the road segment are identified, and recommendations are made to correct those deficiencies and improve traffic safety and operation. The recommendations are separated into three categories: operational improvements, short-range construction improvements and long-range construction improvements. The road reviews conducted in the vicinity of Reservations, are shown below.

4.8.1.1 Road Reviews

4.8.1.1.1 Dehesa Road

County staff performed an operational review of Dehesa Road in the Fall of 2001. During this review, recommendations were made for the placement of additional signage and for the restriping of portions of the road. These recommendations have since been implemented by the County. It is estimated that the cost of the project was \$5,000.

4.8.1.1.2 San Vicente Road

The County has performed a road review for San Vicente Road in the Ramona area. The focus of this review was to provide safety enhancements for San Vicente Road between Warnock and Wildcat Canyon Roads. A team of experts in traffic, road design, road maintenance and field engineering performed a detailed field review to determine/identify improvements that could be made within the existing right-of-way to improve roadway operations. The review recommended several improvements, which consisted of increasing line of sight through curves by removing trees, cutting back embankments and the grading of shoulders.

The County has implemented these improvements at a cost of approximately \$100,000. Road operations have since significantly improved, and the improvements have been well received by the community. Based upon the success of this effort, the County has decided to implement this program on other roads in the unincorporated area. Roads, which provide access to the tribal projects, have a high priority for implementation.

4.8.1.1.3 Valley Center Road

At the time the Rincon Casino first opened, County staff monitored the traffic increases and road conditions. Traffic advisory signs were placed on the road near the entrance to the Rincon Casino. Upon the completion of access improvements by the Tribe and driver assimilation of the road conditions, the traffic advisory signs were taken down. A detailed road review of Valley Center Road for more extensive operational improvements, however, has not been conducted.

4.8.1.1.4 Wildcat Canyon Road

Road reviews have been conducted for Wildcat Canyon Road near the Barona Reservation. The road reviews were conducted separately for two sections of Wildcat Canyon Road. These were 1) Wildcat Canyon Road South, from Willows Road to the Barona Casino entrance; and 2) Wildcat Canyon Road North, from the Barona Casino entrance to San Vicente Road. The road reviews identified a series of operational, short-range and long-range improvements that can be made to Wildcat Canyon Road to enhance the traffic flow along the existing road. The identified improvements are as follows:

- Operational improvements that can be made include the trimming of existing vegetation, removal of trees, grading of banks/slopes, drainage/culvert improvements, shoulder widening, and the removal or extension of the cattle guard. The total cost associated with the identified operational improvements for Wildcat Canyon Road South was estimated to be \$500,000. The County of San Diego has begun implementing the first priority operational improvements along Wildcat Canyon Road South. The County is utilizing San Diego County (gas tax) funds to complete these improvements. An estimate to complete the operational improvements for Wildcat Canyon North has not yet been completed. It is anticipated that the County will also fund the operational improvements to Wildcat Canyon North utilizing (gas tax) funds.
- Short range improvements that can be made to Wildcat Canyon Road North include the following; additional drainage and slope grading improvements, shoulder improvements, construction of turnouts, and the provision of turn lanes and turn pockets. It is estimated that the cost associated with these improvements is \$1,800,000. A funding mechanism to

complete these improvements has not yet been identified. Potential funding sources include County gas tax funds, contributions from the Barona Band and federal grants.

- Long-range improvements that can be made to Wildcat Canyon Road North include the reconstruction of several curve sections, the provision of passing lanes and several intersection improvements. The associated cost is estimated to range between \$14.5 and \$22 million. A funding mechanism to complete these improvements has not yet been identified. Potential funding sources include County gas tax funds, contributions from the Barona Band and State and federal grants.
- At build-out of the County's General Plan land uses and the current Barona gaming and hotel project, forecast traffic volumes indicate that Wildcat Canyon Road will need to be widened to four lanes from the Barona Casino south to Willow Road, and to three lanes from the Barona Casino north to San Vicente Road. The total cost of these improvements is estimated to be \$52.5 million. A funding mechanism to complete these improvements has not yet been identified. Potential funding sources include County gas tax funds, contributions from the Barona Band and State and federal grants.

4.8.1.2 Operational improvements

Operational improvements are relatively low cost improvements that can be completed within the existing right-of-way with little or no environmental/engineering studies. Typically, they can be implemented within a few months. Examples of operational improvements include the following:

- Signage and striping;
- Sight distance improvement by minor side slope grading (less than 6' high), and the removal and trimming of vegetation;
- Removal of obstructions, such as small boulders and trees;
- Limited guardrail installation;
- Culvert installations or extensions; and
- Shoulder and parkway grading.

4.8.1.3 Short-range construction improvements

Short-range construction improvements are mid-size projects. They are higher cost improvements requiring funding through the Capital Improvement Program budget process and/or an outside funding source. Implementation of these projects will typically require extensive engineering, right-of-way acquisition and/or environmental documentation and clearance. These projects typically take in excess of two years to complete after project identification. Examples of short-range improvements are:

- Major side slope grading (>6' high) for sight distance;
- Extensive guardrail installation;
- Installation of mountable dikes and parkway grading;
- Construction of turnouts; and
- Left and right turn channelization;

4.8.1.4 Long-range roadway construction improvements

Long-range construction improvements are large-scale projects requiring substantial funding, major design services, and significant right-of-way acquisition. These projects require extensive environmental clearance activities, and often take many years to plan and complete. Long range projects provide additional road capacity and/or address a specific need, but do not necessarily constitute the ultimate road improvements planned for the corridor as identified in the County of San Diego's General Plan Circulation Element. Examples of long-range improvements include the following:

- Major curve realignment;
- Construction of passing lanes; and
- Intersection reconstruction/signalization.

Funding sources have not been identified for most of the needed long-range improvements. Funding sources may include: voluntary fairshare contributions, which have been offered by several Tribes, State and federal funding, Special Distribution Fund specified in Tribal-State Compacts, and other special one-time funding. A discussion and assessment of potential Tribal fairshare contributions and regional funding sources is provided in Sections 4.9 and 4.11 of the Report.

4.9 *Arterial/Highway Improvement Cost Estimates*

4.9.1 County Arterials

4.9.1.1 Miles Impacted by Tribal Projects

It is estimated that 38.5 miles of County-maintained arterials in the vicinity of the Reservations will need additional road capacity improvements because they are identified as operating below LOS D. Of those 38.5 miles, approximately 15.6 miles were identified under Baseline Conditions as needing improvements solely due to non-Tribal development in the unincorporated area. The impacts to the additional 22.9 miles of County arterials are due to existing and near-term development of tribal projects. However, the existing and near term development of tribal projects also further impacts the 13 miles of road identified under Baseline conditions as operating below LOS "D" due to non-tribal development.

4.9.1.2 Total Cost Estimates to Improve Impacted Arterial Segments

The cost estimates for improving each of the County arterial segments prepared for the November 1, 2000 Report assumed the construction of one or two additional lanes, as needed by the forecasted future traffic volumes to improve to the roads to an acceptable level of service (no less than LOS D). An estimated length of impacted road segment and an average improvement cost factor of \$1.8 million per lane mile were used to calculate road improvement costs for each of the impacted segments. The cost estimate was increased for roads with steep or rocky terrain and/or extensive environmental constraints. These estimates were very preliminary, and were based upon average costs and general assumptions.

The cost estimates in this report differ from those identified in the previous report because the ADT rate was lowered for casinos; the estimated impacted miles of road have changed; and for some roads, such as Lake Wohlford Road and Wildcat Canyon Road, the cost estimates were revised to better reflect steep terrain and significant environmental issues that would be associated with the construction of road improvements along these roads. It should be noted that

actual costs for each improvement project will vary from the estimated costs due to environmental constraints, mitigation measures, engineering features, right-of-way acquisitions, and other factors (such as inflation, public opposition, utility relocations and storm water/drainage considerations).

As shown in Table 4-1, below, and in Table 4 in *Appendix C*, the estimated total cost to construct all the needed improvements to County-maintained arterials is approximately \$150 million. This was obtained by summing the cost estimates obtained for each of the individual road segments. Of this amount, the Tribes' fairshare is estimated to be approximately \$25 million. (See Table 5 of *Appendix C* for detailed information on the amount of contributions estimated for each Band)

It should be noted that for the Barona, Sycuan and Viejas Bands, the cost and fairshare estimates presented in this report only reflect the post-September 1999/post-Compact increments of the Tribes' enterprises. It is expected that, in addition to addressing the impacts of the post-September 1999/post-Compact additions and expansions, the County and these three Bands will discuss contributions toward mitigating the impacts of the pre-Compact gaming facilities.

4.9.2 State Highways

It is estimated that approximately 17 miles of State highways would be impacted by current tribal projects. For the November 1, 2000 report, Caltrans prepared preliminary cost estimates for needed improvements to State highways. The preparation of projects and cost estimates for near term improvements to the State Highways is more problematic. Without the preparation of alignment, environmental and project study reports it is difficult to identify specific near term projects can be implemented along the existing alignment and if realignment is needed to implement the project where the realignment should be placed. Currently, Caltrans staff is further evaluating the SR 67, SR 76, and SR 94 highway corridors to identify specific highway improvements and their cost, which will be required to accommodate the increased traffic generated by the casinos. Cost and fairshare estimates for State highways were not included in this report, because the specific highway improvements have not been fully identified at this time. Caltrans will continue to work with the Bands to determine fairshare improvements to mitigate impacts to the State highways.

4.9.3 Fairshare Estimates to Improve Roads Impacted by Tribal Projects

Although the County often obtains fairshare contributions and road improvements from large development projects, it often does not obtain contributions from small projects. The County does not have a traffic impact fee program and relies on the identification of traffic impacts during the discretionary review process for the collection of contributions and/or conditioning of road improvements from private development.

If a road is operating at or better than LOS "D" a traffic impact is not triggered. Small projects do not generate a significant amount of traffic (>2%) and do not trigger a significant impact even when a road is currently operating at LOS "D." Since much of the area in the vicinity of Reservations was, and still is, developed via small tentative parcel and/or tentative maps, the County has not been able to collect monies for future road improvements in the area.

As stated in the trip generation Section 4.3.3 and in the traffic needs assessment (*Appendix C*), 100 trips per 1000 square feet of gaming area trip generation rate reflects trip generation rate estimates used in environmental assessment prepared for various tribal projects. It should be noted this rate is much less than rates documented for several Indian gaming projects in Northern

California. While this rate has not been experienced by many of the current tribal gaming projects, it is staff's understanding that many projects have not yet fully realized their intended market.

The County has recommended that the establishment of accurate trip generation rates for casinos be included in SANDAG's Work Program. The trip generation rate of 100 trips per 1000 square feet of gaming area, which the County uses, is based on the best data currently available. Higher rates than this have been documented for some casinos. Since the casinos are currently constructed and in operation, it is not premature to develop fair share estimates for improvements to roads in the vicinity of the Indian reservations. Trip generation estimates provide the best method to develop such estimates.

It is not intended that the estimated road improvement costs listed in Table 4-1, below, be the sole responsibility of the Bands, as implementation of the road improvements would alleviate existing congestion, some of which is not caused by tribal enterprises, and/or provide excess road capacity in many road corridors. Private land development is also occurring and will continue to occur in the identified road corridors. The County, State and future land development in the area also share in the responsibility for the identified road improvements. However, the estimated road improvement costs provide the first step in preparing fairshare contribution estimates for the tribal projects.

Contributions from the Tribes are voluntary. Tribal projects are not subject to discretionary review and/or approval from the County. However, either to comply with the Tribal-State Compact, NEPA requirements, and/or for business and community relations purposes, some of the Tribes have committed to contributing towards road improvements in the vicinity of their Reservations.

Before fairshare estimates can be calculated a road improvement project must be identified and a cost estimate prepared for that project. In the absence of identified road improvement projects and detailed construction cost estimates, staff used the assumed road improvements and projected cost estimates identified in the traffic study provided in *Appendix C*. The total road improvement costs to improve County arterials were estimated based upon the cost estimates derived from the procedure described above. This included costs to process the project through the implementation process identified in Table ES-1. Since the implementation process extends over several years, funding of the road improvements will also be extended over several years.

