



SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS
POLICY FOR CONSULTATION

*with Federally Recognized Indian Tribal Governments
and Federal Land Management Agencies*

JANUARY 2019

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Introduction

The United States Department of Transportation defines consultation as: “when one or more parties confer with other identified parties in accordance with an established process and, prior to taking action(s), considers the views of the other parties and periodically informs them about action(s) taken.” The Southern California Association of Governments (SCAG) recognizes the importance of consultation, noting in its recently adopted Public Participation Plan that “meaningful public participation is a cornerstone of regional planning and one of SCAG’s key priorities. In all outreach work, the agency holds itself to high standards according to SCAG’s core values of transparency, leading by example and creating positive impacts in the region.”

SCAG’s goal is to maximize opportunities for federally recognized Tribal Governments and federal land management agencies to engage in SCAG’s planning, programming and policy making processes, especially in relation to the development of its Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS) and the Federal Transportation Improvement Program (FTIP or TIP).

SCAG views such government to government consultation to be a proactive, meaningful and timely process of seeking, discussing, and considering carefully the views of others, in a manner that is cognizant of all parties’ cultural values, and where feasible, seeking agreement. Specifically with respect to Tribal Governments, consultation begins with SCAG recognizing tribal government sovereignty. SCAG views tribal consultation as a dynamic process defined together by both SCAG and each Tribal Government separately, wholly, or in groups of Tribal Governments.

Background

Founded in 1965, SCAG is a Joint Powers Authority under California state law, established as an association of local governments and agencies that voluntarily convene as a forum to address regional issues. Under federal law, SCAG is designated as a Metropolitan Planning Organization (MPO) and under state law as a Multi-County Regional Transportation Planning Agency and a Council of Governments.

The SCAG region encompasses six counties (Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura) and 191 cities in an area covering more than 38,000 square miles. SCAG develops long-range regional transportation plans including a sustainable community strategy and growth forecast components, federal transportation improvement programs, regional housing needs allocations and a portion of the South Coast Air Quality management plans.

In 1992, SCAG expanded its governing body, the Executive Committee, to a 70-member Regional Council to help accommodate new responsibilities mandated by the federal and state

governments, as well as to provide more broad-based representation of Southern California's cities and counties. With its expanded membership structure, SCAG created regional council districts to provide for more diverse representation. The regional council districts were formed with the intent to serve equal populations and communities of interest. Currently, the Regional Council consists of 87 members.

In addition to the six counties and 191 cities that make up SCAG's region, there are six County Transportation Commissions that hold the primary responsibility for programming and implementing transportation projects, programs and services in their respective counties. The region also includes sixteen federally-recognized tribal governments. SCAG Bylaws provide for representation of Native American tribes, Air Districts, the Transportation Corridor Agency, and a Public Transportation Representative as voting members on the Regional Council and Policy Committees.

In 1999, SCAG attended a Transportation Summit with Tribal Governments organized by the California Transportation Commission and hosted by the Morongo Band of Mission Indians that initiated a discussion at SCAG regarding our relationship with Tribal Governments. Thereafter, in 2002, SCAG adopted a Strategic Plan that included a goal calling for establishing a role for Native Americans in the regional transportation planning process. SCAG's main governing board, the SCAG Regional Council, created a Tribal Government Relations Task Force to implement the strategic plan goal.

After many Tribal Summits, the SCAG General Assembly in 2006 adopted bylaw provisions providing Tribal Governments with voting seat on SCAG's Regional Council, Executive/ Administration Committee; major standing policy committee and two voting seats on each of SCAG's three major standing committees: the Transportation Committee (then the Transportation and Communications Committee), the Community Economic and Human Development Committee and the Energy and Environment Committee. As a result implementing the 2002 Strategic Plan Goal, the SCAG is the largest MPO to include elected Tribal Government representatives to serve as voting members of SCAG's Regional Council and Policy Committees. Tribal Governments have long been advisory non-voting members of SCAG's General Assembly and in 2017, an amendment to SCAG's Bylaws was adopted to provide for voting advisory membership in the SCAG General Assembly by all sixteen federally recognized Tribal Governments in the SCAG six-county region.

