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Tribal Cultural Resources Management:

A Case Study of the

Fernandeño Tataviam Band of Mission Indians

A thesis submitted in partial satisfaction of the
requirements for the degree Masters of Arts
in American Indian Studies

by

Kimia Fatehi

2017

ABSTRACT OF THE THESIS

Tribal Cultural Resources Management:
A Case Study of the
Fernandeño Tataviam Band of Mission Indians

by

Kimia Fatehi

Masters of Arts in American Indian Studies
University of California, Los Angeles, 2017
Professor Duane W. Champagne, Chair

This thesis is a case study of the Fernandeño Tataviam Band of Mission Indians' (Tribe) multifaceted practice of Tribal Cultural Resources Management (TCRM) as it relates to projects subject to the California Environmental Quality Act (CEQA). Tracing the Tribe's journey to weave traditional stewardship principles into the contemporary fabric of TCRM, this thesis investigates how the Tribe utilizes TCRM to express, assert, and preserve its inherent sovereignty over the land and its resources. With a jurisdiction encompassing northern Los Angeles County, the Tribe is confronted with numerous land-altering activities that require strenuous review to eliminate potential adverse impacts to invaluable tribal cultural resources.

Yet, there remains no legislation in place to ensure that the Tribe is compensated for the professional consultation services, assessments, and /or expertise it provides in this effort. Lack of funding is one of four key disruptions to productive TCRM addressed in this research, which also presents the Tribe's partial solutions to them. This thesis then demonstrates how the Tribe's proactive response to these impediments has removed a fraction of the financial burden of consultation off the Tribe, and helped support its TCRM department become more self-sufficient, while interrogating the current policies that have necessitated such actions.

The thesis of Kimia Fatehi is approved.

Wendy Giddens Teeter

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Paul V. Kroskrity

Duane W. Champagne, Committee Chair

University of California, Los Angeles

2017

Dedicated to the memory of Caitlin Gulley.

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List of Acronyms

THCP	Tribal Historic and Cultural Preservation
THPO	Tribal Historic Preservation Officer (federally recognized tribes)
THCPO	Tribal Historic and Cultural Preservation Officer (Fernandeño Tataviam Band of Mission Indians specific)
CRM	Cultural Resources Management
TCRM	Tribal Cultural Resources Management
TCR	Tribal Cultural Resource
CEQA	California Environmental Quality Act
AB 52	Assembly Bill 52
SB 18	Senate Bill 18
NAHC	Native American Heritage Commission
MLD	Most Likely Descendant

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PREFACE

AUTHOR POSITIONALITY

Having been employed in the department of Tribal Cultural Resources Management (TCRM) for the Fernandño Tataviam Band of Mission Indians (the Tribe) since 2014, my experiences have directly sparked and influenced the research goals of this paper and my commitments to its subject matter. In my capacity as a TCRM technician for a tribe, and through my assistance in co-managing that tribe's cultural resources on lands occupied by an urban agglomeration of over 17 million people, I have experienced firsthand the issues I address in this thesis. Setbacks that inhibit proactive TCRM have the potential of gaining wider visibility through this research, which calls for particularly urgent analysis as cultural resources continue to be at risk by development everyday. My goal is to uncover these setbacks, but also emphasize the Tribe's commendable responses to these obstacles.

Although the data presented in this thesis has been reviewed by Tribal government representatives, the paper itself does not intend to speak for, or provide a community-internal Fernandño Tataviam perspective. As the current TCRM technician of the Tribe, I also must recognize that certain crucial affairs between the Tribe and local governments that deserve recognition cannot be brought to light due to confidentiality agreements, the possibility of disrupting relationships with those agencies, and/or the lack of resolve due to ongoing consultation, which necessarily will limit the scope this text can cover. To reduce potential political impacts as a result of this research, sensitive case studies have been redacted and made more generalized.

The impetus for this research occurred during an informal conversation with Rudy Ortega Jr., current Tribal President, in which he expressed approval towards research that would shed light on the present-day community's successes. Today, literature on the Tribe heavily focuses on its Mission San Fernando ancestors and consists of academic-based debates between, and for, scholars. While these academic resources are useful in some ways, the repetitive description of *Fernandeño* or *Tataviam* peoples in the past tense reduces their contemporary visibility and undermines their agency, specifically in the metropolitan area in which they are based. As a non-indigenous researcher who has studied, and witnessed the effects of, the historic exploitation of the Tribe, it is essential for me to elucidate that my incorporation of tribal perspectives into this thesis is my method of acknowledging and respecting those lived experiences and expertise, rather than a claim to ownership of those histories. To give precedence to the prominent cultural resources protectors of the Tribe, I have incorporated their voices in my work to directly guide and control this research, albeit I do not, and could never, wholly capture the intricate histories and relationships between the Fernandeño community and tribal cultural resources.

This thesis is my humble endeavor to stimulate a productive conversation about TCRM in hopes of advancing policy changes that place tribal-based concerns at the forefront of CRM and ultimately alleviating the financial burdens on the Tribe, and all tribes in general. The thesis attempts to accomplish this by identifying and unpacking issues faced by the Tribe's TCRM department and underscoring the Tribe's response to those hardships. This emphasis on the present-day community's response to a foreign government's laws and limitations is made to counter the tradition in anthropological texts to misrepresent and suppress the Tribe's own voice, and to dangerously reduce its existence to romanticized figures in a tragic story of a mysterious,

extinct peoples.

METHODOLOGIES

In this thesis, I deploy a qualitative approach to address how a California Native American tribe protects its cultural resources in an increasingly urbanized landscape. Generally, data collection occurred through participant-observation: participation in my capacity as TCRM technician, a title called Tribal Historic and Cultural Preservation officer (THCPO) by the Tribe, and observation and data collection through ethnographic means as a non-community member. Data was primarily acquired through three methods: consultation data, archival research, and community interviews.

In order to address contemporary issues affecting TCRM, I was required to gather data from inter-governmental communications. This consultation data was procured from electronic and analog mail correspondences between the TCRM department staff and representatives of local state and public agencies since 2015, the year in which the bill AB 52 went into effect. The accumulation of this data occurred periodically and was made accessible with permission of the Tribe. In the cases of consultation that occurred prior to my employment in 2014, I use first-hand verbal accounts provided by Tribal President Rudy Ortega Jr.. Data regarding how the Tribe operates and manages its TCRM was retrieved from the document that governs the department, the Tribal Code.

My archival research also necessitated access to the Tribe's repository, in which the Tribe has archived an assortment of historical information and records, such as petitioning documents. In accordance with the 2015 Code of Federal Regulations under which the Tribe is petitioning for federal acknowledgement, the Tribe's historical narrative is required to be made public on the

Office of Federal Acknowledgement's Web site. Although problematic for a variety of reasons relating to sovereignty issues, this measure established a public source of data that has been written by and for the Tribe. In order to share the Tribe's story most accurately and respectfully, the historical information incorporated in this paper is retrieved from these petitioning documents, unless otherwise noted. It is important to note that the Tribe's historical ties to places are neither mine to share nor for others to know, unless told by members of the community itself. Therefore, the information I share in this thesis is meant to educate, rather than defend, the Tribe's history, practices, and goals.

Lastly, I have conducted interviews with those deeply involved in and devoted to cultural resources management. All interviews that took place for this thesis were completely voluntary. All participants wished to be identified and signed consent forms. Interviewees consist of members of the Tribe's governing body, the archaeological and Native American monitoring community, the Tribe's elders council, and the Tribe's legal counsel. Each interview was conducted in accordance to the rules of the University of California Los Angeles' Institutional Review Board. Topics discussed in the interviews included TCRM, cultural resources issues, personal experiences, and future goals for the Tribe's management and protection of resources. Furthermore, this thesis was circulated and approved by the Tribe's executive branch prior to institutional submittal (Appendix D).

DEFINITIONS

To reduce terminological confusion, I have chosen to adhere to a set nomenclature prevalent in the field of cultural resources management, unless in conflict with the preference of

the Fernandeano Tataviam Band of Mission Indians, which I will introduce and establish in this section.