In addition to the estimated road improvement costs, staff estimated the percentages of trips from each tribal project. Total project trips for each project were estimated based upon the trip generation rates identified in *Appendix C*. These included 100 trips per 1,000 sq. ft of casino gaming area, 3 trips per hotel room, and 700 trips per golf course. Trip rates were also established for the following special uses on some of the Reservations: An event center at Barona, the expanded outlet center at Viejas, a theater at Sycuan and a fuel depot at Campo. The trips were then distributed onto the local road network and percentages of the Tribal contributions to traffic on the segments of roads were calculated. Finally, the tribal fairshare estimates were calculated according to the formula shown below. Table 5 in *Appendix C* provides details of the estimates prepared for each of the Tribes.

$$\frac{\text{Volume of Tribal Project Traffic}}{\text{Design Capacity of Improved Road}} \times \text{Cost of Improvement} = \text{Tribal Cost Share}$$

The design capacity of the improved road segment assumes the completion of the improvement project that the cost share would be contributing towards. The tribal share is only based upon the amount of traffic generated by the post-September 1999 tribal projects; existing traffic on impacted roads that is not caused by pre-September 1999 tribal enterprises, is the responsibility of the County. The following examples are provided to further explain these concepts:

1. As shown on Table 4-1 for the Jamul Reservation, of the approximately \$3.7 million of needed improvements to County arterials in the vicinity of the Reservation (mainly Proctor Valley Road), only approximately \$198,000 was attributed to the Jamul Band's project as a tribal fairshare contribution. The design capacity of the improved road segments assumes that other (non-tribal) project developments will occur in the area.
2. The Viejas Band has provided critical access improvements to Willows Road enabling it to serve the heavy traffic volumes in front of the casino and outlet center. The \$1,130,000 listed on Table 4-1 is estimated to be the Band's fairshare contribution for the recent expansion of the outlet center, which was not in place at the time baseline conditions were established. As Footnote #2 explains, the \$1,130,000 does not include contributions to mitigate the pre-September 1999 traffic impacts to Willows Road from the Viejas Casino and Outlet Center, as they existed at the time. Traffic census data shows that traffic on Willows Road at Viejas Grade Road has increased steadily since the original Viejas casino first opened on September 13, 1991, from 3,925 trips per day in October 1991 to, for instance, 13,400 in July of 1997.

Table 4-1: Road Improvement Cost Estimate Summary

Reservations With Development Projects	Total Costs To Improve Arterials In Vicinity Of Reservations	Tribal Fair- Share To Improve County Arterials In Vicinity Of Reservations	State Highway Costs /Cost Share
Tribes with Comprehensive Cooperative Agreements with County for Fairshare Contributions			
Pauma ¹	\$55,004,000	\$129,000	TBD
Rincon ¹		\$6,354,000	TBD
San Pasqual ¹		\$4,418,000	TBD
Tribes without any Cooperative Agreements or only partial Agreements with County for Fairshare Contributions			
Barona ²	\$61,909,000	\$8,441,000	TBD
Campo ³	N/A	N/A	NA
Ewiiapaayp (Clinic) ⁴	N/A	N/A	NA
Jamul ⁵	\$3,690,000	\$199,000	TBD
Pala ^{1, 6}	Same as for Pauma, Rincon and San Pasqual, above	\$243,000	TBD
Sycuan ²	\$21,456,000	\$3,057,000	NA
Viejas ²	\$8,172,000	\$1,130,000	TBD
All Tribal Projects	\$150,231,000	\$23,971,000	TBD

- Notes: ¹ Pala, Pauma, Rincon, and San Pasqual affect the same network of roadways
- ² Cost estimates for Barona, Sycuan and Viejas Reservations were based only upon the incremental impacts associated with their post-September 1999 projects. Fairshare contributions and/or fairshare improvements for their pre-September 1999 enterprises are not estimated in this report; however, improvements completed by the Tribes are discussed in this report. Any additional contributions/improvements still need to be negotiated with each of the Tribes.
- ³ The Campo Casino and the Truck and Travel Center do not result in any level of service impacts to County maintained arterials and State highways. However, there will be a significant increase the number of truck trips on Olde Highway 80
- ⁴ It is anticipated that, due to the small scale of the proposed Ewiiapaayp Health Clinic, only access improvements will be necessary to serve the proposed project. Future casino will significantly impact Willows Road.
- ⁵ Jamul project analyzed in this report is based on the Preferred Alternative presented in the Jamul Indian Village DEIS, dated December 2002.
- ⁶ Pala's tribal cost share includes contributions for a 500-hotel.

TBD – To Be Determined

NA - Not Applicable

4.10 Cooperative Agreements

Significant contributions for roadway improvements have already been offered by the Rincon, San Pasqual and Pauma Bands. These Bands voluntarily agreed to enter into cooperative agreements with the County to fully mitigate their projects' traffic impacts by agreeing to fund frontage and offsite improvements to County-maintained arterials. The Department of Public Works worked with the Chief Administrative Office, County Counsel, and each Band, to identify a list of necessary road improvements, calculations of "fairshare" contributions, a timeline for improvements and a corresponding schedule of contributions. The Bands agreed to make contributions toward access and off-site road improvements to Valley Center Road, Lake Wohlford Road and Pauma Reservation Road. The total contributions were as follows: \$7,030,000 from Rincon, \$6,149,349 from San Pasqual and \$1,451,800 from Pauma. As requested by the County, Pauma and Rincon Bands have recently submitted checks of \$132,199 and \$727,835, respectively, as part of their agreements.

The Barona, Sycuan and Viejas Bands have also made contributions toward road improvements in the vicinity of their existing facilities. The Barona Band entered into an agreement with the County to contribute \$1.4 million for improvements to Wildcat Canyon Road. The Sycuan Band has contributed \$250,000 toward improvements to Dehesa Road and the access to Dehesa Elementary School; and the Viejas Band has stated that it has spent \$1.9 million to improve access to its casino from Willows Road. These contributions will be credited when agreements are negotiated for fair share contributions.

4.11 Potential Regional Funding Sources

The estimated \$144 million in needed improvements on County Arterials is beyond what can be funded with the \$7 million average annual allocation of San Diego County gas tax funds¹². Regional TransNet funds from the 1987 Proposition A (the San Diego Transportation Improvement Program) approved by the voters have already been fully allocated. Although an extension of the TransNet sales tax has been suggested by some, it can not be assumed that such an extension would provide sufficient funds for these improvements.

Priorities and commitments have been established for the currently allocated State and federal funds. Improvements to rural highways, due to construction or expansion of tribal projects, will need to compete regionwide for additional funding as it becomes available. The County and several of the Bands have expressed an interest in lobbying jointly to obtain State and federal funds for the road improvements identified in this report.

Traditionally, funding for capacity increasing projects for the San Diego region is directed by the San Diego Association of Governments (SANDAG) and is part of the State Transportation Improvement Plan (STIP). SANDAG programs its available funding through the development

¹² Pursuant to Proposition 42, which voters approved in March 2002, starting in FY 2008-09, it is estimated that the County will receive an additional \$12 million for maintenance, rehabilitation, reconstruction and storm damage projects (not capacity improvements such as additional lanes), assuming the Governor's Congestion relief Program is paid out, and no change in the law.

of the Regional Transportation Improvement Plan, which is approved every four years by the SANDAG Board. The SANDAG Board includes representation from each of the 18 cities and County in the San Diego Region. Several Tribes have requested representation on the SANDAG Board as it does not currently include representation from the Tribes. For the first time, SANDAG's Policy Development Board did hold a summit with the Tribes on October 11, 2002, when the need for continued dialogue and closer coordination on transportation matters, was discussed.

Potential funding sources to mitigate traffic impacts from tribal development projects include:

- Fairshare contributions from all the Bands whose projects impact County and/or State roads. The cooperative agreements described above can be used as models for future agreements with other tribes in San Diego County. Meetings will be scheduled with Barona, Pala, Sycuan and Viejas to negotiate fairshare contributions to mitigate frontage and/or off-site impacts of their existing and/or proposed casino projects. Final fairshare estimates will be prepared in coordination and cooperation with each individual Band. The fairshare contributions from the individual Bands will likely require negotiation of cooperative agreements between each Band and the County of San Diego;
- Revenues generated from the Special Distribution Fund, per the Compacts, to fund transportation infrastructure. The Bands have established a Reservation Transportation Authority (RTA); one of the goals of the RTA is to lobby for those funds to be returned and invested in San Diego County. Local Tribes, especially the three Tribes which contribute into the Fund, are very much in support of a large percentage of the Fund returning to the region for transportation purposes;
- State funding from the Interregional Improvement Plan (IIP) approved by the California Transportation Commission (CTC);
- Special one-time State and/or federal funding - Attempts should be made to obtain special one-time State and/or federal funding. Coordination and joint lobbying for this funding with the Bands should be encouraged. Any commitments from the Bands for funding contributions towards the needed road improvements could potentially serve as a local match to help leverage State and/or federal funding for the needed road improvements; and
- An extension of the 1987 Proposition A TransNet sales tax is being considered for placement on the ballot in a future election. If placed on the ballot and approved by the voters, than additional funds may become available. Road improvements in the vicinity of the Reservations would compete with other projects in the San Diego region for TransNet funding.

4.11.1 FUNDING RESOURCES FOR TRIBAL ROADS AND ACCESS ROADS

Funds for the Indian Reservation Roads (IRR) Program are apportioned under the Federal Lands Highway Program (FLHP) of the Federal Aid Highway Program. The apportionment is transferred by the FLHP to the Bureau of Indian Affairs for administration. Anticipated statewide funding from the FLHP is anticipated to be only \$50 million - only 18% of the

identified needs. Current funding levels are insufficient to provide the needed road improvements on tribal Lands in the near term.

The IRR was established in 1928. Its purpose is to provide safe and adequate transportation and public road access to and within Indian Reservations for Native Americans, visitors, resource users and others, while contributing to economic development, self-determination and employment of Native Americans. The need for road improvements on and/or access improvements to tribal lands in the State of California greatly exceeds the expected funding in this program.

Tribes may also request other State and Federal funding through the State Transportation Improvement Program (STIP) process and through other defined programs. Applications for the STIP, however, must be identified in the Regional Transportation Plan (RTP) that is prepared by SANDAG.

The IRR also encourages the preparation of Tribal Transportation Plans (TTP) for tribal roads and access roads. If prepared, projects identified within the plan could be considered directly for federal funding through some programs. It could also be used as a mechanism for getting specific projects included in the RTP. Limited funding resources for this planning effort and limited coordination with SANDAG and other planning agencies has discouraged the preparation of these plans.

4.12 Future Considerations

- Tribal development projects on Reservations are still in the early stages of development. The post-1999 projects are likely to be modified as these businesses and operations/activities grow. Additionally, successful gaming operations are expected to spur additional business enterprises. Therefore, the traffic impact assessment discussed in this report should be updated to reflect changes in conditions; and more detailed cumulative traffic analysis may be necessary to address specific concerns and /or issues.
- The current SANDAG trip generation tables do not include trip generation rates for Indian casinos. Additionally, trip generation data that is currently available is not extensive; is subject to interpretation; and may not be reflective of the types of casinos that are being constructed. The County and the Bands should coordinate with SANDAG and Caltrans to establish/refine trip generation rates for casinos. This is best done after the gaming projects are fully operational because trips associated with construction activities will subside; travel patterns will be established; and on-site land uses can be documented. The information obtained could then be used to better evaluate traffic impacts of future projects.
- County needs to coordinate with SANDAG and the Tribes to include each Tribe's proposed near term and long range projects in the regional growth and transportation forecasts.
- Improvements to several County-maintained arterials and State highways will be needed in the near term as the tribal projects develop. Major road improvement projects will take six to 10 years to construct. Preliminary engineering and/or corridor studies should be

conducted to determine which improvements should be implemented in the near term. Additionally, initial studies to assess the environmental and engineering constraints for road capacity improvements to impacted County arterials and State highways should also be conducted. It is desirable that the Bands make fairshare contributions toward completion of these studies.

- Several of the proposed tribal development projects take access from, and impact, State highways that are not currently identified in the Regional Transportation Plan (RTP) for highway improvements. Impacted State highways include SR 76, east of Interstate 15, SR 67, north of Santee and SR 94, south of Rancho San Diego. These corridors are environmentally sensitive. An evaluation and/or corridor study should be conducted to determine appropriate road improvements for these corridors.
- The total cost of needed improvements to County-maintained roads exceeds the County's available financing sources. The County and the Bands should actively seek State and federal funds to construct needed improvements. The County and the Bands should collaborate on the submission of viable road improvement projects to State and federal agencies. Coordination with the Reservation Transportation Authority would be helpful in this effort.
- The Bands should coordinate with each other, the North County Transit District and/or the Metropolitan Transit District to improve transit services to and from the tribal development projects, in the near and long term.
- Coordinate with SANDAG to include improvements to State Route 76 and other County arterials near the Reservations in the 2030 Regional Transportation Plan.
- Coordinate with the Tribes to lobby for additional funding to be placed in the Federal Lands Highway Program for Indian Reservation Roads Program projects.
- Encourage the Tribes to prepare Tribal Transportation Plans, and as requested, assist the Tribes in the preparation of these plans.
- Encourage SANDAG to work with the Tribes in the preparation of Tribal Transportation Plans
- Lobby SANDAG to include adopted Tribal Transportation Plans as part of the Regional Transportation Plan.

Chapter 5

Impacts on Other County Resources, Programs and Services

Tribal governments are the largest owners of land in the backcountry, after the state and federal governments. Unlike other governmental entities which use their land for open space, recreational or other public uses, tribal governments must use their lands in ways that provide revenue so they can fulfill their responsibilities towards their members. Especially since the Compacts were signed with the State, half of the tribal governments have developed intensive commercial enterprises on their Reservations. As shown in Chapter 3 of the report, these enterprises have had a very positive impact on the quality of life of Tribal Members; and as shown in Section 6.1 of the report, the region, the state, employees and suppliers, have also benefited from tribal enterprises.