Requirement to Consult

Pursuant to federal and state law, SCAG is required to consult federally-recognized Native American Tribal governments, and must appropriately involve federal land management agencies in the development of its RTP/SCS and FTIP.

Generally, under federal planning law, Tribal government concerns should be considered in developing planning documents pursuant to U.S. Code Title 23, Section 135, paragraphs e and f. Specifically, the applicable provisions concerning such process is set forth in U.S. Department of

Transportation (DOT) joint Federal Highway Administration (FHWA) and Federal Transit Agency (FTA) planning regulations, 23 CFR Section 450.316, which provides as follows:

(c) When the MPO includes Indian Tribal lands, the MPO shall appropriately involve the Indian Tribal government(s) in the development of the metropolitan transportation plan and the TIP.

(e) MPOs shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with Indian Tribal governments and agencies, ...which may be included in the agreement(s) developed under §450.314.

SCAG's consultation requirements under federal planning regulations are set forth under 23 C.F.R. Section 450.316(b)-(e) as follows (emphasis added):

(b) In developing metropolitan transportation plans and TIPs, the MPO should consult with agencies and officials responsible for other planning activities within the MPA that are affected by transportation (including State and local planned growth, economic development, environmental protection, airport operations, or freight movements) or coordinate its planning process (to the maximum extent practicable) with such planning activities.

In addition, metropolitan transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the areas that are provided by:

(1) Recipients of assistance under title 49 U.S.C. Chapter 53;

(2) Governmental agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the U.S. Department of Transportation to provide non-emergency transportation services; and

(3) Recipients of assistance under 23 U.S.C. 204.

(c) When the MPA includes Indian Tribal lands, the MPO shall appropriately involve Indian Tribal government(s) in the development of the metropolitan transportation plan and the TIP.

(d) When the MPA includes Federal public lands, the MPO shall appropriately involve the Federal land management agencies in the development of the metropolitan transportation plan and TIP.

(e) MPOs shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with other governments and agencies, as defined in paragraphs (b), (c), and (d) of this section, which may be included in the agreement(s) developed under Section 450.314 [metropolitan planning agreements].

At the State level, SCAG must consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and

historic preservation concerning the development of the RTP. The consultation shall involve, as appropriate:

1. Comparison of transportation plans with State conservation plans or maps, if available; or
2. Comparison of transportation plans to inventories of natural or historic resources, if available. See 23 U.S.C Section 134(i)(5).

Finally, Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52), which became effective July 1, 2015 requires that state and local agencies analyze the impacts to Native American cultural resources under the California Environmental Quality Act (CEQA). The law introduced new state requirements for consultation with Native American tribal governments. As such, lead agencies under CEQA must work with tribal governments to avoid or mitigate the impacts to cultural resources.

Federally Recognized Tribes in the SCAG Region

There are sixteen federally recognized Tribal Governments in the SCAG region as listed below. In 2005, SCAG's Regional Council adopted a resolution for each of the sixteen federally recognized Tribal Governments affirming SCAG's recognition of each as a sovereign nation and establishing an official participation role by these Tribal Governments in SCAG's planning activities.

1. Augustine Band of Mission Indians (SCAG Resolution # 05-464-14)
2. Agua Caliente Band of Cahuilla Indians (SCAG Resolution # 05-464-15)
3. Cabazon Band of Mission Indians (SCAG Resolution # 05-464-13)
4. Cahuilla Band of Mission Indians (SCAG Resolution # 05-464-12)
5. Chemehuevi Reservation (SCAG Resolution # 05-464-4)
6. Colorado River Tribal Council (SCAG Resolution # 05-464-11)
7. Fort Mojave Indian Tribe (SCAG Resolution # 05-464-3)
8. Morongo Band of Mission Indians (SCAG Resolution # 05-464-10)
9. Pechanga Band of Luiseño Mission Indians (SCAG Resolution # 05-464-1)
10. Quechan Indian Tribe (SCAG Resolution # 05-464-16)
11. Ramona Band of Cahuilla Indians (SCAG Resolution # 05-464-8)
12. San Manuel Band of Mission Indians (SCAG Resolution # 05-464-2)
13. Santa Rosa Band of Mission Indians (SCAG Resolution # 05-464-7)
14. Soboba Band of Luiseño Indians (SCAG Resolution # 05-464-6)
15. Torres-Martinez Desert Cahuilla Indians (SCAG Resolution # 05-464-5)
16. Twenty-Nine Palms Band of Mission Indians (SCAG Resolution # 05-464-9)