As this thesis begins with a brief overview of the local history, I will firstly go over terminology that concerns the background of the Tribe. In reference to regional peoples, there exists no singular tribal name above the lineage (Fernandeano “Response”) preceding what is currently known as the Fernandeano Tataviam Band of Mission Indians. Therefore, there is currently no inclusive or collective term that represents all of the lineages that have been in existence prior to Mission San Fernando. However, due to the Tribe’s association with their mission, the lineages are given the blanket label *Fernandeano*, which is problematic because it implies that one collective Fernandeano tribe came out of the mission system, which is not true. Therefore, this thesis uses the Tribe’s term *lineage-village* in reference to each of the sovereign lineage organizations that existed at each village, which are identified in red on Figure 1.

Fernandeano Tataviam Band of Mission Indians, *Fernandeano Tataviam Tribe*, or *Tribe* denote the contemporary coalition of those lineage-villages, and *Tribal* characterizes entities or individuals in association with the Tribal government. As preferred by the Tribe, *Tribal citizen* is utilized for individuals enrolled in the Tribe, and *member* is used for those part of the broader San Fernando Mission Indian community and network.¹ *Ancestor* and/or *progenitor* both refer to previous generations of Fernandeano Tataviam people, and *leader*, *tomiar*, and/or *head person* are used synonymously to describe lineage leaders, a traditional role that should not be conflated with elected leadership. When discussing the Tribe as a whole, the pronoun *it* is used. The Tribe’s jurisdiction (Figure 1) is referred to collectively as the *local area*. This area includes the Simi,

¹ Citizenship status designations are only provided if requested by the interviewee.

San Fernando, Santa Clarita, and Antelope valleys as well as parts of the Angeles National Forest.²

As this thesis continues with a discussion on the subject of tribal cultural resources management, I will also go over terminology that concerns the practice today. Since California state agencies are required to assess a project's impact on the environment, they retain consultants to conduct thorough assessments of the potential impacts of all proposed projects. These environmental consultants engage in *Cultural Resources Management* (CRM), the vocation of managing cultural resources, and will be conjointly referred to as *Cultural Resources Management Firms* (CRM firms). To distinguish the CRM that is managed and controlled by the Tribe as opposed to that managed by research goals, this thesis favors Darby C. Stapp and Michael S. Burney's term *tribal cultural resources management* (TCRM) (8). According to California's laws regarding assessments of a project's impacts, state agencies are also required to investigate a project's impacts to tribal cultural resources. Therefore, Assembly Bill 52's (Gatto, 2014) definition of *tribal cultural resources* (TCRs) as "a site feature, place, cultural landscape, sacred place or object, which is of cultural value to a tribe that are listed, or determined to be eligible for listing, in the national or state register of historical resources, or listed in a local register of historic resources" (PRC §21074 (1)) is utilized in this thesis as the official definition. To refer to any and all archaeological, historical, natural, and/or tribal cultural resources, the

² The Tribe does not hold in trust. Their jurisdiction has been drafted by the Tribal government to include the lineage-villages from which the Tribe descends and/or has social ties. Within this jurisdiction, the Tribe operates TCRM under CEQA. An excerpt on the Tribe's jurisdictional map reads:

"Tribal boundary depicted is based on registered Tribal citizens' ancestral villages. Due to kinship-networks and social exchange, this hard boundary does not include all of the abundant locations associated with Tataviam cultural resources and ancestry. Therefore, the overlap yellow boundary accommodates the natural mobility of ancestral and contemporary Tataviam people, which are also known to be well associated with the tribe and sensitive cultural deposits" (see Figure 1).

term *resources* is used. Furthermore, Assembly Bill 52's definition of *California Native American tribes* is also drawn upon to refer to Native American tribes located in California, while *tribes* is utilized for shorthand reference.³ Finally, it is important to note that these *state-recognized* and *federally-recognized* labels are used solely to address political statuses that affect TCRM. By using these terms, this thesis does not intend to draw attention to the settler government's recognition of tribes, but rather, underscore the funding limitations that the Tribe overcomes in order to simply engage in tribal cultural resources protection.

RESEARCH QUESTIONS

- What is the history of the Tribe's TCRM department?
- How does the Tribe interpret and then conduct TCRM?
- How does political recognition affect TCRM?
- What are the most challenging hardships the Tribe encounters when practicing TCRM?
- How does the Tribe fully or partially overcome these obstacles?
- What are policy implications for the future of the Tribe?

³ Environmental protection politics and political recognition of tribes fluctuate among States. Due to the fact that this thesis is a case study of a tribe conducting TCRM under the California Environmental Quality Act (CEQA), I reduce potential generalizations by referring only to tribes in California, although this in itself is a generalization. Since the federal definition of "Indian tribe" distinguishes between federally recognized and state recognized tribes, I find the term "California Native American tribe" to be more inclusive.



Fernandeano Tataviam Band of Mission Indians Historical Tribal Territory



Tribal boundary depicted is based on registered tribal citizens' ancestral villages. Due to kinship networks and social exchange, this hard boundary does not include all of the abundant locations associated with Tataviam cultural resources and ancestry. Therefore, the overlap yellow boundary accommodates the natural mobility of ancestral and contemporary Tataviam people, which are also known to be well associated with the tribe and sensitive cultural resources.

All projects breaking soil within the tribal boundary are subject to Tataviam jurisdiction, whereas any projects occurring within the yellow boundary may be subject to further analysis by other surrounding Tribal Governments.

Figure 1. Fernandeano Tataviam Band of Mission Indians tribal jurisdiction, 2015. This map reflects the areas recruited to Mission San Fernando (“Fernandeano”) and encompasses lineage-villages tied to the Tribe. Lineage-villages are written in “red.” *Courtesy and property of the Fernandeano Tataviam Band of Mission Indians.*

INTRODUCTION

DEFINING TRIBAL CULTURAL RESOURCES MANAGEMENT

The concept of *place* is complex. To indigenous peoples, land “is a meaning-making process because it is at the heart of indigenous identity, longing, and belonging” (Goeman, “Land” 73). This heightened connection with the notion of place absolutely applies to the Fernandeano Tataviam Band of Mission Indians, for they internalize place as far more significant than a mere locational setting. To the Tribe, place is both one’s position within space, and a feeling that is rooted within the land, a feeling that connects people with generations of experiences and stories.¹ These natural and cultural spaces that shape and are shaped by their sense of place are increasingly nestled between concrete suburbs. Whenever further acres of the Tribe’s land are threatened to be irreversibly altered by development, the Tribe is provided a single opportunity to prove its significance to local governments and thereby preserve it. In a formal discourse called Tribal consultation, the Tribe is forced to translate its spatial relationships into empirical data and ‘unbiased’ evidence that demonstrates the Tribe’s multifaceted connections to the land, in order to prevent destruction to the resources within it.

Since the first arrival of foreign peoples, the Tribe has had to continuously (re)negotiate its relationships to its land, and the resources contained in that land, that have become increasingly occupied by settlers. Areas in which land was allocated, dispossessed and repossessed are deeply embedded in the memories of people today, but do not supercede the emotional ties and affinity with the land that were established prior to colonialism. To this day,

¹ The designation Tribe is held specifically to the Fernandeano Tataviam Band of Mission Indians in this thesis. See above section entitled “Definitions” for additional clarification.

cultural sites in the local area are frequently altered or irrevocably damaged by human curiosity and vandalism, if not already at risk by industrial expansion, or development. For a tribe that both governs and is viscerally connected to the increasingly developed topography of the local area, fluid relationships between its land and citizens are constantly disrupted by external forces. Through the process of Tribal Cultural Resources Management (TCRM), however, the Tribe has developed strategies that strengthen its ties to the land and reclaim areas that would otherwise be seized by non-Tribal development.