Tribes, however, are at the back end of the development curve in the rural areas of the region, where the County is trying to severely restrict development of land outside established communities, and preserve and enhance the habitats in the vicinity of Reservations. Since development of the Reservations was not anticipated in past regional planning efforts, the Tribes' recent ability to develop the Reservations has led to several areas of conflict between the Tribes' land use and economic development plans and the County's conservation and long range planning goals. Many of the issues discussed in this Chapter need to be sorted out and addressed fairly for both parties.

5.1 Air Resources

As discussed in Chapter 4, several roadways to and from the existing or proposed gaming facilities will function at LOS "D" or below in the proximity of Reservations with gaming and resort projects. As such, deterioration of these roadways may result in development of "hot spots" for volatile organic compounds, carbon monoxide, and other products of combustion. Further, these impacts may have long-term ramifications, since they may adversely affect attainment progress. This was pointed out in the November 2000 Report. Of particular concern are the cumulative impacts to air quality that may be significant.

The County's concerns have been raised with the Tribes during the County's review of environmental documents. Deterioration of air quality in the vicinity of gaming and resort projects is still a significant issue for the County that is largely un-addressed, and the major road improvements needed to prevent development of "hot spots" take years to construct, under the best of circumstances.

County and Tribes need to work together to ensure the needed road improvements are completed, as three of the Tribes have already committed funds to improve Valley Center Road and/or Lake Wohlford Road, as shown in Section 4.10 of the report. The other gaming Tribes will be approached to ensure that they contribute their fair shares of the needed road improvements. In the meantime, the County Air Pollution Control District will continue with its very successful Regional Air Quality Strategy to reduce emissions from mobile and stationary sources; County Department of Public Works will continue to prepare plans for near term

improvements to relieve traffic congestion around impacted Reservations; and Tribes can provide fair share funding, and use CNG buses for their shuttle services.

5.1.1 Future Considerations

- County must open discussions with Tribes on needed road improvements identified in this report, and initiate negotiations on fair share funding.

5.2 Biological Resources

The Tribes have a long standing tradition of protecting the environmental resources on their lands for future generations. Before the arrival of Europeans, the Kumeyaay moved around seasonally throughout the region, with established camps located to take advantage of abundant natural resources. When the Spanish first came to the area, they consistently commented on the “excellent pastures” that covered the valleys and low slopes in the Kumeyaay area. Similarly, the Cahuilla, Cupa, and Luiseño Indians husbanded the resources in their territories without causing permanent adverse impacts.

After 1850, European settlers began to settle the area in increasing numbers, establishing farmsteads and communities. In less than 100 years, settled valleys were drastically altered through grazing, irrigation and intensive agricultural practices, and it is estimated that there has been a loss of between 500,000 and 600,000 acres of natural habitat in San Diego County. Certain vegetation communities, such as vernal pool habitat, have been impacted to the point that less than five percent of their original distribution remains. This has resulted in legislation, such as the California Environmental Quality Act and the Endangered Species Act, to protect them from further loss.

Tribes must comply with a number of environmental laws, including NEPA and ESA, when developing projects on reservation and trust lands. In addition, Tribes must comply with CEQA when developing fee lands, and must make good faith efforts to comply with CEQA when developing gaming facilities on reservation lands. Finally, the BIA in administering its trust responsibilities must comply with federal environmental laws.

Impacts to biological resources on off-Reservation lands caused by tribal projects are due to the road improvements necessary to alleviate traffic from the Bands’ existing and future gaming and resort projects. Of the information reviewed by the County to date, only the information provided by the Cuyapaipe, Jamul Indian Village and La Posta Bands’ Environmental Assessments contained specific information regarding impacts to biological resources on County lands.

5.2.1 Multiple Species Conservation Program (MSCP)

The MSCP, which currently only covers the South portion of the unincorporated area, only includes lands under the County’s jurisdiction, therefore, it does not include Reservation lands. The MSCP has designated habitat preserve areas around the Jamul and Sycuan Reservations, the only two Reservations in the area of the current MSCP. The County MSCP plan does not assume inclusion of tribal lands in order to obtain coverage for rare and endangered species; in other words, the MSCP did not assume any protection of tribal lands in order to create a complete plan. In fact, the County’s MSCP must stand alone for obtaining coverage of

endangered species. The MSCP plan did assume that land outside of tribal trust ownership would need to conform with the MSCP, as these lands are under County jurisdiction.

Certain Tribes have expressed the following concerns about the MSCP: 1) Tribal input was not solicited when the MSCP was prepared; 2) Because no development was assumed for the Reservations, tribal lands became potential cornerstones for the MSCP preserve, and many Reservations were surrounded by the preserve. Implicitly, the habitat acreage and corridors on Reservations were included in the habitat/development balancing, which the County undertook with the resource agencies when the MSCP was adopted; 3) The MSCP failed to consider the economic development opportunities of the Tribes and federal laws, which allow Tribes to annex adjacent lands to their Reservations; and 4) With respect to MSCP sub-areas that have yet to be planned, County should coordinate with adjacent Tribes to ensure County can independently satisfy resource concerns. The response to these concerns is shown below.

1. The Jamul and Sycuan Bands were not asked to participate in the drafting of the MSCP, although the U.S. Fish and Wildlife Service probably had discussions with the two Bands on Section 7 consultation process. The County did not outreach to the Tribes at the time because the Reservations were not included in the MSCP, and staff was unaware of Tribes' efforts to acquire additional land.
2. The County has no jurisdiction over Reservations, therefore, the MSCP does not rely on Reservation lands for any aspect of sensitive species coverage. In fact, the County took great care not to include tribal lands in the Plan that was approved.
3. Since the MSCP does not include Reservations, and is a stand alone document, economic development within existing Reservation boundaries had no effect on the viability of the plan. As stated above, federal staff worked with the County to develop the plan, and speculation about what lands Jamul and Sycuan might purchase and request to have put in trust of the federal government was not brought up at the time as an issue for the County to consider. The MSCP staff is very interested in discussing this issue with individual Tribes affected by the North County MSCP, which is under preparation, and those that will be affected by the East County MSCP, in the future.

The County is also concerned about this issue because, when Tribes acquire lands that are part of the MSCP preserve, and these lands are placed in trust, the removal of these lands from the MSCP may affect the County's ability to gain or maintain coverage for a species, thereby affecting all landowners whose land lies within the MSCP. Currently, the Jamul Indian Village Band plans to develop gaming-related uses partially on lands that are presently earmarked as part of the MSCP preserve area associated with Otay Ranch. The County is presently evaluating the impacts of this proposal, and the possibility of similar future conflicts, on the MSCP.

4. With respect to the North County MSCP, which is currently under preparation, early in the process MSCP staff sent letters to all of the Tribes in the North County MSCP planning area asking them if they would be interested in providing the County with any input or a means in which they could coordinate. Staff received one call of interest, and met with the Tribe's environmental staff. MSCP staff also attended a tribal lands conference in Temecula and presented the County planning process. Additionally, staff

presented the plan's progress to a number of workshops in northern San Diego County, including the San Luis Rey River Watershed Council. That meeting was attended by representatives of Tribes in the San Luis Rey River area. MSCP staff will continue to outreach to Tribes in northern County during preparation of the plan. The schedule of workshops, maps and other information on the MSCP and the North County MSCP can be found on the following website: <http://www.mscp-sandiego.org/>

5.2.2 Future Considerations

- County should provide assistance to Tribes in the preparation of environmental documents for projects that impact off-Reservation roads to ensure that impacts to biological resources are adequately identified and mitigated.
- County should continue its current efforts to discuss and reach agreement with Tribes whose Reservations abut, or are contained within, MSCP planning areas in order to evaluate the possibility of coordinating Reservation conservation or open space areas with the County's MSCP preserve areas to provide larger habitat and buffer areas.
- County and Tribes should share resource information to eliminate the duplication of conservation efforts.
- County should share lessons learned in open space planning, trails and restoration of environmentally damaged areas with the Tribes.
- Tribes might find it beneficial to develop Mitigation Banking Agreements with the State to make it possible for Tribes to sell credits to off-site entities. However, the County recognizes this may be difficult since these agreements would require some sort of methodology to insure that permanent conservation designations be applied to land in trust.
- Coordination of Tribes' development projects or Habitat Conservation Programs with County's MSCP could make it easier for Tribes to mitigate impacts of their projects on off-Reservation biological resources.

5.3 Community Character/Aesthetics

The overall qualitative perception of a community, a sense of uniqueness or "sense of place", defines the community character of an area. It is based on a sense of space and boundaries, physical characteristics (geographical setting, presence of unique natural and man-made features, ambient noise, air quality) and qualitative psychological responses ("rural", "friendly"). The visual or aesthetic environment is an essential component of community character.

In general, the Environmental Assessments prepared for individual proposed gaming facilities have not provided the level of detail the County requires of projects under its jurisdiction, and have not included factual analysis to support the conclusions that the tribal projects did not have significant impacts on the community character of the surrounding areas. For example, several Environmental Assessments have concluded that the projects will not have an adverse impact on scenic vistas but have not included any information on or analysis of the size, scale, off-site visibility or architectural style of the casinos and related buildings and facilities.

Without the aforementioned information or analysis, County staff has had no means to evaluate the conclusions of the Environmental Assessments. This has essentially negated the opportunity for staff to develop and offer recommendations for mitigating community character impacts. While the scale and purpose of tribal gaming and resort facilities may not be compatible with the community character of many neighboring communities, there may have been opportunities to reduce impacts if the County and neighboring communities had been consulted.

5.3.1 Future Considerations

- County should encourage the Tribes to consult with planning groups and other civic organizations in communities where the Reservations are located, and with affected cities, for the purpose of gathering input on compatibility of tribal projects with community character of neighboring communities.
- Encourage the Tribes to provide the same level of detail typically required for a development application with the County and any affected City, in order to adequately evaluate project impacts and conclusions regarding compatibility with surrounding land uses.
- County should consult with Tribes when preparing Design Guidelines for unincorporated communities in the neighborhood of Reservations.

5.4 Dark Skies

Light pollution prevention and the maintenance of dark skies is an issue of increasing importance in the County of San Diego. As Sovereign Nations, the Bands in San Diego County are exempt from the provisions of the County's Light Pollution Code and "Dark Skies" Ordinance. The sole method to successfully preserve the dark skies necessary for the high caliber of astronomical observations taking place at Palomar Observatory and Mount Laguna Observatory, is through voluntary compliance by the Bands with the County's Light Pollution Code.

Based on the information provided by the Bands regarding lighting of their facilities, several of them, including San Pasqual, Jamul, and Rincon, have indicated plans to use low-pressure sodium lamps and shielded fixtures. However, many of the light fixtures and lamps necessary for signage and advertising cannot be filtered by the observatories and may still present a significant impact to astronomical research as well as off-site biological resources.

5.4.1 Future Considerations

- County and Tribes should work together and with the Palomar and Mount Laguna Observatories to minimize impacts of lighting elements on astronomical research and wildlife.

5.5 General Plan 2020

The County, in conjunction with the San Diego Association of Governments (SANDAG) and the County's sub-consultants, will prepare updated traffic models for inclusion in the General Plan update (GP2020). These model runs include traffic levels associated with existing tribal enterprises, based on updated traffic analysis performed by the Department of Public Works,

information provided by the Bands, the Reservation Transportation Authority and other communications. Additionally, the County is trying to account for future traffic volumes and development generated from tribal lands in GP2020, and to identify issues of compatibility, which may arise from the Bands and the County's planned land uses.

The County on at least two occasions has asked each of the Bands to share with the County their plans for developing the Reservations over the next five, 10 or 20 years. A few Bands have sent representatives to meetings held by community planning groups and other related meetings. However, most Bands have either not responded to the County's requests, or stated that they were unable to provide staff with that information at this time because they have not yet prepared long range plans. Without information from the Bands on their long range plans for development, it will be difficult for the County to properly anticipate growth, and therefore, plan adequately for future infrastructure needs and compatibility of land uses.

The Sycuan Band is the only Band known to have an approved Interim Land Use Master Plan, which was approved by the Sycuan Tribal Council on January 10, 2002, and shared with County staff. Sycuan Band is also actively working with the planning group for the neighboring communities. Discussions among GP2020 staff, Sycuan staff and planning group representatives will inform the County's and possibly the Band's long range planning efforts. Other Tribes are in the process of developing master plans for their Reservations.

Tribal gaming and resort facilities provide employment and entertainment opportunities for residents of the backcountry communities. They also have the potential to provide other impacts in the communities in which they exist, or are planned to be located. For instance, GP 2020 staff and the Alpine Planning Group have received requests for commercial designations from property owners in the proximity of the Viejas Casino and the casino proposed by the Cuyapaipe (Ewiiapaayp) Band. Additionally, the Cuyapaipe (Ewiiapaayp) Band is investigating the feasibility of Padre Dam Water District and the Alpine Sanitation District extending services to their properties in an area of Alpine that is not presently served by imported water or sewer.