The participation of Tribal Governments is essential to plan for future growth in Southern California and to prepare for transportation improvement needs on sovereign tribal property. According to the 2010 Census, the population living on tribal lands is 37,780, representing an approximately 11% growth from the 2000 Census. The population living on tribal lands in the SCAG region is concentrated in Riverside County, especially in the Coachella Valley.

SCAG has prepared a fact sheet that provides an inventory of Federally-recognized Indian Tribal Land and Reservations in the SCAG region, a copy of which is attached herein. It graphically presents the name, location and distribution of tribal lands and reservations, with their population and household, across Southern California.

Consultation

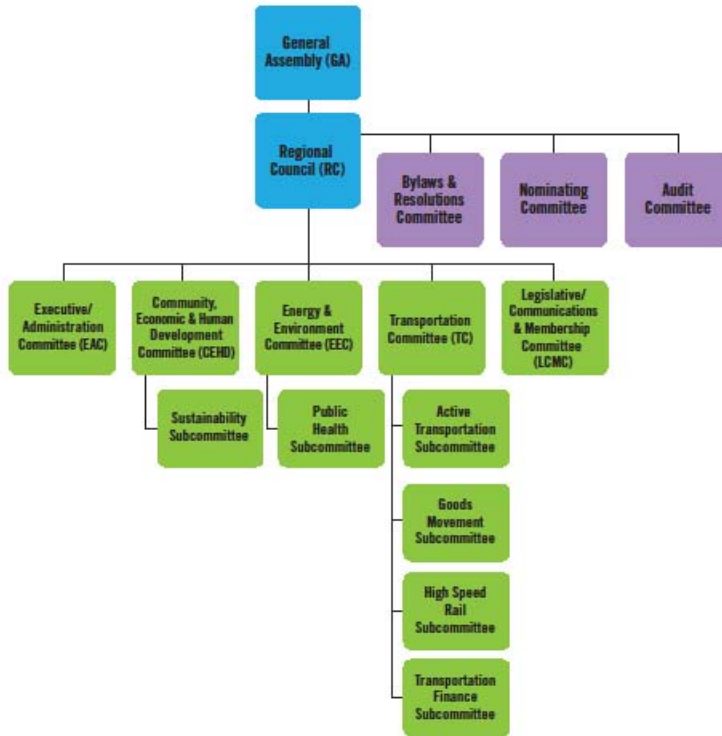
Under the direction of the Regional Council, the Executive Director or designee is the designated SCAG official with primary responsibility for SCAG's implementation of consultation requirements. At the appropriate time in the planning phase, contact shall be initiated directly with the respective tribal chairpersons and tribal administrators as well as the representatives from the Federal Land Management Agencies to inquire as to protocols in place, such as cultural resource contacts, procedures, time limits and restrictions affecting communication. Development of mutually agreed-upon protocols may result in more effective consultation efforts with individual tribes and Federal Land Management Agencies. It is also understood that Tribal Governments and federal resource agencies may unilaterally engage SCAG of their own initiative for further consultation with SCAG.

SCAG recognizes that consultation is a process, not a single event, and communication should continue until the project or plan is complete. Consultation requests should include a clear statement of purpose, explaining the reason for the request and declaring the importance of participation in the planning process. The request should specify the location of the area of potential effect addressed in the proposal. All aspects of the consultation process should be documented, including how the lead agency reaches a final decision.