In addition to physical disturbances, the land has endured cultural alteration through place (re) naming. Although many neighborhoods in the local area have retained traditional place names (e.g. Tujunga, Pacoima, Cahuenga, and Topanga), or have been renamed after Spanish translations of the traditional place names (e.g. Encino and Calabasas), the vast majority of cultural markers that were named by their original inhabitants have been destroyed by settling populations. In many areas to which the Tribe is traced, place names have been stripped of cultural contexts and honor instead the surnames of those that dispossessed the local Native Americans of the land. This is evident among countless locations in the City of San Fernando, where the Tribal Administration Office of the Fernandeano Tataviam Band of Mission Indians is currently situated. The office sits adjacent to Maclay Avenue, a street whose namesake is responsible for the eviction of Fernandeano head person Rogerio Rocha (abt. 1824 - abt. 1904), a leader of his lineage and well-known blacksmith at Mission San Fernando. As a political leader, Rocha resisted forced removal in court against ex-California Senator Charles Maclay, who sought the lands due to its high value (Rust 64). In an act of court eviction, Maclay dispossessed Rocha “then over 80 years old, his wife, and three other old women [...] in the midst of rainy

season” and “threw them into the street, unprotected” (Rust 67), where his wife ultimately died of pneumonia. Today, the Tribal Administration Office is one mile south of the land that Rocha occupied and sustained for his lineage before the occurrence of this unlawful eviction. Rudy Ortega Sr. Park, a 3.5 acre property owned by the City of San Fernando, but co-maintained with the Tribe since 2010 (Figure 2), encompasses the land that once belonged to Rocha. Upon entering the park, visitors

will notice a plethora of traditional native California plants, the remnants of traditional structures still utilized for contemporary Tribal events, a blue circular pit representing the natural springs, and a history of the land as it has moved through time. These are just some examples of how the park, and the land and history it honors, is incorporated into the



Figure 2: The late Rudy Ortega Sr. at Rudy Ortega Sr. Park in San Fernando, CA. Used with the permission of Tribal President Rudy Ortega Jr.. Property of Fernandeno Tataviam Band of Mission Indians.

Fernandeno Tataviam ways of life today. The park is a space on which the Tribe gathers for a variety of affairs, whereas the street in close proximity to the park, dedicated to Charles Maclay,

symbolizes the materialism that grounds colonial-driven expropriation (Harris 2004), and the attempt to detach the indigenous narrative from the land. While Maclay Avenue is a physical indicator of how colonialism operates, Rudy Ortega Sr. Park is a form of TCRM; a space of resistance where the Tribe is both repossessing and reworking their relationship with the land through direct management and active participation.

TCRM is not a universally apprehended branch of operations; it means different things among and within different native nations. Even within the Fernandeano Tataviam Tribe, there is not one single, unanimous definition among the people. However, the Tribe's governing documents define TCRM as a process that proactively protects its "invaluable, irreplaceable, and endangered or threatened" TCRs from "misuse, misappropriation, misconduct, and development" (TC §11-103(A)(1)(2)). Historically, urban development is understood as the practice that drew settler populations to the Tribe's territory and dispossessed its peoples of Western legal claims to the lands. Today, urban development draws upon those historic values, but is required to mitigate its impacts to the human and natural environments, to an extent. As its land became and becomes still, further altered, the Tribe's fluid relationships with both land and place was and is still, subject to constant modifications. In many ways, as physical locations became increasingly unsafe and/or compromised after foreign arrivals, preserving its social traditions and lifeways became the principal form of TCRM for centuries for the Tribe. In today's society, TCRM is accepted as a vocation managed by the Tribe that eliminates or reduces physical disturbances to their resources from land-altering activities (Rudy Ortega Jr., personal communication, June 5, 2017).

The procedures followed and implemented by TCRM are intricate (Figure 3). The

general process consists of the following: a land-altering activity is identified as a project and must be evaluated for environmental impacts. A project is defined as “the whole of an action that has the potential, directly or ultimately, to result in a physical change to the environment” (CEQA Guidelines Section 15378). Activities that are considered *projects* trigger the California Environmental Quality Act (CEQA), which essentially encompasses the reviewal of a project’s possible impacts to the environment and the subsequent search for mitigative actions that can reduce those impacts. At the beginning of the process, public agencies determine a lead agency to prepare an environmental review of the project. Among the lead agencies are local governments, such as the City of Santa Clarita or the County of Los Angeles, or State agencies, such as the California Department of Fish and Wildlife. Lead agencies are then required to consult with California Native American tribes when assessing a project’s impacts to cultural resources, a category of environmental evaluation under CEQA. For the purpose of this thesis, TCRM is the process of reviewing projects and consulting with local governments to eliminate or mitigate impacts to the Tribe’s resources.

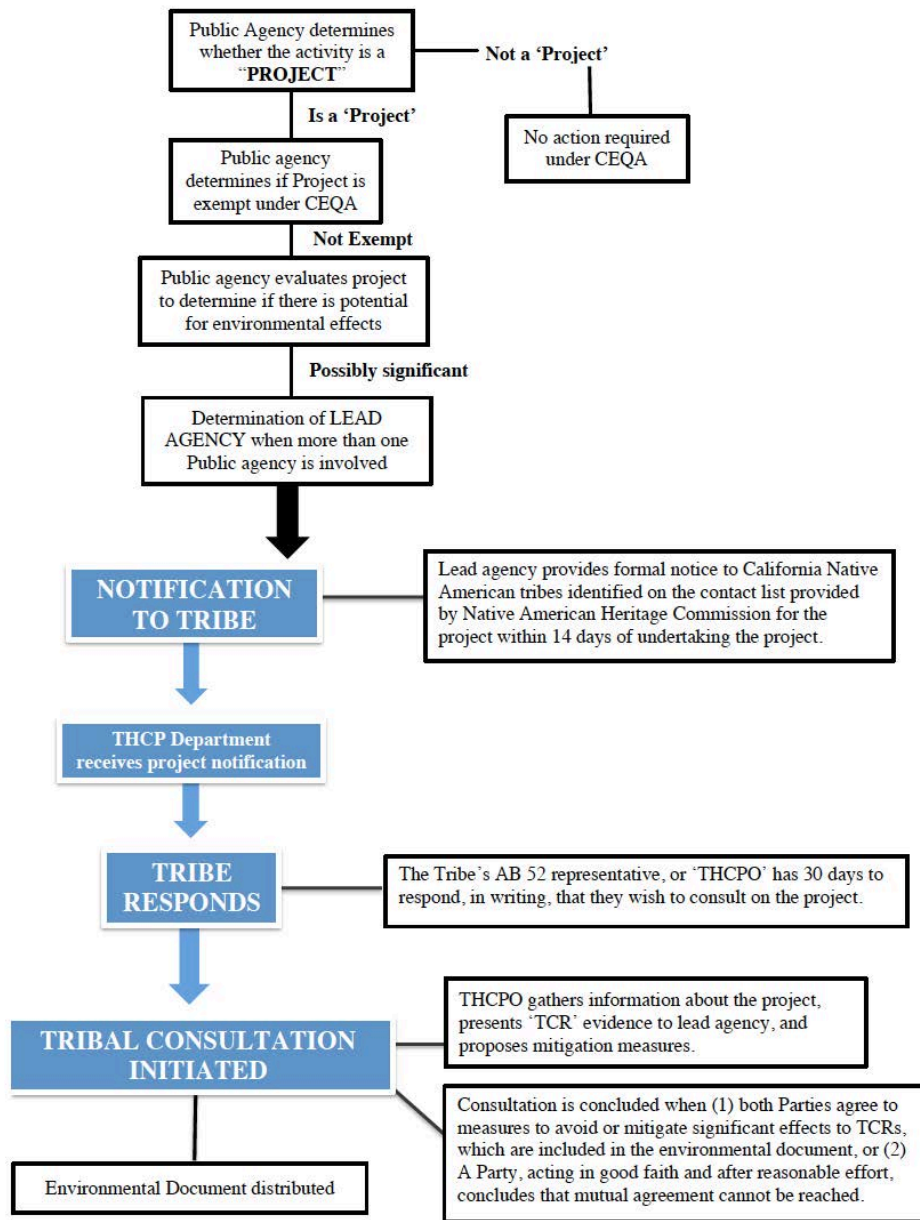


Figure 3. CEQA flow chart illustrating how TCRM is initiated.