The Departments of Planning and Land Use and Public Works are presently working with the planning and sponsor groups to plan for the necessary infrastructure and reduce the impacts of the needed infrastructure to the community. Proposals from property owners and Bands will be reviewed on a case-by-case basis to determine whether intensifying surrounding land uses would be appropriate considering the infrastructure needs, the draft goals and policies of GP2020, and the fact that traffic, growth induction and community character impacts are major concerns for some of these communities.

The County Planning Commission, during the workshops held on GP2020, has asked that a workshop be held on Indian annexations and future development plans, in order to assess whether there are opportunities for coordination between the County and the Tribes' long range land use plans. It is anticipated that the workshop will be held after the Board of Supervisors hears this report.

5.5.1 Future Considerations

- County and Tribes should hold meetings to discuss coordination of long range land use plans in order to ensure compatibility of land uses; minimize land use incompatibilities; and to plan for adequate infrastructure in the vicinity of Reservations.

- County should encourage the Tribes to discuss their long range plans with Community Planning and Sponsor Groups, and the County should encourage Planning and Sponsor Groups to work cooperatively with the Tribes.
- County should encourage SANDAG and other regional planning agencies to include participation by the Tribes in regional planning efforts.

5.6 Growth Induction

Based on the environmental documents reviewed by the County, all of the proposed facilities reviewed include wastewater treatment plants as part of their project description. If service were to be extended to land under County jurisdiction, the growth inducing impacts of providing this type of urban service could be significant. At present, none of the Tribes anticipate extending service from these plants beyond the boundaries of the Reservation. Because these plants are intended to serve only uses on the Reservations at this time, the impacts are not expected to be significant. However, without binding guarantees from the Tribes that no off-Reservation use of on-Reservation wastewater facilities will be allowed, the County cannot be certain that this will not be a significant impact.

A greater concern relates to property owners in the vicinity of tribal development projects requesting to intensify uses on their land. This issue was previously addressed in Section 5.5, above.

5.6.1 Future Considerations

- County and Tribes should coordinate their long range plans to minimize growth induction issues.

5.7 Hydrology, Water Quality and Quantity

Since the November 2000 Report, the Regional Water Quality Control Board, San Diego Region (RWQCB-SDR) has approved the new Municipal Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES). In addition, the County has implemented a new ordinance relating to stormwater runoff from projects within the County. This Ordinance entitled the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance (WPO) (Ordinance 9424 and 9426), implements the requirements of the RWQCB Permit. This new permit, which outlines strict requirements for the reduction of impacts from stormwater discharges, directly impacts the County of San Diego as the principal co-permittee under the permit.

In addition to potential impacts on surface water, tribal projects have the potential to impact groundwater quantity and quality. For instance, approximately 20 property owners west of the Barona Reservation believe the Barona expansion project, especially the golf course, is causing their wells to go dry; they have asked Governor Davis for funding from the Special Distribution Fund to remedy their concerns, and want to have access to water the Band may be successful at bringing from the San Vicente Reservoir.

The only new information available from the Tribes with regard to the use of groundwater by tribal projects is as follows: 1) the Cuyapaipe Band is investigating receiving water from the Padre Dam Water District; 2) the Barona Band has applied to place almost 600 acres in trust to spread their water use over two different aquifers, and is pursuing entering into an agreement with the City of San Diego to obtain up to 1,000 acre feet of water to replenish the basin under the Reservation; 3) Sycuan Band is investigating receiving water from both the Otay and Padre Dam Water Districts; and 4) Viejas has sewered the uses on the Reservation to prevent groundwater pollution and reclaim additional water; and recently initiated a water conservation program for the government, casino and outlet center facilities, including reducing outdoor watering and irrigation by 20 percent and regular inspection of all water related equipment for leaks.

5.7.1 Future Considerations

- The County should work with Tribes to ensure that neither party affects the other's ability to meet the requirements of the NPDES permit, or that discharges of storm water from one party's facilities do not impact the other party's storm drain system.
- County and Tribes need to collaborate to ensure adequate water supply for off-Reservation residents and tribal members.
- Tribes should be encouraged to work with neighboring residents when their projects appear to be related to those residents' water supplies diminishing.

5.8 Public Safety

On January 30, 2001, Sheriff Bill Kolender conducted the first local Tribal and Law Enforcement meeting, hosted by the Sycuan Band-of-the Kumeyaay Nation. Tribal representatives from most local Tribes participated during this event. Topics discussed during this meeting included a discussion of the law enforcement response during the Alpine fire. Both Viejas and Sycuan reported that the law enforcement agencies were highly responsive to their needs during that emergency situation. Other topics included the implementation of Public Law 83-280 in the region; the Tribes' local law enforcement needs; and the Sheriff Department's response times to calls for service. The only law enforcement change requested by the Tribes was the need for additional Sheriff/Tribal Liaisons to cover the North County tribal areas. The Sheriff Department agreed to designate additional liaison staff to fulfill this request. The discussions were positive and the meeting ended with agreement that the Tribes would meet with the Sheriff again in the near future.

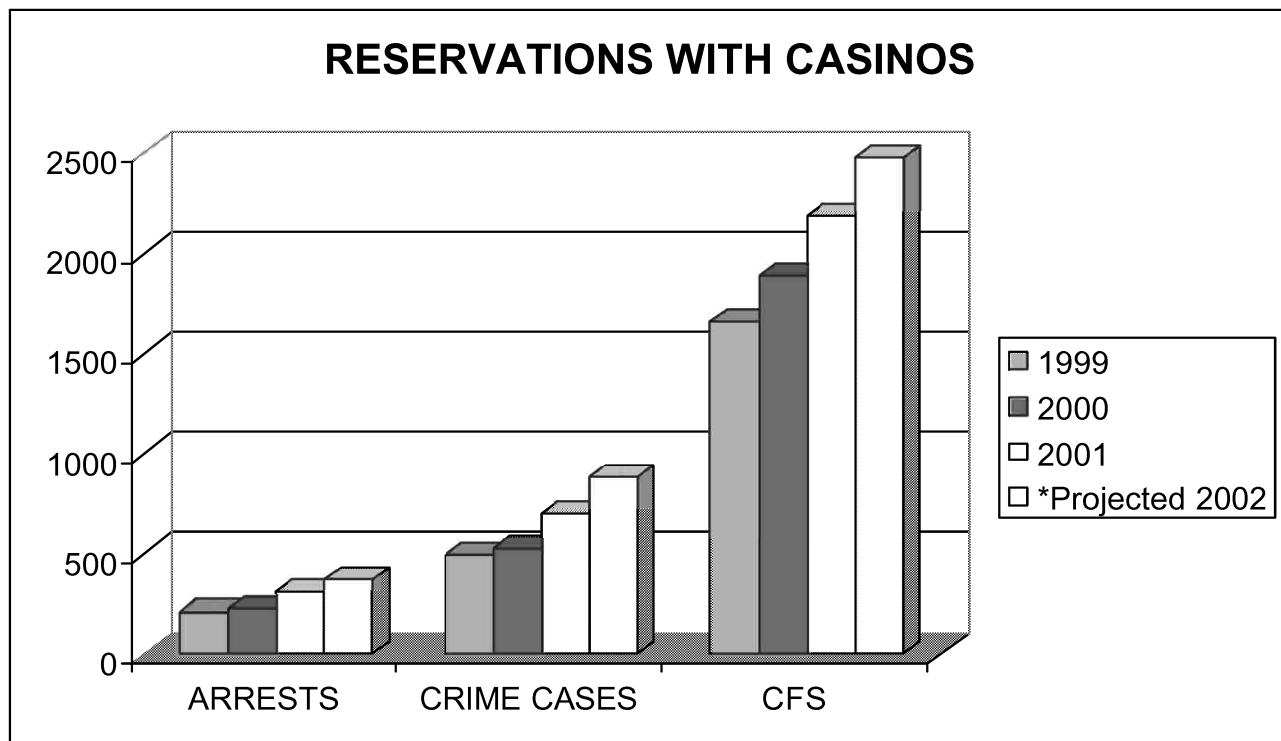
The Sheriff continues to work, on a statewide basis, on matters relating to policing tribal lands and gaming operations, and, in particular, the preparation and review of state legislation. Recently, the Sheriff provided input to the Board of Supervisors regarding the Department's involvement in the review of ABC License applications, concurring with CAO staff recommendations. In addition, Sheriff Kolender, as the Chair of the statewide task force on tribal gaming, presented a draft position paper regarding law enforcement services on tribal lands to the California State Sheriff's Association (CSSA) at their meeting of April 8, 2001. A second CSSA meeting was held on June 7, 2002, to discuss failed legislation efforts to confer peace officer status to tribal security personnel; and to begin to clarify the roles of the Sheriff and the State Division of Gambling Control on the Reservations. The State of California (State) formed

a Gambling Control Commission, but has yet to provide adequate staffing and enforcement strategies. As a result, gaming issues remain unsolved, and there are no clearly defined guidelines as to what criminal behavior is to be enforced by the State or local law enforcement. The Sheriff has primary criminal jurisdiction over Reservations, while the State Division of Gambling Control has jurisdiction over certain offenses inside the casino. The Tribal and State Justice Summit 2002 is scheduled for October 27-30, 2002, to bring tribal and state law enforcement officials together to discuss the broad spectrum of tribal justice concerns and to examine the future of policing in California's Indian Country..

The development of gaming facilities and resorts on Reservations has substantially increased daily population levels. Large casinos can easily double the daily population in small communities on a nearly continual basis. This influx has increased traffic congestion and raised the number of law enforcement calls on these Reservations. The table below highlights the trends in arrests, crime cases, and calls for service (CSF) on Reservations with casinos, from 1999 to 2002 (projected to year end). The projection for 2002 is based on eight months of actual data.

The California Highway Patrol (CHP) is responsible for handling traffic incidents in the vicinity of the Reservations. Statistics were not readily available from the CHP and, therefore, traffic incidents are not reflected in the graph.

Figure 5-1: Trends in Arrests, Crime Cases and Calls For Service



As casino and resort activity become more profitable, Tribes will likely continue to expand these uses, and new facilities will be created. These new facilities will generate more employees and patrons, increase calls for service, and will eventually impact the response times from the stations, under current staffing levels. The use of contract deputies is seen as one solution to meeting the needs of the Reservation populations and customers. In November 2001, the Pala Band of Mission Indians contracted with the Sheriff's Department for a five day a week Tribal deputy. This deputy wears the hats of patrol, detective, and community oriented policing and problem solving (COPPS) deputy for the people of the Pala Reservation. In August 2002, the Rincon Band of Mission Indians also contracted with the Sheriff's Department for a five-day-a week Tribal deputy with the same duties as the Pala deputy. The contract deputies that serve the Reservations provide a level of safety and law enforcement to the residents of those Reservations above the normal call response for the area. In addition, these contract deputies have developed a good rapport with security management and Tribal Gaming Commissioners; and are helping to maintain strong community relations. The use of more contract deputies is seen as a positive response to increased calls for service.

Both the Sheriff and the District Attorney have designated specific staff members to serve as Tribal Liaisons for their respective departments, and the Sheriff has established a committee of law enforcement personnel, including representatives of the California Highway Patrol, the Tribal Liaisons for the District Attorney and the Chief Administrative Office, to improve communications and efforts among staff involved in tribal matters.

Finally, the Sheriff entered into contracts with Pala and Rincon Bands to provide additional sheriff resources for the two Reservations.

5.8.1 Future Considerations

- County law enforcement agencies should continue to work with Tribes to ensure continued adequacy of services.
- County law enforcement agencies should expedite any request by Tribes to enter into agreements for additional services.
- Tribal liaisons should actively work with Tribal Governments to identify existing law enforcement issues and to plan for future needs.
- The Office of the State Attorney General must increase its efforts to enforce gaming laws; and provide adequate resources and direction to State and local law enforcement agencies.
- A greater California Highway Patrol presence is needed in the Valley Center area to deal with traffic control.

Chapter 6

Economic, Fiscal, Legislative and Other Issues Related to Tribal Lands and Indian Gaming

6.1 Economic Impacts

6.1.1 Tribal, State and Regional Benefits from Gaming

Where available, information on state and regional economic impacts of Tribal projects has been presented in Chapter 3 of this report. Besides being able to improve services and infrastructure on Reservations, and fund their government functions, the San Diego Bands¹³ who have developed gaming facilities have had the following positive economic impacts on the State and region:

- a. Gaming has eliminated unemployment on certain Reservations thereby eliminating need for taxpayers to support some Tribal Members.
- b. Gaming has made it possible for the Barona, Sycuan and Viejas Bands to allocate to other Bands and Indian programs the annual federal funds they are entitled to.
- c. Gaming has contributed to reducing unemployment of non-Indians, thereby reducing the need for taxpayers to support those in need of government programs;
- d. Gaming has created approximately 12,000 jobs, primarily for non-Indian residents of the San Diego region;
- e. Gaming generates approximately \$270 million total annual payroll;
- f. Gaming has resulted in approximately \$263 million in goods and services purchases in 2001;
- g. Gaming enterprises contract with hundreds of vendors, some with over 2,000 vendors, most of whom are from San Diego County;
- h. In 2000, gaming made it possible for Sycuan and Viejas Bands to spend over \$7 million on community organizations, charitable contributions, sponsorships, etc.; and
- i. Non-gaming Tribes (with no or less than 350 slot machines) may each receive up to \$1.1 million annually from gaming Tribes.