In general, SCAG's consultation activities are accomplished primarily through sharing information and gathering input from its General Assembly, Regional Council, Policy Committees, other committees, subcommittees, task forces, and working groups, public outreach activities, environmental justice activities and special direct outreach to Tribal Governments via workshops organized in cooperation with Tribal Governments. SCAG's Regional Council and Policy committees are made up of locally elected officials who include elected Tribal Government Councilmembers. There may also be several issue-specific as well as mode-specific committees, subcommittees, task forces and working groups that are created for a specific purpose and specific timeframe. All of these groups provide input to SCAG's Policy Committees and/or Regional Council.

The SCAG organizational chart below illustrates the committees and subcommittees that make policy recommendations to the SCAG Regional Council and to the SCAG General Assembly. The SCAG General Assembly is comprised of SCAG member cities, counties and county transportation commissions, plus advisory seats from the tribal governments.

REGIONAL COUNCIL COMMITTEES & SUBCOMMITTEES



Since 2006, SCAG has ensured that the Native American perspective is represented at the policy decision-making level, by providing seven (7) voting seats to tribal government representatives on the Regional Council and Policy Committees. The 16 federally recognized tribes within the SCAG region choose these seven representatives. In addition to board and committee

representation, SCAG staff attends and monitors meetings of the Tribal Governments and regularly reaches out to tribal governments and federal land management agencies during the RTP/SCS development process, notifying them of workshops, public hearings and other major meetings.

With respect to the 2016 RTP/SCS, SCAG held two Tribal Consultation Workshops in October 2015. The workshops, held in downtown Los Angeles (and simultaneously video-conferenced to five SCAG Regional Offices in Imperial, Orange, Riverside, San Bernardino and Ventura Counties) and at the Coachella Valley Association of Governments, provided an overview of the 2016 RTP/SCS and its Program Environmental Impact Report (PEIR). The workshops sought input on the priorities of tribes in the region and on tribal cultural resources as they pertain to the PEIR; input on potential impacts from transportation projects; and feasible measures for preservation/mitigation. Approximately 16 tribal council members, tribal representatives and cultural resource specialists participated in the workshops.

Similarly, regarding development of the 2016 RTP/SCS, SCAG outreached to various agencies within the U.S. Department of the Interior and the U.S. Department of Agriculture, including the Bureau of Land Management, the National Park Service, U.S. Fish and Wildlife, the U.S Geological Services and the Forest Service. SCAG has communicated regularly with biologists at the U.S. Fish and Wildlife Carlsbad office (which covers parts of Los Angeles, Orange, San Bernardino and Riverside counties). Staff from the U.S. Fish and Wildlife Carlsbad Office has been active in SCAG's conservation working group that provides input towards the SCAG RTP/SCS and FTIP, and shared data with SCAG.

SCAG is currently developing its "Connect SoCal," the 2020 RTP/SCS. Connect SoCal will outline the region's goals and policies for meeting current and future mobility needs that provide a foundation for transportation decisions by local, regional and state officials that are ultimately aimed at achieving a coordinated and balanced transportation system. It will also identify the region's transportation needs and issues, recommended actions, programs, and a list of projects to address the needs consistent with adopted regional policies and goals, and document the financial resources needed for implementation. It is important to note that SCAG does not implement individual projects in the RTP/SCS, as they are implemented by local and state jurisdictions and other agencies such as the county transportation commissions who have their own consultation processes with tribes and federal resource agencies. In accordance with AB 52, SCAG has initiated consultation by letter with tribal parties with respect to the PEIR for Connect SoCal to illicit input on how the plan may affect tribal cultural resources and to explore opportunities to avoid or mitigate significant adverse effects. Consultation efforts are on-going.

SCAG Planning Documents

The Southern California Association of Governments prepares a number of planning documents where SCAG has invited federally recognized and non-federally recognized Tribal Governments as well as federal land management agencies to provide input. These include:

- The Regional Transportation Plan and Sustainable Community Strategy (RTP/SCS)
- The Program Environmental Impact Report (PEIR) for the RTP/SCS
- The Federal Transportation Improvement Program (FTIP)

Presented below is a brief description of SCAG’s consultation process with respect to these planning documents.