It is commonly assumed by members of the public that the Tribe is only concerned with the protection of prehistoric materials, widely known as ‘Native American artifacts,’ while ‘historic-period’ resources are attributed to settler ranching communities. “But who maintained

those ranches? Who built those foundations? Our ancestors did,” says President Ortega Jr.. Such assumptions affected the scope of resources that were considered for protection by local governments when in consultation with the Tribe. Fortunately, Assembly Bill 52 established a new class of resources in 2015, called Tribal Cultural Resources (TCR) (AB 52 Gatto, 2014), which include sites, materials, and places that are of importance to tribes. Ortega Jr. explains that, since his ancestors retained and modified their traditions throughout the arrival of settlers, for traditions are what is practiced and not frozen in the past, then the resources originating in any and all ‘periods’ should be evaluated for their potential ties to the Tribe. Physical evidence of this is found at *rancherias*, where indigenous lifeways were commonly believed to have disappeared, but actually continued to thrive. He shares:

“Many people think that our ancestors disappeared in the ‘historic’ period, so they assume we won’t care for historic resources. Actually, it’s the opposite... our ancestors cared for the ranches, and still maintained the land for decades after missionization. To us, those resources are also important” (Ortega Jr. “Second Interview”).

An example of what Ortega Jr. describes resides in the San Fernando Valley at Encino, the physical home of the lineage-village of *Siutcanga* from which he descends. The land was once known as Rancho Encino during the epoch when it was a Mexican land grant maintained and occupied by lineage-village members through the Mexican period and until the 1850s, before the acreage was ‘sold’ to U.S. citizens. One hundred years later, in March of 1952, a portion of Encino north of the Rancho was surveyed for artifacts that were at risk by a proposed golf course (Rozaire). Archaeologist Charles E. Rozaire claimed that there were “many artifacts scattered over the surface...the materials included manos, metate fragments, hammerstones, and core tools” (Rozaire 307). The location of these materials on the surface and in association with a

historic rancheria, supports the message that the Tribe has advocated for years: the appropriation of Native American cultural resources continued in the wake of Tribe's initial dispossession and well into the 'historic' periods. Eventually, the land was "gradually destroyed by various construction projects" (Rozaire 307). In this day and age, development continues to take place on the land, and the remains of the TCRs embedded in it continue to be at risk. However, the new, more inclusive definition of resources by AB 52 champions the protection of all and any materials, so long as they are important to tribes, and should thus assist in the Tribe's fight to protect its resources.

To summarize, TCRM is both complicated and multifaceted. The application of TCRM includes not only the preservation of "artifacts," but also of natural and cultural spaces, and land. As stewards of the land, the Tribe navigates its inherent sovereignty over the local area, within the imposed limitations of a dominant government and society to better protect and preserve its resources for its people. With this practice comes a significant burden; to proactively identify resources in order to protect them, and to stay afloat in the turbulent waters of urban development. Therefore, it is important to understand Native American history as it relates to this particular land to better comprehend the circumstances in which the Tribe engages in TCRM. Understanding the integral relationship and varied history the Tribe has with its land, and how that negotiation interplays with TCRM in a continuously altering landscape, has the potential to uncover how the tribe became legally landless, and to humanize local neighborhoods to inhabitants of non-local descent and beget a wider spread desire to champion the protection of resources by all.²

² By landless, I mean that the Tribe has been dispossessed of legal title to the lands under the guidelines of the settler regime. In reality, the land is very much present in the lives of Tribal citizens. Therefore, this term is not meant to invalidate or supercede those relationships.

CHAPTER ONE

CASE STUDY OF THE FERNANDEÑO TATAVIAM BAND OF MISSION INDIANS

The Fernandefio Tataviam Band of Mission Indians is a native sovereign nation whose jurisdiction encompasses northern Los Angeles County, eastern Ventura County, and the most southern tip of Kern County, California. It has genealogical connections to lands ranging from present-day Simi, Santa Clarita, San Fernando, and Antelope valleys, and parts of the Angeles National Forest. Its lineages and political form predate the establishment of Mission Fernando in 1797, from which they received the name *Fernandefio*.³ To external society, tribal citizens are collectively known as *San Fernando Indians* or *Fernandefios*, but internally, they map their relationships by way of their lineage associations. Today, the Tribe consists of a voluntary confederation of independent lineages whose existences date to time immemorial. These lineages, *Siutcabit* (Encino lineage), *Tujubit* (Tujunga lineage), and *Cabuepet* (Cahuenga lineage) are tied to over 26 lineage-villages in the local area.⁴ Eventually, these lineages became identified by the surnames of their progenitors (Figure 4), and are now commonly known as the Ortega, Garcia, and Ortiz lineages. Today, the Tribe governs its people by way of an autonomous tribal government, constitution and code, and is governed by executive and legislative branches entrusted with the duties of defending the laws and rights of Fernandefio people. As of 2015, the Tribe is under review by the Department of Interior to re-establish federal recognition.

³ There is not one collective tribal name for the Native Americans associated with Mission San Fernando. To be clear, Fernandefio is not a tribe, but for the purpose of this thesis, refers to those who are associated with Mission San Fernando, although many recruitment areas are shared with neighboring missions.

⁴ Historically, these three lineages were associated with both Mission San Fernando and Mission San Gabriel due to the overlapping areas from which recruitment of families to either mission occurred. The information presented is not intended to claim that *all* descendants of those lineages are enrolled in the Tribe today, but rather, only those associated with Mission San Fernando who have voluntarily continued participation in the traditional social network. The history is complex. It deserves far greater clarification and attention than what is presented in this thesis.

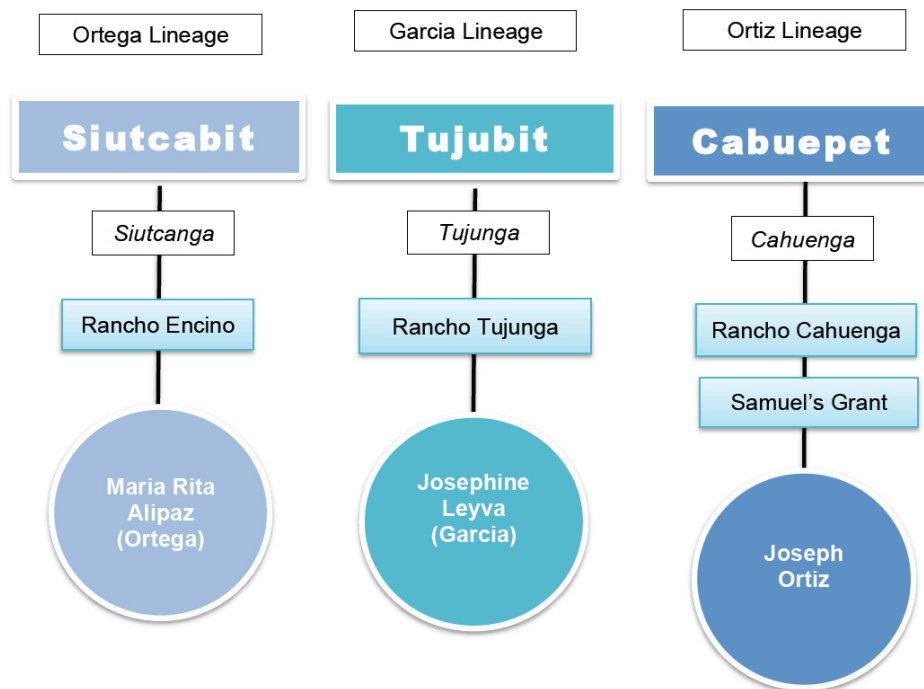


Figure 4. Chart illustrating the three lineages that currently make-up the Fernandeano Tataviam Band of Mission Indians. Moving downward: traditional lineage name, principal village of lineage (although associated with multiple lineage-village ancestries), historic land maintained by lineage leaders, and leaders from which contemporary lineage-members descend. This information can also be found on www.tataviam-nsn.us. Used with permission of Tribal President Rudy Ortega Jr., 2017.