Since 2001, the eight large gaming Tribes have invested over \$861 million to build their gaming and resort facilities. Gaming Tribes buy most of their goods and services from local vendors and contractors, with some large casinos spending over \$40 million a year for supplies and services. Indian casinos are among the largest employers in the region. Tribal gaming and other enterprises provide employment for over 11,500 full-time employees, most of whom are non-Indians from neighboring communities and counties, especially Riverside and Imperial. These

¹³ When information was not provided by a gaming Band, it was estimated from Bands with similar facilities.

jobs offer affordable health insurance, retirement plans and many other benefits. In 2001, the estimated payroll for gaming Tribes was over \$273 million; and employer-paid federal and state payroll taxes are estimated to have been over \$30 million.

Successful gaming Tribes have been able to diversify their economic base, although to date, most of these new enterprises are related to the primary gaming enterprise. In San Diego County, Bands have been able to provide capital for a variety of multi-million enterprises: A hotel, event center and golf course [Barona]; a hotel (under construction) [Pala]; a hotel [Rincon]; purchase of a resort and three golf courses [Sycuan]; construction of a 57-store outlet center and majority stockholder status in a bank [Viejas].

Three Tribes, Barona, Sycuan and Viejas, recently announced that they will each contribute \$200,000 annually for three years as part of the marketing promotion of the San Diego Convention and Visitors Bureau (ConVis) geared at attracting out-of-town visitors to the Bands' casinos. It is anticipated that North County casinos will be similarly promoted in the future, especially since Rincon is planning a Grand Opening on August 8, 2002 for their hotel and permanent casino, and the Pala Band is planning to build a hotel next to its permanent casino. Such promotions would benefit both the Tribal casinos and the region's tourist attractions and businesses.

There is currently an Assembly Concurrent Resolution, ACR 170, in the California Senate Governmental Organization Committee, which recognizes that "the total economic impact of Indian gaming on surrounding communities and the State of California is significant, and should be assessed," and requests that Lieutenant Governor Cruz M. Bustamante commission a study by the Commission on Economic Development on the economic impact of Indian gaming on the state.

Finally, the Indian Gaming Regulatory Act (IGRA) provides that net revenues from gaming may be used to make per capita payments to members of a Tribe, provided that the Tribe prepares a Tribal Revenue Allocation Plan and that the plan is approved by the Secretary of Interior. Barona, Pala, Rincon and Viejas have implemented per capita distribution plans. Per capita payments are significant for the regional economy because Reservations provide few or no shopping opportunities for goods and services, and most Tribal income revenues are spent outside the Reservations, thereby primarily benefiting businesses in the immediate community of the Reservation and in the region as a whole.

6.1.2 Revenue Sharing Payments

Economic benefits from gaming have also spread to non-gaming Tribes. That is because the Tribal-State Compacts provide for revenue sharing payments by gaming Tribes to non-gaming Tribes and Tribes with fewer than 350 slot machines. The idea of richer Tribes helping poorer Tribes, and Tribes whose Reservations are too remote to make gaming a realistic possibility, was a central tenet of Proposition 1A; to date, California compacts are the only ones in the nation that contain such a provision. Unlike federal grants, this money comes without strings: Tribes can spend it as they want - divide it among its members; spend it on infrastructure or economic projects; use it to acquire land; and/or any combination of these purposes the Tribes decide.

Pursuant to Section 4.3.2.2 (a) (2), each Gaming Tribe may acquire and maintain licenses to operate slot machines by paying into the Revenue Sharing Fund (RSTF) on a quarterly basis

“Fees per Device per Annum” according to the following schedule: \$900 for 351 – 750 licensed devices, \$1,950 for 751-1250 licensed devices and \$4,350 for 1251-2000 licensed devices.

Each non-gaming and non-compact Tribe (Tribes with no or less than 350 slot machines) is to receive up to \$1.1 million per year from the RSTF in quarterly payments. Section 4.3.2.3 of the Compact states that “The Tribe shall not conduct any Gaming Activity authorized by this Compact if the Tribe is more than two quarterly contributions in arrears in its license fee payments to the Revenue Sharing Trust Fund.”

There have been and still are issues related to the RSTF, which may be resolved during compact renegotiations. Those issues include but are not limited to: whether the one-time “pre-payment” of \$1,250 per slot machine license is a one-time, stand alone fee or a down payment on the quarterly fees; and whether quarterly fees are due when machines are licensed or when the machines have been put in operation.

The RSTF was created by the Legislature and administered by the California Gambling Control Commission, as Trustee. The Commission has no discretion with respect to the use of disbursement of the trust funds; its sole authority is to serve as a depository of the trust funds and to disburse them on a quarterly basis to Non-Compact Tribe. To date, the Commission has distributed approximately \$75.3 million, covering 10 fiscal quarters from July 1, 2000 through December 31, 2002. Table 6-1, below, lists the San Diego Tribes that have received payments from the RSTF.

Table 6-1: Tribal Recipients of Revenue Sharing Payments

Compact Tribes	1 st Distribution August 2001	2 nd Distribution March 2002	3 rd Distribution September 2002	4 th Distribution December 2002	5 th Distribution February 2003
Campo	\$300,000.00	\$100,000.00(**)	\$138,034.21		
Cuyapaipe/Ewiiapaayp	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
Jamul	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
Manzanita	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
Pala	\$300,000.00	0.00	\$182,578.08 (***)		
Pauma	\$300,000.00	0.00	\$182,578.08 (***)		
Rincon	\$200,000.00	\$241,306.53	\$241,306.53		
San Pasqual	\$300,000.00	0.00	\$182,578.08 (***)		
Non-Compact Tribes (*)					
Inaja-Cosmit	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
La Jolla	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
La Posta	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
Los Coyotes	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
Mesa Grande	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234
Santa Ysabel	\$300,000.00	\$200,000.00	\$188,385.42	\$159,393.98	\$111,234

Source: California Gambling Control Commission (CGCC)

(*). Section 4.3.2 (a) (i) of the Tribal-State Compact defines "Non-Compact Tribes" as federally recognized tribes that are operating fewer than 350 Gaming Devices.

(**). 2nd Distribution paid to Campo in June 2002.

(***). 3rd Distribution is a result of recalculations

6.1.3 Future Considerations

- County will assist Tribes, as requested, to ensure they are successful at fulfilling their governmental responsibilities and providing for the economic well-being of their Members.
- County will ask Bands who are in a position to do so to consider allocating a portion of their gaming revenues for grants to "help fund operations of local government agencies," as provided by Section 11 of IGRA.
- County should collaborate with Tribes to prepare a report on the economic impacts of gaming and other tribal development projects on communities in the vicinity of Reservations.
- County and Tribes should continue to enter into cooperative agreements to ensure adequate infrastructure and services before opening gaming, gaming-related and/or other intensive facilities on Reservations.

6.2 Fiscal Impacts of Tribal Economic Enterprises

6.2.1 Federal and State Taxes

Tribes are exempt from some federal taxes because the federal government views Tribes as governments for tax purposes. This exemption extends to tribal corporations. Bands generally must pay federal excise taxes, such as the federal gas tax. As an employer, a Band must also pay federal employment taxes, such as social security, on wages paid to employees. Tribal members, however, are subject to federal taxes, including the federal income tax, and any per capita payments the Bands make to tribal members are subject to federal income taxes.

Indians who are members of federally recognized Tribes, and who live and work on Reservations, are exempt from paying state income, excise and sales taxes. For instance, they can purchase automobiles and not have to pay the state sales tax, provided they take title and delivery on the Reservation. The same general principle applies to other taxed goods, such as cigarettes or gasoline, provided the gasoline or cigarettes are for a tribal member's use on the Reservation.

During the Proposition 5 Campaign, two reports were prepared on the economic and fiscal impacts of Indian gaming in California. The report paid for by a few Indian Tribes trumpeted the profound economic benefits, not just on the Reservations, but statewide.¹⁴ The opposition's report¹⁵ saw little economic benefit and a significant drain on state and local treasuries. According to Roger Dunstan¹⁶, Assistant Director of the State of California Research Bureau, the first report assumed that all of the funds gambled at California Indian casinos came from funds that would have otherwise been spent in Nevada, whereas the authors of the second report assumed that only 25 percent came from funds that would have been spent gambling and recreating in Nevada, and 75 percent was redirected from expenditures that would have taken place in California.

None of the reports prepared to date contain comprehensive or accurate information that would allow for a definitive analysis of the economic or fiscal impacts of Indian gaming in California. What is known, besides the data provided by some of the Tribes on the amount of taxes paid to the State, their expenditures for construction and goods and services, and their employment records, is that pursuant to the Tribal-State Compact, the State will receive money directly from the Tribes, which had slot machines as of September 1, 1999. The required quarterly payments that will make up the Distribution Fund, are discussed in Section 6.3 in this report.

6.2.2 California and San Diego County Sales and Use Tax

The current state Sales and Use Tax (SUT) is 6 percent. Of the 6 percent SUT, the largest single component is the 5 percent state General Fund rate. Also included in the SUT rate are two half-cent rates (0.50% each), whose proceeds are respectively deposited into (1) the Local Revenue Fund, which supports health and social services program costs associated with the 1991

¹⁴ Analysis Group/Economics, Inc., "The Economic and Fiscal Benefits of Indian Gaming in California," July 6, 1998.

¹⁵ LECG Economics Finances, "Fiscal Effects of the Tribal Government gaming and Economic Self Sufficiency Act," June 30, 1998

¹⁶ Roger Dunstan, "The Evolution and Impact of Indian Gaming in California," June 30, 2001.

realignment legislation; and (2) the Local Public Safety Fund, which was approved by the voters in 1993 (Prop. 172), for the support of local criminal justice activities.

The Uniform Local Rate, or Bradley Burns levy, is a uniform local tax rate of 1.25 percent levied by all California cities and counties. Of this total, 1 percent is allocated to city and county governments for their general purposes; and the remaining 0.25 percent is for county-wide transportation expenditures.

The remaining .50 percent (half-penny) of the 7.75% local sales tax amount remitted to the State by San Diego County businesses, constitutes San Diego County's optional local rate (transaction tax), which was passed by the voters in 1987 and is known as TransNet, for the purpose of enhancing regional and local rail, highway, street and mass transit projects. This tax will expire in 2008, unless renewed by voters.

Finally, a fee is deducted from all local allocations to cover the State Board of Equalization's (BOE) direct and indirect costs for collection and administration. The fee is currently averaging 0.9 percent of the total local sales and use taxes.

In summary, pursuant to existing law, the County would have been entitled to 2.75 percent from sales and use taxes collected by tribal enterprises (minus the BOE fee), had these taxes been collected by the Tribes and remitted to the state. The County, however, does and will benefit from the additional sales and use tax revenues generated from contractors and vendors who contract with tribal enterprises, and from increases in off-Reservation tourism due to tribal enterprises.

6.2.3 Sales by On-Reservation Retailers

Until very recently, California has required Tribes to collect (1) sales tax from non-Indians, and Indians who do not live on the Reservation, on food and beverages sold and consumed on a Reservation; and (2) use tax on sales of tangible property. Most Tribes have either refused or simply chosen not to collect these state and local taxes, and the State Board Of Equalization (BOE) has tried unsuccessfully to collect them. In San Diego County, the only Tribal enterprise known to collect sales taxes, currently, is the Viejas Outlet Center; taxes remitted to the State, and the County's share of those taxes, are shown below:

Total Taxes	County share
FY 99/00: \$2,581,267	\$344,169
FY 00/01: \$3,907,375	\$520,981
½ FY01/02: \$3,035,355	\$404,714 (this only for three quarters)

On March 27, 2002, after consulting with Tribes, the State Bureau of Equalization (BOE) Board amended Rule 1616, thereby exempting Tribes from collecting taxes for the following purposes:

1. Sales tax on meals, food or beverages sold at eating and drinking establishments for consumption on a Reservation; and
2. Use tax on any item with "reservation-based value," which is defined as when an Indian retailer "has made a significant contribution with respect to the development, production of the item, or has a substantial connection to the Indian retailer because of the financing, manufacturing, marketing or regulating of the tangible personal property for use or consumption on the Reservation."