RTP/SCS, PEIR and FTIP

- *Provide regular updates on the development of the planning documents especially the RTP/SCS to the SCAG Regional Council and Policy Committees, with information made publicly available on SCAG’s website*
- *Initiate consultation by letter from the SCAG Executive Director or his/her designee to the federal land management agency (agency) or tribal chairperson/tribal administrator.*
- *Offer to meet to discuss the agency and tribal needs and concerns regarding impact with their jurisdiction prior to the beginning of preparation of the planning documents. If the agency, tribal chairperson/tribal administrator or their representatives elect not to meet, send a copy of the draft documents for their review.*
- *Invite representatives of the agency and tribal government to attend public meetings and workshops.*
- *Consult with agency and tribal governments while developing the RTP/SCS, addressing any agency and tribal concerns regarding impacts within their jurisdiction, and again prior to adoption of the RTP/SCS.*

Non-Federally Recognized Tribes

There are several non-federally recognized tribes in the SCAG Region, and it is unknown if they are active in transportation issues. Federal law generally does not require consultation on projects with non-federally recognized Tribes. However, California law pursuant to AB 52 requires consultation on Tribal Cultural Resources under CEQA. In addition, non-federally recognized Tribes are generally considered a minority group, and federal executive orders require consultation with minority or disadvantaged groups. In particular, Presidential Executive Order 12898 about Environmental Justice places special emphasis on coordination with these groups. SCAG has procedures for coordination with minority and disadvantaged groups in its Public Participation Plan. See <http://www.scag.ca.gov/participate/Pages/PublicParticipationPlan.aspx>.

Inquiries regarding SCAG's consultation process with federally recognized Tribal Governments and Federal Land Management Agencies should be directed to either of the following:

Mr. Darin Chidsey, Interim Executive Director
Southern California Association of Governments
(213) 236-1800
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www.scag.ca.gov

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Tribal Reservations in the SCAG Region

This profile provides an inventory of Federally-recognized Indian Tribal Land and Reservations in the Southern California Association of Governments (SCAG) six-county region encompassing: Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura counties. It also presents the name, location and distribution of tribal lands and reservations, with their population and household, across Southern California.

OVERVIEW

One of the strategic goals of SCAG includes establishing a role for Native Americans in the regional planning and transportation investment process. A special effort is being made to establish a common growth vision through the Compass planning initiative to guide future growth in a way that respects our Indian reservations, sacred tribal lands and future community development needs.

The participation of people living on tribal lands is essential to plan for future growth in Southern California and to prepare for transportation improvement needs on sovereign tribal property. It is expected that increased off-Reservation development in adjacent county and municipal properties will bring more people to the reservations. According to the 2010 Census, the population living on tribal lands is 37,780, representing an approximately 11% growth from the 2000 Census. The population living on tribal lands in the SCAG region is highly concentrated in Riverside County, especially in the Coachella Valley.

Those living on tribal reservations are traditionally under-represented populations with many special socioeconomic needs. The median income of people living on tribal land lags behind that of residents of the county as a whole. They are also a group with an increasing economic strength that is significant beyond their numbers. Indian casinos and gaming on tribal land became a major political issue in California during the last decade. The Indian gaming industry has seen significant growth and expansion and is a billion-dollar industry that became a driving force for economic growth on reservations and tribal lands, especially in inland valleys, desert areas and nearby communities.

SCAG's Strategic Plan efforts resulted in revising the agency By-laws to provide seven voting seats on the Regional Council and Policy Committees to Tribal Governments. The Tribal Government Regional Planning Board comprised of the 16 Federally-recognized Tribal Governments meets to select Tribal Council members to fill the seven voting policy committee seats – one seat on the Regional Council; six seats on the Policy Committees. One of the desired outcomes of elected Tribal Council members participating in the regional planning and policy process is to further promote government-to-government collaboration and environmental justice outreach to Native Americans.