A CONDENSED AND LINEAR HISTORICAL OVERVIEW

I present the following condensed overview of the Tribe’s history in order to provide the reader with a deeper understanding of the importance of cultural resources preservation and management in the local area.⁵ Thorough literature on the Tribe’s history extends beyond the

⁵ The following information is retrieved from the Tribe’s petitioning documents, which are available publically, and personal communications with members of Tribal leadership. I used these sources to provide a general overview for the sake of situating the reader within a complex history as opposed to exemplifying any expertise on the matter. I claim no ownership or credit to this information.

scope of this paper and my expertise. The information I provide focuses on community organization to place throughout time, but does not incorporate cultural practices, beliefs, or linguistic groups. I also provide specific narratives in order to map the areas in which illegal dispossession reoccurred for over two centuries in order to humanize the lands in which the Tribe actively asserts its spatial relationships by way of TCRM.

LINEAGE-VILLAGE COMMUNITIES

The organization of the Native Americans of the local area reflects a pattern unique to California Native American tribes, which differs from other regions in North America (Fernandeño “Response”). In California, the equivalent to “tribes” are communities called “lineage-villages” (BIA “2009 Narrative”). The Tribe defines the lineage-village as a group of individuals who share a common ancestor, have common territory, are exogamous, share specific ceremonies, and share kin-based political leaders (Fernandeño “Response”). Furthermore, lineage-villages are autonomous and self-governing, politically independent and territory-holding unilineal communities (BIA “2009 Narrative”). Each Tribal citizen is traced to an ancestor associated with a lineage-village that was recruited to Mission San Fernando. This means that there existed no collective tribal entity or tribal name above the local lineage (Fernandeño “Response”). Each lineage-village was composed of different cultures, languages, dialects, and leadership, and therefore, each lineage-village has multiple names that reflect the local linguistic diversity. Importantly, while lineage-villages may be labeled as part of a specific language group, linguistics do not correlate with political organization (Fernandeño “Response”). Collective linguistic or ethnic political identities for sovereign “independent and ethnically specific lineage-villages” is a common “misunderstanding about the tribal organization of

Indians in Los Angeles County” (Fernandeño “Response” 13). Ties between lineage-villages were strengthened through trade, social, or ceremonial ties. Eventually, many members of these lineage-villages were displaced by the Catholic Church and associated with Mission San Fernando Rey de España for about forty years after its initial establishment on September 8, 1797.

MISSIONIZATION: THE START OF “FERNANDEÑO” (1797 - 1820)

Upon recruitment to Mission San Fernando, members of the lineage-villages did not simply abandon their lifeways or refuse their lineage-based identities and become “Fernandeño” (Fernandeño “Response” 14), for one collective tribe did not emerge out of the mission. Instead, the lineage-villages survived and continued the social, ceremonial, and marital relations under the guise of Spanish-given names and Catholicism, resisting colonial-driven assimilation.

The goal of Spanish colonization was to “assimilate the Indians into the administration of the Spanish government, and make the Indians active subjects and participants of the King and government, [who could] receive local self-government and protection of sufficient land” (BIA “Criterion A” 7). Membership at Mission San Fernando was involuntary, so the natives became collectively labeled as *Fernandeño* when located at the mission, but still retained their independent sovereign lineage-village identities. The mission ground, *Achoicomíng*, became a violent space that segregated lineage-village members and enforced a foreign colonial life and religion. Against Spanish efforts to de-tribalize the lineage-villages, the members fought to retain social, political and cultural organization (BIA “Criterion B”). Narratives of community-driven refusal of colonial practices were recorded by mission padres that reflect how the resilient Fernandeño lineage-villages stayed in contact with their non-mission associated relatives and

held festivals and religious events for non-Christian relations to attend throughout the Mission system (BIA “Criterion B” 13). In the final years of the Spanish period, the vast majority of lineage-village communities continued to speak their traditional languages, kept lineage identities, followed lineage leaders, and utilized the settler’s baptism and god-parenting traditions to their benefit by strengthening intra-community ties. Today, the President of the Fernandño Tataviam Tribe describes Mission San Fernando’s contemporary relationship with his people as one that lacks recognition of the lineage political history and their existence (Rudy Ortega Jr., personal communication, May 17, 2016), although this will not be discussed further in this thesis.⁶

DISTRIBUTING LAND: MEXICAN RIGHTS & (SOME) PROTECTION (1821 -1847)

When Mexico gained independence from Spain, it sought to dismantle the twenty-one missions in Alta California, distribute the lands of Mission San Fernando, and transfer the lineage-village population from the directive of the Catholic Church to secular authorities (BIA “Criterion A” 9). In 1827, Alta California Governor José M. Echeandia initiated a plan of secularization to establish a town for the emancipated natives at Mission San Fernando, which was ultimately unsuccessful (Fernandño “Response”). Seven years later, Alta California Governor Jose Figueroa set out the *Secularization Act of 1834*, under which the lineage-villages could retain ex-Mission San Fernando land, or lands that were previously the property of Mission San Fernando, under Mexican trust and protection (BIA “Criterion A” 27). These rights were to be preserved under the 1848 *Treaty of Guadalupe Hidalgo* in the American Period (BIA

⁶ As an act of resistance to the Sainthood of Junipero Serra by the Catholic Church, Tribal citizen Caroline Ward Holland and son Kagen Holland walked over 780 miles visiting all 21 California Missions to honor the ancestors who suffered and perished in the mission system.

“2009 Narrative” 27, Engelhardt 48). Had the secularization plan been effective, it would have supported the placement of land into trust and the limited political sovereignty of village governments for the lineage-villages (Fernandeño “Response”). Unfortunately, the secularization plans were weakly implemented and officially eliminated on November 7, 1835 (Fernandeño “Response”). In the 1830s, many Fernandeños voluntarily abandoned Mission San Fernando until its final demobilization in November of 1845 (BIA “Criterion A” 18).

The significance of land to the lineage-village communities is illustrated by their migration patterns once Mission San Fernando was dismantled (Duane Champagne, personal communication, February 15, 2016).⁷ A vast majority seemingly returned to the regions connected to their lineages and to the pattern of distributed communities built upon a network of voluntary local coalitions of unique ties and relations (BIA “Criterion B” 18). To secure grants of land for farming and economic well-being of their lineages, 40 headmen of lineages from the local area came together in 1843 to petition for one square league of land from Alta California Governor Manuel Micheltoarena (BIA “2009 Narrative”) and received claim to lands at the locations of villages and rancherías. Other lineage leaders outside of the 40 petitioners were also granted land in areas such as Rancho Encino, Rancho Cahuenga, Rancho Sikwanga (Samuel’s grant), and Rancho El Escorpión, while many other Native Americans at Mission San Fernando did not. By 1845, Governor Pio Pico withdrew the land of the 40 petitioners and rented the land to private interests, including his brother Andres Pico (Fernandeño “2009 Narrative” 26), which dispossessed many lineage leaders and left them landless. Other lands, such as Rancho Encino, Rancho Cahuenga, and Rancho El Escorpion were granted as private property to the lineage

⁷ As co-director of the Tribe’s Federal Recognition research team, Dr. Duane Champagne has mapped the locations of contemporary lineage-village members throughout the decades and has found that many returned to their ancestral lineage-village locations.

leaders. The sale of Native American land to private individuals were prohibited under the Mexican secularization period, but were ultimately ignored (Fernandeño “2009 Narrative” 38) and without the agreement of the lineage-village members. Today, these areas are strongly protected by TCRM, although they have been heavily impacted by development throughout time.

THE START OF AMERICAN-DRIVEN DISPOSSESSIONS (1848 to Today)

As the years progressed, the San Fernando Valley became increasingly treasured by settlers. Natural resources increased the value of properties maintained by the 40 Fernandeño petitioners, which made it impossible for them to successfully defend their claims in local courts against settlers. In addition, the population of Native Americans in California plummeted from 150,000 to about 30,000 from 1846 to 1873 due to government-sanctioned genocide under Anglo-American rule, with both the state and federal governments spending \$1,700,000 on campaigns to exterminate indigenous peoples (Madley 342). After having survived the killing sprees of the late 20th century, the lineage-village communities still fought for their land rights in historic cases, but ultimately lost them to encroaching settlers. From 1850 and 1877, the independent lineages performed agricultural work for the local community, lived in and around San Fernando Valley, survived multiple smallpox epidemics as landless peoples, resisted assimilation, and fought for land rights while their lineage-village communities remained socially and politically autonomous (BIA “Criterion B” 7, 28, 36).