Regarding “reservation-based value,” the Office of Administrative Law (OAL), during the regulatory review process, stated that it would reject the amendments under the clarity standard because the proposed definitions did not give adequate guidance as to the criteria for reservation-based value. On July 16, 2002, the BOE withdrew the proposed amendments; and on September 12, 2002, approved amendments related only to the meals and beverages sold at eating and drinking establishments for consumption on the reservation, and directed staff to begin a new regulatory process regarding reservation-based value. Following an additional public comment period, the BOE held a public hearing on October 3, and the BOE’s Business Taxes Committee will consider the issue of reservation-based value on November 12, 2002.

It is not known at this time what the impact of this rule change will have on State finances or on the County’s share of these taxes, since most Tribes had not been collecting these taxes, and the Tribes’ share of the total amount of sales and use taxes collected in the State would be very small. For instance, BOE staff estimated that Tribal restaurant and bar sales, at this time, total approximately \$200 million, and if the State had collected sales taxes on that amount, annual receipts would have approximated \$16 million. In fact, the State collected approximately \$2.9 million. By contrast, the statewide restaurant industry has sales of \$40 billion, and pays approximately \$2.8 billion in sales taxes.

AB 2701 (Wyman) was introduced in the 2002-2003 legislative session; it excluded the amount of any Reservation Tax from the taxable base of any tangible personal property item; and provided that the State would not reimburse local agencies for any sales and use tax revenues lost by them pursuant to the bill. The Reservation Tax referred to in this bill is a tax that Tribal Governments can choose to impose on goods and services to fund governmental functions. At this time, the Pechanga and Agua Caliente Bands have implemented such a tax, but no Tribal Government in San Diego County is known to have done so. On September 15, 2002, the Governor signed AB 2701, and on September 16, 2002, the bill was chaptered.

6.2.4 County’s share of Tribal Revenues Paid to the State

In an article (“Senecas uncommonly generous in giving state a 25% casino cut,” 8/5/01)¹⁷, which was published in the Buffalo News, William N. Thompson with the University of Nevada-Las Vegas, in response to a statement that federal officials frown on tribes’ giving the locals any more than the (Senecas’) 25% casino cut given to the state, stated: “The bottom line: The Indian Gaming Regulatory Act was intended to benefit the Indians, not states or localities.” The article also stated that although the dozen Tribal-State gaming agreements, which were reviewed nationwide, reveal virtually no consistency among them, they generally show that localities commonly get very little, no more than three percent (3%), of the slot machine revenues.

The Reservation Transportation Authority (RTA), other Tribal organizations and local governments are currently lobbying State legislators and the Governor’s Office to ensure that most of the money from the SDF returns to the localities from where it was generated. At the request of Supervisor Horn, the Board of Supervisors on October 16, 2001, voted to support the RTA in concept, and provide assistance to the RTA in developing legislation that would require revenues deposited in the Fund to be distributed as follows:

- Maximize the proportion of the Fund returned to Counties;

¹⁷ Buffalo News, “Senecas uncommonly generous in giving state a 25% casino cut,” August 5, 2001

- Allocate the Counties' portion of the Fund proportionally to the amounts contributed by the gaming Tribes in each County; and
- Prioritize the use of the Counties' portion for transportation projects on local roads in consultation with the gaming Tribes.

On January 28, 2003, Governor Gray Davis issued Executive Order D-66-03 ordering the California Gambling Control Commission to collect and account for all contributions to the SDF; collect and analyze the certified quarterly reports submitted by the Tribes; and enforce Sections of the Compact related to overdue payments and audits.

6.2.5 State Budget

Governor Gray Davis has proposed to help balance the state budget with \$1.5 billion in revenue sharing from Indian casinos. The \$1.5 billion figure represents 25 percent of the \$6 billion Wall Street analysts estimate is the net drop (revenue from gaming after payout of bets but before operational expenses) of Indian casinos. The 25 percent cut is similar to what Connecticut gaming Tribes share with that state.

Since the State does not have the authority to impose a tax on Indian casinos, Tribes would have to agree to allocate a portion of their gaming revenues to the State during the compact renegotiations, which are discussed in Section 6.4 of this report. It is improbable that the State can expect this amount of money for the following reasons:

- Indian gaming officials estimate the net drop in California is approximately \$2.7 billion, not \$5 or 6 billion.
- Not every Tribe will want more slot machines, either because their market won't justify the expense of purchasing the licenses and machines, or because that would require enlarging existing facilities, which the Tribe cannot afford to do, especially if it means it has to share more of its revenues with the State. It is estimated that there are only 10 to 12 Tribes that could easily absorb an increase in the 2,000 slot machine cap.
- Tribes may not agree to give *carte blanche* to the State for the use of this revenue sharing money. They may be more interested in specifying that the revenue sharing money return to the local County or City for local programs and services.
- The few Tribes that may desire more than 2,000 machines may only agree to share the revenues from the new machines only, rather than from their existing machines.
- Many Indian leaders resent the implications that gaming Tribes are not already doing their fair share to help the State's economy. They point out their existing contributions to the Revenue Sharing Trust Fund, the Special Distribution Fund and the State and regional economies. Tribal governments in California employ approximately 35,800 workers, an increase of 12.2 percent for the year ending in November 2002, according to the state Employment Development Department. No other private or public sector employer in the state reported anywhere near a double-digit gain in employment for 2002. San Diego Tribes alone provide employment to approximately 12,000 non-Indians, resulting in \$270 million total annual payroll; they also spent over \$270 million for goods and services in 2002.

- Tribes may argue that they can best help the State budget by remaining free to invest gaming revenues as they see fit, rather than send a greater percentage of their revenues to Sacramento.
- The negotiations with the state over additional revenue will be complicated by the fact that the Governor also expects the Tribes to address the issues related to the adverse impacts of gaming projects on the off-Reservation environment and the lack of mitigations for those impacts.

6.2.6 Future Considerations

- The County should assist gaming Tribes in lobbying the State Legislature to ensure that the bulk of the payments on net gaming revenues, and the bulk of the taxes remitted to the State by San Diego County Bands, are returned to the County for purposes of improving infrastructure in the proximity of Reservations, and programs and services that benefit the Bands, in consultation with Compact Tribes.
- Encourage Tribes to continue to contract primarily with local vendors and service providers.
- Work with Tribes of San Diego County to develop a comprehensive report on the impact of gaming on the economics of the State and the San Diego region.
- County should lobby the State Legislature to ensure that State agencies, boards and commissions involve local governments when considering changes in rules and policies that could impact these local governments.
- County should support Tribes' efforts to attract visitors from outside the region.

6.3 Indian Gaming Special Distribution Fund

California Government Code Section 12012.85 reads, "...There is hereby created in the State Treasury a fund called the "Indian Gaming Special Distribution Fund" for the receipt, deposit and distribution of monies received by the state from Indian tribes pursuant to the terms of tribal-state gaming compacts. Pursuant to Section 5.2 of the Compact, these monies shall be available for appropriation by the Legislature for the following purposes:

- Grants, including any administrative costs, for programs designed to address gambling addiction;
- Grants, including any administrative costs, for the support of state and local government agencies impacted by tribal government gaming;
- Compensation for regulatory costs incurred by the state Gaming Agency [Gambling Control Commission] and the state Department of Justice [Division of Gambling Control] in connection with the implementation and administration of the Compact;
- Payment of shortfalls that may occur in the Revenue Sharing Trust Fund; and
- Any other purposes specified by the Legislature. It is the intent of the parties that Compact Tribes will be consulted in the process of identifying purposes for grants made to local governments."

Section 5.1. (a) of the Compact reads, "The Tribe shall make contributions to the Special Distribution Fund created by the Legislature, according to the following schedule (shown below

in Table 6-1), but only with respect to the number of Gaming Devices operated by the Tribe on September 1, 1999.” This means that the five Tribes that opened casinos after September 1, 1999, and the three Tribes that added slot machines to the number they had on that date, do not have to pay the State a percentage of the net wins on their machines, or the machines they added after that date, respectively. In San Diego County, the three Tribes that had over 200 machines on September 1, 1999, are Barona, Sycuan and Viejas.

The California Gambling Control Commission (Commission) and the Division of Gambling Control (Division)’s budgets come from the SDF; they are appropriated during the annual State Budget Act. General funds loans were made to the SDF to enable the Commission and Division to function prior to commencement of the revenue stream that only began to accrue in October 2002, pursuant to the interpretation by the Commission of Compact Section 5.1 (b).

There were 38 Tribes that conducted gaming on September 1, 1999, of which 28 operated more than 200 gaming devices. According to the Commission’s Bulletin dated February 2003, statewide, there were 19,005 gaming devices in operation on September 1, 1999. After allowing for a deduction of the first 200 gaming devices per Tribe, the total number of gaming devices that are used in the formula to determine payments into the SDF is 12,041. These 28 Tribes began paying into the SDF a variable percentage of their net winnings on the number of slot machines (above 200), which they operated as of September 1, 1999, at the end of the quarter ending September 30, 2002. Table 6-2, below, shows the formula currently contained in Section 5.1. (a) of the Compact.

Table 6-2: Formula for Tribal Sharing of Revenues with the State

Number of Slots	Net Win Sharing Percentage
1-200	0%
201-500	7%
501-1000	10%
Over 1000	13%

The first two quarterly payments into the SDF, to date, have resulted in contributions in the amount of approximately \$44 million. The checks, including over \$4 million from the three San Diego Tribes, are setting the pace for contributions of \$100 million during the first year; and \$1 billion for the next 18 years of the Compact.

Table 6-3, below, shows the number of gaming devices operated by Barona, Sycuan and Viejas Bands on September 1, 1999, and the number of devices used to determine their payments into the SDF.

Table 6-3: Local Gaming Devices and Special Distribution Fund

Affected San Diego County Tribe	Number of Slots as of 9/1/99	Number of Slots for Determining Estimated Annual Contribution
Barona	1,057	857
Sycuan	519	319
Viejas	1,132	932
TOTAL	2,708	2,108

The Compact was hastily written, and not surprisingly, there are points regarding the SDF in the Compact that are the subject of a dispute resolution between the Tribes and the Governor's Office, through the Commission. Tribal leaders and members of the Commission met to discuss provisions open to interpretation, such as how net win is determined, and when the first quarterly payments were due. The Commission held several public meetings on this issue, and on September 4, 2002, determined by a unanimous vote that "net win" meant the amount slots took in, minus the amounts paid to winners. This is also called the "drop rate." Some Tribes had argued that they should be allowed to deduct certain operating expenses, which Commission staff said would reduce payments to the state by as much as 35 percent. On that same day, the Commission also voted unanimously to adopt as its policy that the calendar quarter ending September 30, 2002, was the first calendar quarter subject to quarterly contributions, and the due date for the first contribution into the SDF was October 30, 2002. In making that determination, the Commission stated that it has to date "resolved ambiguities concerning payments in favor of the payors, where intent was not otherwise discernable with reasonable certainty."¹⁸

In the 2003/2004 Legislative Session, the California Legislature will formulate the disbursement of the money in the Fund. Several representatives are anticipated to introduce legislation to specify how that money will be distributed, including what share local governments impacted by casinos should receive. For instance, Senator Battin has introduced SB 1549, which, as amended in April 2002, would create the Indian Gaming Improvement Commission, an entity that would be responsible for the following: 1) Determining the eligibility of requests for appropriations of moneys from the SDF; 2) Establishing deadlines for submission of requests; and 3) Establish priorities for those requests that will benefit the most residents of communities impacted by tribal gaming.

A group of 14 Tribes from Riverside, San Bernardino and Santa Barbara counties have formed a coalition, which is called the "Tribal Alliance of Sovereign Indian Nations" (TASIN). The Tribes and local officials propose that 60 percent of the money in the SDF be distributed to cities and counties near the 28 Tribes that pay into the fund; another 30 percent would go to local governments near tribal casinos that don't make payments into the SDF, and cover any shortfalls in the Revenue Sharing Trust Fund (RSTF) that provides aid to Tribes that have small or no casinos; and the remaining 10 percent would go to problem-gambling programs and regulatory costs of the state. At the time of writing this report, TASIN had not yet found a legislative sponsor for its proposal.

The Governor's 2003-04 budget proposes expenditures of \$13.7 million from the SDF, as follows: \$10 million for the Department of Justice; \$3.3 million for the California Gambling Control Commission; and \$341,000 for the Native American Heritage Commission, with the remaining \$70.8 million going directly into the General Fund. Additionally, the budget proposes to transfer \$220,000 from the SDF to the California Indian Assistance Program, which funds a housing assistance program. The proposed budget would shift all funding for the Program from the General Fund to the SDF. The Governor's budget does not propose expenditures for the remaining estimated \$70.8 million in the fund. However, the State Legislative Analyst Office (LAO) has recommended to the Senate Budget and Fiscal Review Subcommittee using the \$70.8

¹⁸ Commission Meeting Minutes of September 4, 2002.

million for spending which both meets the requirements of the fund while generating General Fund savings. The LAO identifies two such possible uses as illustrative examples: Public safety demands (to fund a portion of the Citizens' Option for Public Safety (COPS) program; and mental health services to treat gambling addiction.