TRIBAL RESERVATIONS IN THE SIX-COUNTY REGION

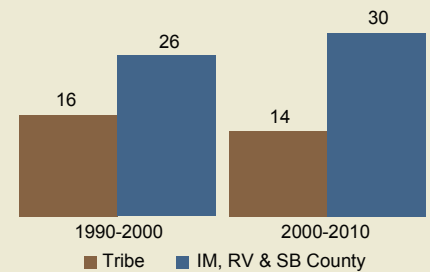
The following lists Federally-recognized Tribal Reservations in Imperial, Riverside, and San Bernardino Counties:

- Agua Caliente Band of Cahuilla Indians
- Augustine Band of Cahuilla Indians
- Cabazon Band of Mission Indians
- Cahuilla Band of Mission Indians
- Chemehuevi Indian Tribe
- Colorado River Reservation
- Fort Mojave Indian Tribe
- Fort Yuma (Quechan Tribe) Reservation
- Morongo Band of Mission Indians
- Pechanga Band of Luiseno Indians
- Romona Band of Mission Indians
- San Manuel Band of Mission Indians
- Santa Rosa Band of Cahuilla Indians
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- Torres-Martinez Desert Cahuilla Indians
- Twenty-Nine Palms Band of Mission Indians

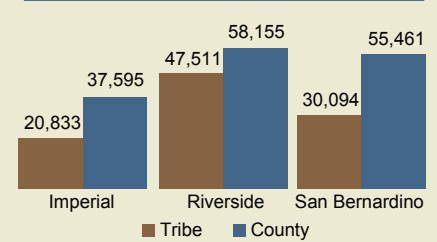
Data Source: US Bureau of Census: 1990 Census, 2000 Census, 2010 Census, 2005 – 2009 American Community Survey. Prepared by: Southern California Association of Governments.

TRIBAL DATA

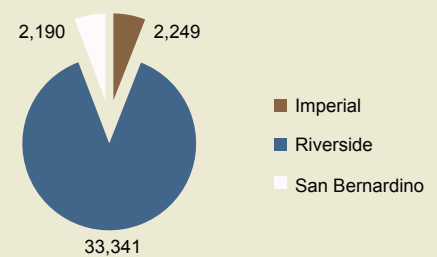
Two Decades of Population Growth (%)



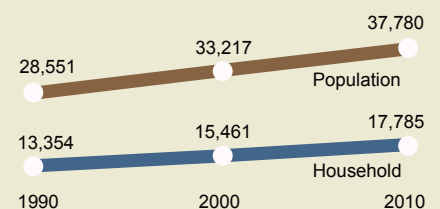
2005-2009 Median Household Income (2009 Dollars)