U.S. FAILS TO “PROTECT” LEGAL FERNANDEÑO LAND CLAIMS

Native communities have “tried to protect land with treaties, court cases and legislation, but

with mixed success” (Champagne, *Indigenous* 12). When met with potential dispossession, lineage-village leaders fought to regain lands for their lineage communities by organizing and reoccupying the land, which led to harsh consequences. For example, in 1876, *tomiár* Antonio Maria Ortega, a progenitor of the Ortega lineage, was taken to the Superior Court of Los Angeles at 21 years old with a group of Native Americans who “wrongfully and unlawfully” occupied their ancestral lands (BIA “Criterion A” 17).⁸ The lands became the ownership of Anglo-settlers Benjamin K. Porter and Charles Maclay (*Porter et al v. Cota et al*) (BIA “Criterion A” 17), and in 1878, Antonio and the group of Native Americans were fined \$500 plus \$50 rent for a total of about 24 months for occupying his ancestral lands. Contemporaneously, Charles Maclay wrongfully evicted lineage-village head person Rogerio Rocha (BIA “Criterion B” 8) from lands in Lopez Canyon. After faced with American dispossession, the surviving lineage-village communities continued living in their traditional territories, near the old Mission San Fernando, and/or where there was work (BIA “Criterion A” 14). By 1885, all of the independent lineages were dispossessed and lived as “homeless squatters” (Rudy Ortega Jr., personal communication, May 17, 2016) on their own land.

POLITICS OF RECOGNITION

Federal agents working for the U.S. Department of Interior acknowledged a group of San Fernando Mission Indians in the last two decades of the 19th century (Fernandeño “Response”).

In 1885, Special Attorney for Mission Indians Guilford Wiley Wells represented “the San

⁸ Today, the traditional word *tomiár* is used interchangeably with leader or captain by the Tribe. These individuals are leaders of their lineages, or families, but not of an entire regional people, or ‘tribe’ necessarily. For example, the commonly known term “chief” does not apply to the Tribe’s history. Rather, the elected leader of the contemporary tribe is called the Tribal President, but this person can also be a *tomiár* of his or her lineage.

Fernando Indians” in an official government capacity to prevent their eviction, meaning that the federal government recognized responsibility over the group (Fernandeño “Response” 21, 24). In the 1890s, Special Assistant U.S. Attorney for Mission Indians Frank Lewis submitted a series of brief reports to the U.S. Attorney General regarding the possibility of eligible land for the Fernandeños (BIA “Criterion A” 19). Having witnessed undeserved land dispossession among the Fernandeños, he communicated to the federal government on their behalf that they had been “unjustly deprived” (BIA “Criterion A” 20). However, no action was ever made by the federal government, and distrust of the United States by the lineage-villages heightened after they lost their lands and court cases. Their community continued to assemble as a coalition of lineages, lived near and around their ancestral village locations, continued cross-lineage communication, and maintained traditions within the privacy of their homes and community.

In the 1900s, the lineage-village communities strengthened a network of allied, but sovereign, lineages in existence since time immemorial, and worked towards formalization of a multi-lineal government through the 1940s. Since there was no collective tribal name for the lineages, they identified themselves as San Fernando Mission Indians (BIA “Criterion C” 27). “The body and social community of the Fernandeño is not a collectivity of individuals, but rather a consensus among three lineage communities” (BIA “Criterion C” 28). Today, the confederation of lineages, or “‘tribal’ web of politically independent lineages” (Fernandeño “Response” 12), governed by a Constitutional government is called the Fernandeño Tataviam Band of Mission Indians. Under this name, the Tribe associates itself with a foreign religious institution (Mission San Fernando) for political purposes, but utilizes an ancient regional name that does not exclusively represent their entire peoples, yet is preferred due to its indigenous

origin (Tataviam).⁹

The multi-lineal Constitutional government of the Fernandeano Tataviam Band of Mission Indians is inherently sovereign, meaning that its self-governing powers predate the era of settler-colonization regardless of its political status with the United States of America. It is self-sustaining and economically independent. The Tribe submitted its intent to apply for political acknowledgement in April of 1995, and officially came under review in 2015, about 130 years after the reports of federal agents in the 1890s. The Tribe is recognized by the State of California; it has been involved in formal cultural resources consultation since the late 20th century and received its official letter of recognition by the Native American Heritage Commission of California on March 27, 2007. California does not necessarily exercise a formal tribal recognition process, but does encourage all state agencies and departments subject to executive control to consult with California Native American tribes (Executive Order B-10-11), and therefore, recognizes those tribes that are to be consulted with. Since tribes in general exercise the many same responsibilities as local governments (Champagne, “Engaging”), the quasi-recognition system of California improves the Tribe’s efforts to gain more local recognition and respect by city and county governments without subordinating its sovereignty.

The Tribe’s jurisdiction encompasses northern Los Angeles County, and like the majority of metropolitan areas in California that experienced a violent history of forced dispossession of native peoples, is currently the homelands of non-federally recognized communities. These communities include Native Americans of Mission San Gabriel and Native Americans of Mission San Fernando. Therefore, recognition of tribes by California is central for local and state

⁹ The Tribe is composed of members of Tataviam, Chumash, Vanyume, Serrano, and Pipimaram cultures.

agencies to comply with cultural resources protocol in the local metropolitan geography in which development takes place. Receiving acknowledgement from the United States will not determine the existence or legitimacy of its peoples, but it will directly affect cultural resource preservation and conservation in the Tribe's jurisdiction in different ways.

EXPLANATION OF CONTEMPORARY TRIBAL JURISDICTION

In California, especially once it came under American rule in 1848, the laws recognizing and protecting lands of tribes were not followed in practice necessarily (Wood 317). As such, the present-day Fernandeano Tataviam Band of Mission Indians does not have a land-base. To ensure protection of their cultural resources, the Fernandeano Tataviam Band of Mission Indians has established a hard and soft boundary (Figure 1). Within this contemporary border, the Tribe conducts TCRM and, in shared areas, works with neighboring tribes. Mapping the traditional land base in the colonial sense is complex, especially when external society confuses linguistic boundaries with political boundaries, which are not equivalent (Fernandeano "Response"). Prior to the establishment of Mission San Fernando there existed no centralized "tribe", but instead, politically sovereign and land-holding decentralized lineage-village communities. Therefore, a collective traditional land base does not necessarily exist. Instead, the locations of the lineage-villages as they move through time, as well as their trade routes, interment areas, seasonal camps, ranching areas, ceremonial markers, and other places knit a complex web of cultural spaces that encompass their contemporary jurisdiction.

CHAPTER TWO

REVIEW OF LITERATURE

This case study calls for an evaluation of the published literature on how tribes have established and supported Tribal Cultural Resources Management (TCRM). TCRM is defined in this thesis to mean Cultural Resources Management (CRM) that is heavily influenced by, or run directly by, tribes (Stapp and Burney 8). The State of California has adopted particular laws that encourage its agencies to eliminate a project's impacts to the environment, and to consult on a government-to-government level with California Native American tribes in order to uncover those impacts. Since consultation is financially costly for the Fernandeano Tataviam Band of Mission Indians, a non-federally recognized tribe, I am responsive to literature that unpacks how tribes that lack access to federal funding sources for cultural resources protection and preservation still engage in TCRM.