6.3.1 Future Considerations

- The County will continue to work with local Bands in lobbying the State Legislature to ensure that a fair share of the Fund is returned to the County for mitigation of tribal project impacts, especially on roads and law enforcement services.

6.4 2003 Compact Renegotiations

Tribal-State Compacts are in effect until December 31, 2020; however, they contain several sections addressing amendments and renegotiations, as shown below:

- Section 4.3.3. states: "If requested to do so by either party after March 7, 2003, but not later than March 31, 2003, the parties will promptly commence negotiations in good faith with the Tribe concerning any matters encompassed by Sections 4.3.1 and 4.3.2, and their subsections." [Section 4.3.1 addresses the base allotment of slot machines allowed; and Section 4.3.2 and its subsections address revenue sharing with non-gaming Tribes and the allocation of licenses].
- Section 10.8.3 (b) states: "At any time after January 1, 2003, but not later than March 1, 2003, the State may request negotiations for an amendment to this Section 10.8 on the ground that, as it presently reads, the Section has proven to be inadequate to protect the off-Reservation environment from significant adverse impacts resulting from Projects undertaken by the Tribe or to ensure adequate mitigation by the Tribe or significant adverse off-Reservation environmental impacts and, upon such a request, the Tribe will enter into such negotiations in good faith."
- Section 12.0 and its subsections addresses amendments and renegotiations. Section 12.1 states that "The terms and conditions of this Gaming Compact may be amended at any time by the mutual and written agreement of both parties." Section 12.2 states that the Compact "is subject to renegotiation in the event the Tribe wishes to engage in "forms of Class III gaming other than those games authorized herein...."

The Compacts were negotiated during a 16-day period; they therefore contain provisions subject to different interpretations. Clarifications and changes to certain provisions will be sought by the Tribes or the State. The three major areas of discussion are anticipated to relate to the following: 1) Current cap of 2,000 slot machines per Tribe; 2) Amount of revenue collected by the State on tribal revenues from slot machines; and 3) Impacts of casinos on off-reservation environmental resources and services.

Senator Jim Battin has suggested to Governor Davis that removing the cap on slot machines would stimulate California's economy and therefore help reduce the state's budget deficit by allowing the free market to generate more jobs and economic development thereby increasing the tax base. He also believes that if the Governor acted in good faith and renegotiated the

compact by removing the caps, and fairly restructured the payments made into the Special Distribution Fund and the Revenue Trust Fund, then some tribes would be interested in discussing other ways to help California out of its financial mess.”

Additionally, associations of local governments and California Sheriffs, which were not involved in the original compact negotiations, have asked the Governor to be at the negotiation table to ensure resolution of issues related to adverse environmental and fiscal impacts from casinos, and strengthening of enforcement provisions of the Compact. Local governments may join San Diego County in recommending to the State that Compacts include an addition to Section 2.0, Definitions, “Gaming Related Facility,” consistent with BIA’s use of the term; remove/avoid provisions, such as Section 4.3.2.2 (e), that constitute obstacles to local governments and Tribes consulting with each other before facilities are constructed and opened, to ensure that Tribes and local governments’ authorities and needs are respected, and areas of mutual concerns are discussed and resolved before a gaming facility is opened; and strengthen the provisions of Section 10.8.

Governor Davis announced on January 16, 2003 the appointment of the following individuals to his negotiating team to assist the State in renegotiating the Compacts: Cruz Reynoso, a former California Supreme Court Justice; Anthony Joseph retired San Diego County Superior Court Judge; and Frederick Wyle, an attorney, referee, arbitrator and mediator. In a Press Release announcing the appointments, Governor Davis stated that he has directed these individuals to begin the process of correcting the ambiguities in the original compacts and securing the State’s fair share. Governor Davis said: “My goal is this: to ensure that all gaming tribes fulfill their obligations; obey the law; and pay their fair share – both to the State and to non-gaming Tribes.

In a letter dated January 22, 2003, to Mike McGowan, Chair of the California State Association of Counties - Indian Gaming Working Group, David Rosenberg, Director of Operations and Senior Advisor to Governor Davis, also stated that local government concerns will be considered before and during the negotiations; and he has asked the Governor’s three negotiators to seek input from local government officials. In fact, representatives of the California League of Cities and the California State Association of Counties will be meeting with the Governor’s Negotiating Team on March 6 and 20, 2003, respectively.

Finally, on March 1, 2003, the Governor sent a letter to all 61 compacted Tribes indicating that he wanted to discuss and negotiate the sections of the Compact related to off-reservation environmental impacts of tribal gaming operations. In his letter, Governor Davis stated that the state and local governments’ experiences with the Compact since 1999 have shown that the current provisions of Section 10.8 “have proven inadequate to protect the off-Reservation environment from significant adverse impacts and to ensure adequate mitigation...This experience has also shown that the State and the Tribes do not necessarily agree as to the meaning of Section 10.8 tribal obligations and that additional clarification of those provision would be useful.”

Twenty-one Tribes have formed a coalition, Tribal Compact Coalition, and in a letter to Governor Davis, stated that they recognize that exercising their right to run casinos “triggers responsibilities,” including “making fairshare contributions from increase revenues of additional

slot machines.” The Tribes also said they recognize “the obligation to fairly mitigate off-reservation impacts of future development.” The Coalition represents a cross-section of Tribes with both large and small casinos, as well as Tribes without casinos, currently. Four local Tribes are part of this coalition: Cuyapaipa (Ewiiapaayp), La Posta, Pala and Rincon.

6.4.1 Future Considerations

- County will urge the Governor to consider amending compacts to ensure the following major issues are addressed in the renegotiated Compact:
 1. Provisions, such as Section 4.3.2.2, that effectively prevent County and Tribes from resolving environmental and fiscal issues before gaming projects and/or gaming related projects are commenced and/or finalized, should be removed or revised;
 2. Amend Section 10.8 to ensure adequate assessment and enforceable mitigation of adverse off-Reservation impacts;
 3. Allow more than 30 days for the review of tribal environmental documents and consultations between the Tribe and City or County regarding mitigation of adverse impacts;
 4. Require agreements between local jurisdictions and Tribes before gaming projects and/or gaming related projects are commenced and/or finalized;
 5. Enforce Section 10.8.3.(a), and require that the State obtain input from local governments before meeting with the Tribe;
 6. Add effective enforcement remedies for any violation of the Compact and provide the Attorney General’s Office with the resources to enforce the Compact;
 7. Revise Section 10.0 to either allow the County to conduct health and safety inspections, or require that counties be given proper assurances that the inspections are occurring and that rules are being enforced; and
 8. Consider giving the County Departments of Agriculture Weights and Measures the authority to monitor and regulate the commercial operations supporting the casinos, such as gasoline stations and convenience markets. emtnsCounty and Tribes should commit to address compact-related issues expeditiously and in good faith.
- County and Tribes should agree to negotiate agreements in good faith and as expeditiously as possible.
- County and Tribes should collaborate to ensure adequate infrastructure in the vicinity of Reservations.
- County should consult with Tribes on the feasibility of Compact Tribes in rural or remote areas of the County selling rights to slot machines to Compact Tribes whose Reservations

are located closer to existing communities, as this kind of transfer would generate income for Tribes in rural areas; provide development potential for more urban Tribes; and lessen conflicts between rural Tribes and surrounding communities and jurisdictions.

6.5 Fee-to-Trust Regulations

6.5.1 Federal Process

The U.S. Government can take lands into trust for Tribes by one of two methods. The first method is by Congressional action; the second and more common method is through the Fee-to-Trust (FTT) application process managed by the United States Department of Interior, Bureau of Indian Affairs (BIA). For Tribes in San Diego County, both types of actions require the input from the County as principal affected agency.

Once in trust, tribal lands are not subject to NEPA if development does not require federal funding, and does not involve a lease or Right of Way changes; other federal mandates, e.g. Clean Water Act or ESA, however, would apply.

6.5.1.1 Congressional Action

On December 27, 2000, President Clinton signed into law the California Indian Land Transfer Act (Act), which transferred a total of 3,525.8 acres of excess Bureau of Land Management land to eight California Tribes for use for non-gaming economic development and housing. The County Board of Supervisors took action on three different occasions to support the various bills, which resulted in the Act, the latest action being on June 15, 1999 (10).

The Act resulted in four Reservations in San Diego County being increased by the following acreages:

- Barona – 5.03 acres
- Cuyapaipe – 1,360 acres
- Manzanita – 1,000.78 acres
- Pala – 59.20 acres

6.5.1.2 Department Of Interior-Bureau of Indian Affairs Regulations and Processes

The regulations that set forth the authorities, policy and procedures governing the acquisition of land by the United States in trust status for individual Indians and Tribes, are found in 25 Code of Federal Regulations (CFR) Part 151. When an acquisition is intended for gaming on lands acquired by a Tribe after the enactment of IGRA (October 17, 1988), the provisions of Section 20 [§2719] regulate, unless one of several exceptions, applies. However, if none of the exceptions in Section 20 applies, a Tribe may still conduct gaming on these lands if it meets the requirements of Section 20 (b) (1) (A) of IGRA, which provides that gaming can occur on the land if the Secretary of Department Of Interior, after consultation with appropriate state and local officials, and nearby Tribes, determines that a gaming establishment will (1) be in the best interest of the Tribe and its members; and (2) not be detrimental to the surrounding community, but only if the Governor of the state concurs in the Secretary's two-part determination.

The Department of Interior – Bureau of Indian Affairs (DOI-BIA) has been under a lot of pressure in recent years regarding the Fee-to-Trust process since the boom in gaming projects. The Tribes have complained about the length of time necessary for applications to be completed; and local communities have complained about the tax loss, short public review period, inadequacy of information provided, incompatible land uses and environmental impacts of gaming-related developments.

To address these concerns, the DOI-BIA has been trying to revise regulations contained in 25 CFR Part 151 – Acquisition of Title to Land in Trust – to improve procedures and clarify the process followed by the Secretary of Interior in determining whether to accept land in trust for a Tribe, and on January 16, 2001, DOI issued a final rule amending regulations. The County sent comments on the Final Rule on May 30, 2001, after the review period had been extended to June 15, 2001. In that letter, the County stated that in 2001 alone, the County had commented on 10 trust applications. Specifically, the County commented on the vagueness of land uses proposed for the lands to be acquired in trust, and therefore the impossibility of assessing compatibility with and impacts to surrounding lands. Additionally, the County requested that approval of land acquisitions be conditioned on successful negotiation of agreements to insure that any significant impacts were adequately mitigated.

After several extensions for the purpose of receiving comments, the final rule was withdrawn in whole on November 9, 2001, after the Department received conflicting comments from Tribes, federal, state and local officials, and other interested parties.

The Department of Interior is currently consulting with Tribes, and will consult with local governments at a later date, before issuing a new rule in the future. Assistant Secretary Neal McCaleb has been quoted as saying: “We are seeking to enact meaningful improvements in federal Indian policy to preserve the free enterprise system and protect the civil and property rights of all Americans, Indian and non-Indian alike.” In the meantime, the current regulations will remain in effect.

The BIA staff has implemented new procedures for FTT applications for gaming-related purposes, which are now reviewed by the Central Office of DOI, and are subject to the approval of the Assistant Secretary – Indian Affairs. A gaming-related purpose is one which is essential or related to the operation of a gaming facility, such as a parking lot for the gaming facility, or the construction of a waste water treatment facility to serve the gaming facility.

6.5.2 FTT Applications by San Diego Tribes

There are currently 9 FTT applications being processed by the BIA for five Tribes in San Diego County, affecting 1,687.54 acres presently under the County’s jurisdiction. All of the applications, except for Jamul Indian Village, are for “non-gaming” uses. These applications were submitted by the following Bands: Barona, Cuyapaipe (Ewiiapaayp); Jamul Indian Village; La Posta; and Viejas.

As an Affected Agency, the County has commented on these applications, as well as on any accompanying environmental documents prepared pursuant to the National Environmental Policy Act (NEPA). Maps showing the locations of parcels included in these applications and transfers, and a Table of the applications and transfers, are provided in *Appendix D*.

The County has sent letters of opposition to the “in-trust” applications to the BIA. The letters note the County’s long-standing opposition to the taking of land “in-trust” for Indian gaming and related uses. This opposition was reiterated by the Board of Supervisors on November 1, 2000,

when the Board directed staff to prepare letters, re-stating the Board's opposition to the annexing of additional County lands into Trust for the Reservations. This opposition was based on the fact that the expansion of gaming-related uses facilitated by these annexations creates uses that are not compatible with surrounding communities, and the impact on residents exceeds anything that could have been reasonably anticipated.