2010 Population Living on Tribal Lands by County



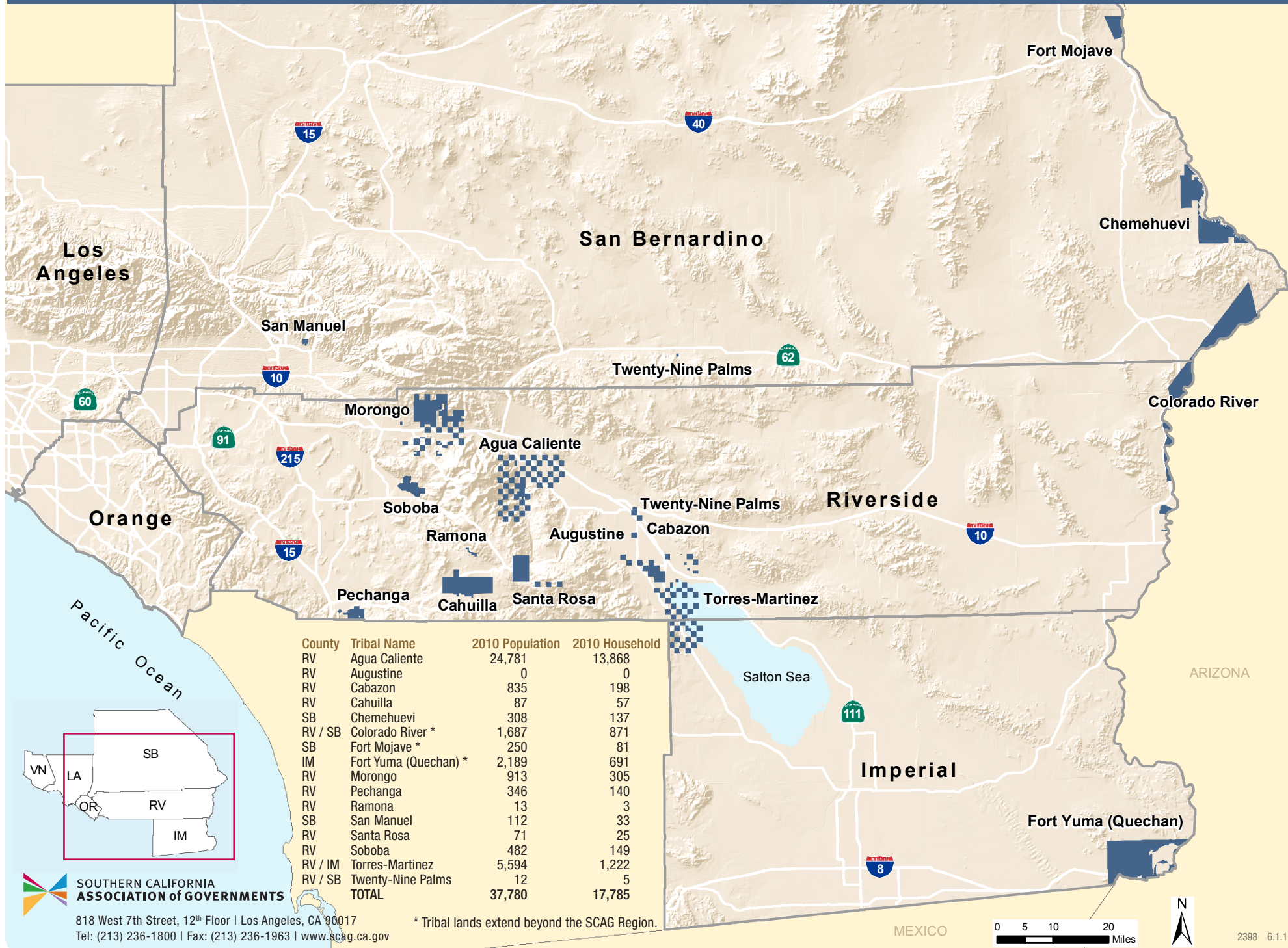
Population and Households Living on Tribal Lands



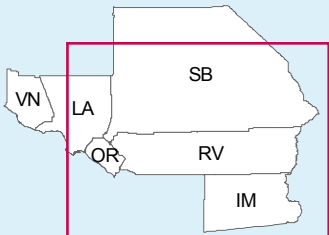
For More Information

Please contact Ying Zhou at zhou@scag.ca.gov.

FEDERALLY-RECOGNIZED TRIBAL GOVERNMENTS IN THE SCAG REGION



County	Tribal Name	2010 Population	2010 Household
RV	Agua Caliente	24,781	13,868
RV	Augustine	0	0
RV	Cabazon	835	198
RV	Cahuilla	87	57
SB	Chemehuevi	308	137
RV / SB	Colorado River *	1,687	871
SB	Fort Mojave *	250	81
IM	Fort Yuma (Quechan) *	2,189	691
RV	Morongo	913	305
RV	Pechanga	346	140
RV	Ramona	13	3
SB	San Manuel	112	33
RV	Santa Rosa	71	25
RV	Soboba	482	149
RV / IM	Torres-Martinez	5,594	1,222
RV / SB	Twenty-Nine Palms	12	5
	TOTAL	37,780	17,785

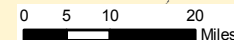


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* Tribal lands extend beyond the SCAG Region.

MEXICO





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