In 1990, the National Park Service ("NPS") submitted a report to Congress on Tribal Preservation funding needs with emphasis on the "management, research, interpretation, protection, and development of sites of historical significance on Indian lands." The report, entitled "Keepers of the Treasures: Protecting Historic Properties and Cultural Traditions on Indian Lands," ("Keepers") yields information on the lack of funding for preservation programs for tribes and provides the perspectives of Native American community members. Keepers criticizes Congress by linking inadequate funding as the root of cultural resources preservation problems and states, "retention, preservation, and enhancement of cultural heritage of American Indian tribes requires adequate and stable funding from *multiple* sources" (Parker 167). Keepers reminds Congress that tribes have always known how to preserve their lands, but, like any other

government, need stable resources to continue to do so against external forces, such as land-altering activities. Since NPS is a federal agency and, consequently, consults with federally recognized tribes, this report voices their hardships, which are not necessarily different from those faced by non-federally recognized tribes. Keepers, the first report of its kind, was successful in its goal to increase funds for tribes in their cultural resource preservation efforts, and led to the 1992 amendment to National Historic Preservation Act that resulted in the establishment of the National Park Service Tribal Preservation Program (Public Law 89-665; 80 STAT.915; 16 U.S.C. 470; NPS 2014 report). This program successfully improved funding for tribes consulting under federal environmental laws, and helped provide financial assistance to federally recognized tribes conducting TCRM.

In the summer of 1998, *Practicing Anthropology* published articles on the subject of tribal participation in the vocation of CRM, and the unique tribal programs for cultural resources preservation. Among these articles is Darby C. Stapp and Julia G. Longenecker's (1998) three-page synopsis on tribes and CRM in the mid-Columbia River region over the past several decades. In this article, entitled "Tribes and Cultural Resources Management in the Mid-Columbia River Region: a look into the future," Stapp and Longenecker discuss three tribes affected by nuclear activities at the Hanford Nuclear Reservation, a large U.S. Department of Energy (DOE) facility near Richland, Washington (Stapp and Longenecker 18), which are the Confederated Tribes of the Umatilla Indian Reservation, Nez Perce Tribe, and Yakama Nation, in addition to the Wanapum Band, a non-federally recognized tribe. DOE secured grants to compensate Tribal involvement, which had secured the hiring of staff by tribes to evaluate and consult on activities associated with the project (Stapp and Longenecker). Although the tribes are

heavily involved, the authors call upon CRM to incorporate Tribal-centered values into the practice in order to make for a more effective management of resources, rather than simply teaching Native Americans *how* to do CRM (Stapp and Longenecker 19). Although it is a summarized evaluation of one particular project of importance to the tribes, this article emphasizes the fact that funding can enhance Tribal involvement.

Another article, authored by Michael S. Burney, Jeffery Van Pelt and Thomas E. Bailor (1998), provides a four-page synopsis on the Tribal Historic Preservation Program of the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) in the Pacific Northwest. The article surfaces the difficulties of asserting sovereignty within a dominant non-Indian culture (Burney et. al 13) and addresses the CTUIR's Cultural Resources Program, or the Tribal Historic Preservation Program, that was developed to incorporate the Tribal worldview into a non-native paradigm. This program encourages and welcomes the full participation of the Tribal government, elders, members, and leaders to create a community effort outside of standardized compliance to federal laws (Burney et. al 14). Although unstated in the article, it is assumed that the Tribal Historic Preservation Program is funded by federal resources, and therefore has attributed to over "34,000 hours of effort" (Burney et. al 14), which includes contracting archaeological services and consultation with agencies. Additionally, the article summarizes the Tribally-sponsored summer training course, Indian Lake program, that is inclusive to both Tribal and non-Tribal experts who possess years of historic preservation experience in order to address various topics of TCRM. Much of what the program supports mirrors TCRM by the Fernandeño Tataviam Band of Mission Indians, such as supporting the education of Tribal citizens, development of an informational repository, training courses, and the inclusiveness of the Tribal

government, elders, and citizens. However, it does not discuss how the tribe secured resources to fund the program, which is important for tribes that lack access to cultural resources preservation grants.

Another helpful publication in the *Practicing Anthropology* is by Phillip E. Minthorn, who provides a two-page analysis of TCRM that he terms ‘Native American Cultural Resource Management’ (1998). Minthorn centers his article on the principal feature of Native American-influenced CRM, which he states is embedded in the facts that “Native peoples possess a unique, historical relationship with their lands and that, in many cases, they are descendant populations who can trace their heritage to the land’s original inhabitants” (Minthorn 31). He argues that Native peoples are “living, viable cultures possessing human rights and dignity that deserve equal protection in the implementation of cultural resource laws and policy (Minthorn 32). Ultimately, CRM is not new to tribes, and the worldviews of tribes can radically enhance CRM principles in order to protect and preserve resources with appropriate dignity. Hence, Minthorn suggests that CRM should build working relationships with Native American communities, establish a process to empower them, and create greater opportunities for professional exchange, since what is practiced in CRM will always affect tribes.

In 2002, Stapp and Burney collaborated to trace the roots of TCRM in *Tribal Cultural Resources Management: The Full Circle to Stewardship*. This research overviews the history of TCRM from 1492 until the 1990s, presents a case study of the Confederated Tribes of the Umatilla Indian Reservation’s (CTUIR’s) Cultural Resource Preservation program, and focuses on how other tribes may implement and/or adopt from CTUIR’s program. Stapp and Burney’s mapping of the cultural resources stewardship of CTUIR draws upon the principles they find

essential to the program, the integrative approach of both archaeological and Native American paradigms, and additionally identifies the issues of contemporary archaeological practice. By drawing upon the cultural resource programs implemented by tribes such as the Zuni Pueblo and CTUIR, the authors provide vital information on how to run TCRM. What is missing is the step preceding: how these tribes acquired the funding stability to establish their TCRM programs.

A large body of the literature on CRM has been authored by archaeologist Thomas F. King. He is widely known for his collaboration with archaeologist Patricia Parker, in which he generated National Register Bulletin 38 in 1990 to yield national protection to sites associated with Tribal communities (“Nat’l Reg.” ; King, *Places* 14), which are called Traditional Cultural Properties (TCPs). Bulletin 38 supports TCPs to be:

“Eligible for the National Register based on its value in the eyes of a traditional community, like an Indian tribe. Such a place need not be anything that’s admired or even perceivable by an outsider. It is how the community perceives the place and its significance that matters” (King, *Places* 34).

TCP is a “broad umbrella (term) to cover everything from Indian tribal spiritual places to traditional urban neighborhoods,” (King, “Rethinking” 28), which became eligible for protection at the federal level under Bulletin 38. Through his collective body of work and over 50 years of experience, King is most commonly regarded as an advocate for tribes and indigenous communities in the protection of their cultural places. The research of King intertwines Tribal perspectives and desires with contemporary issues in the field of CRM. He tackles his ideas for improvements in the vocation of CRM and advocates for meaningful consultation with tribes and Native American people (King, *Places*). He has organized practical information for all entities involved in CRM, including Tribal governments and archaeologists, to navigate the laws at the

federal, state, and local levels (King, *Cultural*). His more recent work, coauthored by environment preservationist Claudia Nissley, provides tribes with a pragmatic guide to consultation processes to alert them of loopholes and complex diction of preservation laws (King and Nissley). King and Nissley encourage agencies to consult with tribes on a deeper level than a ‘checking off a box’ and to consider alternative strategies that meets the needs of all parties involved (King and Nissley). Missing is supplementary information on how tribes can acquire funding resources to be participants in the complex processes he co-authors.

Literature on the subject of TCRM practiced, specifically, by non-federally recognized tribes in California is seemingly rare, and deserves far greater attention than what is available at present. The research currently overlooks ground level approaches to creating, supporting, and sustaining TCRM departments and/or programs, particularly among tribes that may lack access to federally funded opportunities. Although published research on the subject of TCRM is prevalent, it does not fully uncover, or acknowledge, the funding limitations between federally and non-federally recognized tribes. The literature also focuses on educating agencies and local governments on what Tribal consultation should entail (Klesert and Downer; Charles), which may positively impact their consultation strategies with tribes, and as result, reduce consultation-based hardships placed onto tribes. However, the shortcoming of that research is that it assumes tribes have the financial resources to expend on consultation in the first place. Adding to the TCRM literature with case studies of tribes, and how they have creatively procured their own funding opportunities, has the potential to surface longstanding issues that tribes must still overcome when engaging in the process, which may have larger policy

implications for the future.