The County recognizes the right and need of Tribal Governments to acquire additional land for ceremonial, housing, economic development, access and resource protection purposes, or for the purpose of buffering the Reservation from future adjacent development. The County also recognizes that Tribes may not have specific land use plans developed for those parcels they wish to place in trust. The County, on the other hand, has the right and need to protect lands under its jurisdiction from incompatible land uses and activities; and is concerned by impacts on off-Reservation lands, and the fiscal impact of removing land from tax rolls. County concerns can delay BIA actions on a Tribe's application. It would therefore be beneficial for the County to hold consultations with Tribes desiring to place land in trust to resolve conflicts, and to develop ways to ensure that both the Tribes and the County's concerns are resolved satisfactorily.

6.5.3 Future Considerations

- Tribes who intend to file FTT applications should consult with the County to identify any concerns regarding the proposed land uses, and work to develop solutions for any anticipated adverse impacts.
- When Tribes determine the specific land uses they plan to develop on trust lands, consultations should be held with County to ensure compatibility of land uses between the two governments and to minimize incompatibility; and agreements should be considered to ensure adequate mitigation of any adverse impacts.
- County and Tribes should consult on the feasibility of lifting County's blanket opposition to FTT applications by developing criteria, which could make it possible for County to support the Tribes' applications on a case by case basis.

6.6 Tribal-County Cooperative Agreements

As stated in Section 4.10 in this report, to date, the County has entered into Cooperative Agreements with several Tribes. The most comprehensive and extensive contributions to the County have been offered by the Rincon, San Pasqual and Pauma/Yuima Bands to mitigate all traffic impacts (direct and indirect) on County roads resulting from their interim and permanent facilities. These three cooperative agreements did not include contributions for law enforcement services, fire protection, road maintenance or other services provided to the Reservations by the County, nor have they included reimbursement for the actual time expended by County staff in performing its obligations to date.

Additionally, two Tribes have entered into agreements with the County Sheriff for additional law enforcement services. The two Tribes are: Pala and Rincon. The Sheriff expects more Tribes will consider entering into similar agreements in the future.

6.6.1 Future Considerations

- Agreements to mitigate adverse impacts from tribal projects must take into consideration the County's own requirements to comply with CEQA.
- In addition to the need for all Tribes to assist the County with revenue sharing for costs of impacts on off-Reservation resources and infrastructure, County should discuss with Tribes need for revenue sharing to recover costs for the actual time expended by County staff in performing its obligations to date related to tribal projects.

6.7 San Luis Rey Indian Water Rights Settlement Act (P.L. 100-675)

On January 18, 2001, then Secretary of the Interior, Bruce Babbitt, signed an agreement restoring five North County Mission Indian Tribes' rights to water from the Colorado River. The agreement was a condition of the 1988 San Luis Rey Indian Water Rights Settlement Act (Act), which followed 16 years of litigation by the Tribes against the U.S. Government, the Vista Irrigation District, the Escondido Mutual Water Company and the City of Escondido. The Act provides for \$30 million to be deposited in the San Luis Rey Tribal Development Fund to be allocated for economic development, as requested by the Indian Water Authority, and an allocation of not more than 16,000 acre feet of water per year for the benefit of the Bands and local entities. The water to be allocated is a portion of the "supplemental" water to be saved when the All American Canal and its Coachella Branch are lined to prevent seepage currently taking place. The Tribes will be able to either use the water or sell it.

The La Jolla, Pala, Pauma, Rincon and San Pasqual Bands have formed the San Luis Rey Indian Water Authority (SLRIWA), which will determine how the \$30 million (now estimated at \$53 million) and the allotted water will be used. However, the Act contains many provisions that have to be completed before the Bands will see the majority of the \$53 million and their allocation of water; and it is anticipated that it will be at least two to three years before the canals are lined and all the provisions of the Act are met.

Recently, the SLRIWA was approached by the Yuima Municipal Water District on a proposal to share in the costs of a new pipeline that the District plans to build to bring additional water to the District. The SLRIWA will study this proposal as a means to transport its share of Colorado River water from the end of the Metropolitan Water District's aqueduct to the five Reservations. However, the implementation of the Quantification Settlement Agreement for the 16,000 acre feet is held up by the lack of an agreement between the San Diego County Water Authority and the Imperial Irrigation District.

6.7.1 Future Considerations

- County encourages the San Luis Rey Indian Water Authority to consult with affected cities and water districts to discuss opportunities to coordinate land use, conservation and infrastructure plans.

6.8 Tribal Recognition

Regulations governing the tribal recognition process are contained in 25CFR Chapter 1, Part 83. Tribal recognition provides immunities and privileges, such as access to federal programs and the ability to enter into gaming compacts. Additionally, recognition establishes government to government relationship between the United States and the Tribe, and allows for tribal lands that

are taken in trust to be governed by tribal Laws and exempted from all local and most state regulations.

Historically, Tribes have been granted federal recognition through treaties, Congressional action, or through regulatory and administrative decisions, principally by BIA. The Branch of Acknowledgement and Research (BAR) of BIA researches petitions for tribal recognition and makes recommendations to the Assistant Secretary of the BIA. The Branch consists of historians, anthropologists and genealogists who evaluate petitions for tribal recognition. The BIA's regulatory process is undergoing scrutiny at this time to correct inefficiencies and inconsistencies, which were identified by the U.S. General Accounting Office two reports: one dated November 2001¹⁹; and one dated February 7, 2002²⁰. The BIA has drafted a Strategic Plan²¹ to ensure more predictable and timely decisions, and to improve the responsiveness of the Federal acknowledgement process.

The BIA currently has more than 200 applications for recognition from Tribes in 37 states, some of which have been pending for over 20 years. California has 54 Tribes listed as petitioning for recognition, and one Tribe seeking recognition by Congressional Act H.R. 2619 (Solis). One of the petitioning California Tribes, the San Luis Rey Band of Mission Indians from San Diego County, filed a letter of intent in 1984, but no other documentation. If the Band were officially recognized by the BIA, it would become entitled to a Reservation, as it is currently landless. Additionally, it might be able to conduct gaming on the new Reservation without the concurrence of the Governor of California, pursuant to Section 20 of the Indian Gaming Regulatory Act; or be eligible to receive Revenue Sharing Fund payments, as discussed in Section 6.1.2 of the report.

U.S. Senators Christopher Dodd and Joseph Lieberman (D-Connecticut) have proposed legislation (S.1392) to impose stricter standards on the BIA's recognition process, including increased notification procedures, including notices to "the chief executive officers of the counties and municipalities located in the geographic area historically occupied by the petitioning group." Last year, Senator Ben Nighthorse Campbell, R-Colorado, introduced legislation (S.504), which proposes to speed up the recognition process by creating a separate commission outside the BIA to recognize Tribes. These issues have been discussed by both the U.S. Senate and House Indian Affairs Committees.

6.9 Proclamation of Reservation Status for Existing Cuyapaipe Trust Land

The Cuyapaipe Band has requested approval by the Secretary of Interior to have their trust land west of the Viejas Reservation, proclaimed a Reservation. The Band states that it always intended the land of the proposed "Little Cuyapaipe Reservation" be proclaimed Reservation land as part of its establishment in trust in 1986, and that it began its active requests for the proclamation in 1994.

¹⁹ GAO-02-49 Indian Issues – Improvement Needed in Tribal Recognition Process (November 2001)

²⁰ GAO-02-415T Indian Issues – More Consistent and Timely Tribal Recognition Process Needed (February 2002)

²¹ Strategic Plan – Response to the November 2001 General Accounting Office Report (September 2002)

The Notice of Proposed Action – Proclamation Application - dated December 11, 2001, was prepared by the Southern California Agency of the BIA. Objections to the application have been raised by the Viejas Band, as shown in their June 28, 2002 letter in *Appendix E*. The Cuyapaipe Band’s rebuttal to Viejas’ objections can also be found in *Appendix E*.

The County is concerned about this request because: 1) The land in question is located approximately 35 miles west of the original Cuyapaipe Reservation; 2) The land was placed in trust for the Cuyapaipe Band for the purpose of constructing a health clinic; 3) Reservation status would facilitate a casino on those two parcels; and 4) The land is less than a mile from the Viejas Reservation and its gaming and commercial enterprises.

The County’s concerns are as follows: 1) A second casino could be built on Willows Road, which already operates below LOS “D” as a result of development on the Viejas Reservation; 2) A second casino in this area of Alpine could result in a change in the character of the area between the I-8 interchange and eastern end of the Viejas Reservation from a mix of rural residential and commercial uses to strictly commercial uses; and 3) A second casino could adversely impact groundwater if adequate mitigation measures are not imposed on the project, or cause growth induction if water and sewer infrastructure is extended to the casino site.

The Cuyapaipe (Ewiiapaayp) Band responded to the County’s concerns in Exhibit 1 of their letter dated July 2, 2002, shown in *Appendix E*.

6.9.1 Future Considerations

- County should monitor closely the progress of the Cuyapaipe application for Reservation Proclamation; assist in assessment of impacts of casino proposal; and insist on adequate mitigations of adverse impacts.

6.10 Southern Indian Health Council, Inc.

- Southern Indian Health Council, Inc. (“SIHC”) is a California Public Benefit Corporation whose membership and Board of Directors is composed entirely of seven federally recognized Indian tribes located in the County of San Diego, California.
- The SIHC, Inc. receives funding pursuant to the Indian Self-Determination and Education Assistance Act, P.L. 93-638. See 25 U.S.C. § 450 *et seq.*
- The SIHC serves seven tribes: Barona, Campo, Cuyapaipe (Ewiiapaayp), Jamul, La Posta, Manzanita and Viejas. It also serves residents of the East County. Programs and services offered are as follows: medical clinic; dental clinic; community health; social services; mental health; senior home and substance abuse.
- The SIHC also operates a satellite clinic on the Campo Reservation and the Youth Regional Treatment Center on the La Posta Reservation.
- The SIHC began as a satellite operation of the Indian Health Council located in North County. It incorporated in 1982 as a nonprofit, public benefit corporation, and moved to the Barona Reservation. In late 1987, the Cuyapaipe (Ewiiapaayp) Band leased an 8.6 acre parcel, which was in trust and located in Alpine, to SIHC, Inc.; and, in 1997, a 1.42 contiguous parcel was placed in trust and leased to SIHC to allow for improved access and fire protection for the clinic.

- The current permanent facility was built using two Indian Community Development Block Grant (ICDBG) funds awarded to the Cuyapaipe (Ewiiapaayp) and La Posta Bands.
- On December 18, 2000, the SIHC Board of Directors voted to enter into an Agreement with the Cuyapaipe (Ewiiapaayp) Band. Pursuant to the Agreement, SIHC, Inc. will receive: a \$5 million clinic in Alpine on Willows Road and later another \$5 million clinic on Alpine Boulevard; a \$1.5 million clinic on the Campo Reservation; and 2% to 8% of the Ewiiapaayp Band's net gaming revenues over the term of the Agreement. On August 30, 2002, the Viejas Band filed a suit against the SIHC and the leaders of the six other Bands that sit on the Board of Directors, over the Agreement.
- The Campo clinic element of the Agreement will likely be revisited since the SIHC was recently awarded a \$1.3 million grant from the U.S. Indian Health Service to replace the existing Campo clinic with a facility three times larger. Construction of the new facility is tentatively scheduled to begin in January 2003.

6.11 County Tribal Liaison Staff Officer Position

As directed by the Board of Supervisors on October 10, 2000, at the request of Supervisor Dianne Jacob, the Chief Administrative Officer (CAO) created a new Tribal Liaison position within the Chief Administrative Office. The County Tribal Liaison is intended to enhance communication, cooperation and coordination between the County and Indian Nations in the region. This new, full-time position was filled in late August 2001.

The responsibilities of the position include identifying and solving impacts of new and expanding tribal gaming and other development projects on the infrastructure and other County services in the unincorporated areas. The individual appointed provides support and tracks matters for the County Board of Supervisors and the Chief Administrative Officer, participates in regional land use and transportation planning, related economic and services forecasting, funding and development activities, and assists Tribes with permitting and other issues.

The Tribal Liaison reports to the Deputy Chief Administrative Officer for the Land Use and Environment Group (LUEG); works directly with the County Departments in the LUEG Group; coordinates with Office of the Sheriff, other County departments and State and Federal agencies; and responds to inquiries from the media and other interested parties.

6.12 California Native Americans Instructional and Reference Resources (S.B. 41)

On October 14, 2001, Governor Davis signed this new law thanks to the leadership of Viejas Chairman Anthony Pico, former Chairman TeSam and Vice-Chairman Barrett. The two-year law provides funding to the State Librarian for research and curriculum development for K-12 public schools on the history of California Indians and contemporary issues faced by tribal governments.

Chapter 7

List of References

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- County of San Diego. Report on the Potential Impacts of Tribal Gaming on Northern and Eastern San Diego County, November 1, 2000.
- Jamul Indian Village. Draft Environmental Impact Statement – 101 Acre Fee-to-Trust Transfer Project and Casino Project, December 2002.
- National Gambling Impact Study Commission, National Gambling Impact Study Commission Final Report, June 18, 1999.
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- _____. Draft Environmental Evaluation for the Rincon San Luiseño Band of Mission Indians Rincon Casino Phase II Interim Facility, December 2000.
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