CHAPTER THREE

BRIEF OVERVIEW OF APPLICABLE LAWS

Since the 1970s, Cultural Resources Management (CRM) has become the dominant discipline in American Archaeology (Green and Doershuk 123). Archaeologist Thomas F. King described the birth of CRM as an attempt to replace mid-century “salvage archaeology” with more encouraging terminology that represents a broader field of activity disassociated with the exploitation of Tribal communities, but welcoming of the preservation and protection of cultural resources (King, “Issues” 749). As suggested by its name, this management-directed discipline of archaeology developed as result of growing concerns over materials from the pre- and post-European contact periods that were at risk by “increasing urbanization, industrialization, and other land-altering activities” (Fowler 2). The Tribe has been practicing TCRM since the arrival of settling populations, yet its perspectives have only recently been considered by legislature. The topic of Tribal Cultural Resources Management warrants an in-depth analysis of both Cultural Resources Management (CRM) and the history of Tribal involvement. However, for the purposes of this thesis, I present a modest summary of environment-oriented laws to provide the reader with frameworks under which TCRM functions.

FEDERALLY MANDATED CULTURAL RESOURCES PROTECTION

The complex histories of indigenous peoples of the local area are visible among their distinct cultural landscapes, spaces, and markers. However, political recognition by the United States is central to the type of consultation tribes may engage in for the protection of those

landscapes. Projects under the lead of federal agencies have separate and sometimes different obligations to tribes than those under state agencies. Therefore, a brief overview of cultural preservation laws at the federal level is important in understanding how they shape and ultimately affect cultural preservation as a whole. Although the following laws consult with federally recognized tribes, non-recognized tribes like the Fernandeano Tataviam Tribe are still encouraged to participate as a stakeholder under the lead of a federally recognized tribe, when invited.

In terms of environmental protection, two federal policies require officials to consider their effects on the human environment and cultural properties. The National Environmental Policy Act (NEPA) (P.L. 91-190; 83 Stat. 852; 42 U.S.C. 4321) was established in 1969 to promote environmental protection at the national level. Prior to its formal implementation into law on January 1, 1970, projects could severely impact or obliterate landscapes without repercussion or consideration of long-term effects on the environment. Under NEPA, a project's effects on the environment are thoroughly reviewed and all practicable alternatives are suggested, on which the public can review and comment. Furthermore, a lead agency is designated when more than one federal agency is involved in the preparation of environmental review, while all other federal, state, Tribal, or local agencies become cooperating agencies by providing special expertise with respect to an environmental concern.

Under NEPA, the ultimate goal is to assess all potential alternatives in order to reduce the possibility of damaging cultural resources. To establish a federal program for the preservation of additional historic and archaeological properties, the National Historic Preservation Act (NHPA) (P.L. 91-190; 83 Stat. 852; 42 U.S.C. 4321) came into effect on October 15, 1966. Specifically,

Section 106 regulations (36 CFR 800) require federal agencies to take into account their projects' effects on historic properties. Once potentially affected historic or cultural materials are identified, Tribal involvement is initiated through consultation between the Tribe's designated representative, or Tribal Historic Preservation Officer (THPO), and the State Historic Preservation Officer (SHPO). If resolution of an adverse effect to cultural resources cannot occur, then the Advisory Council on Historic Preservation (ACHP) provides comments to the federal agency that must be considered when any formal decisions on the undertaking are made. Furthermore, if a place proposed for development meets the listed criteria for inclusion in the National Register of Historic Places (NRHP), then an agency must consider avoiding that site under Section 106 as well. It should be noted that the criteria is void of Tribal perspective and is based in scientific criteria. Therefore, what gets considered under Section 106 is oftentimes subject to scientific biases that cause NRHP eligibility determiners to place higher value on the historical items or places that contribute to a community's sense of identity as whole (King 2003:16). These doomed interpretations, in conjunction with the overdue guarantee to tribes that their traditional landscapes would be protected, formed the catalyst for National Register Bulletin 38 in 1990, which ultimately made Traditional Cultural Properties (TCP) eligible for protection (King, *Places*).

In 1992, NHPA was amended to guarantee federally recognized tribes could receive an active and meaningful role in the preservation processes. Although tribes could already contribute to federal decisions under NHPA's Section 106 process, "the amendments clarify, reinforce, and in some places, enhance their role and the responsibilities of federal agencies to consider and accommodate their participation and concerns" and make it difficult for the

agencies to ignore these responsibilities (Stanfill 65). In addition, the federal government may promote the involvement of tribes through assistance, which includes “grants, the establishment of assistance and training programs through the Secretary of Interior, and empowerment of tribes to assume functions and responsibilities of State Historic Preservation Officers with respect to tribal lands” (Stanfill 65). Archaeologist Alan L. Stanfill presents a detailed overview of the amendments and an important call for cultural resource specialists under federal agencies to develop cultural bridges and promote partnerships with tribes (Stanfill 65). He also claims that the amendments did not produce fundamental changes, but rather, were passed to reinforce responsibilities and redefine the meanings of specific historic values so that federal agencies could not easily overlook those properties. In her essay, “Preservation as Perpetuation,” published in a 2001 issue of *American Indian Quarterly*, Marcia Pablo, of the Confederated Salish and Kootenai Tribes of the Flathead Nation in northwestern Montana, identifies the crux of the issue for her tribe’s preservation department is the action of incorporating Tribal values and “Cultural Truths” into federal processes that were developed outside their cultural construct (20). For example, although the NHPA is used for federal undertakings that could affect sites eligible to the National Register of Historic Places, archaeologists have permission to substantially disturb cultural sites in order to determine if they are eligible for scientific information value under Criterion D, pursuant to NHPA Section 106 (Pablo 18). She advocates for other criteria to be used in place of Criterion D to determine eligibility so that tribes can reestablish vital relationships to their ancestral places (Pablo 20). Under both NEPA and NHPA, damaging cultural resources is not illegal, but should be properly avoided through mutual resolve between Tribal and federal parties.

After NHPA, there seems to have been a visible trend toward promoting tribes' participation in federal programs. In situations where cultural items have been held at museums or other institutions, agencies and museums were and are required to consult with lineal descendants of the materials to reach a decision of respectful disposition. The Native American Graves Protection and Repatriation Act (Public Law 101-601; 25 U.S.C. 3001-3013) (NAGPRA) of 1990 describes the authority of Native American lineal descendants, Indians tribes, and Native Hawaiian organizations with respect to the treatment, repatriation, and disposition of Native American human remains, funerary objects, sacred objects, and objects of cultural patrimony. In addition to materials already in possession of institutions, NAGPRA protects sacred objects and cultural items that might be uncovered in the future on federal lands by ensuring that all archaeological investigators that uncover such items consult with Native American Tribes traditionally tied to the area. Overall, NAGPRA provides a process for inadvertent discoveries of human remains and cultural items on federal lands, requires the Secretary of the Interior to establish a Review Committee to guarantee that proper procedures are carried out and penalize those that fail to comply with the law, provides federal funding for consultation between museums and repositories and Native American Tribes toward the completion of inventories and descriptive summaries for repatriation. The latter is hindered when museums and repositories cannot determine Native American descendant communities due to incomplete provenience information and overall neglect of responsibilities by museums (Martinez et. al 2014). Although this federal law applies to federally recognized tribes, museums and repositories have the option of consulting with non-federally recognized tribes and even repatriating to them directly in cases where there is not a federally recognized tribe affiliated or where the federally recognized tribes

are not interested in being affiliated with the ancestors or NAGPRA-eligible items. However, the NAGPRA Review Committee must review the proposed disposition. In Southern California, more frequently, federally recognized tribes have assisted their non-federally recognized relatives by making repatriation claims on their behalf. For example, the Tribe has upheld its respectful working relationship with local tribes, including their federally recognized Serrano neighbors to the east, the San Manuel Band of Mission Indians, and Kitanemuk neighbors to the north, the Tejon Tribe. This has led to both joint and individual repatriations in which a federally recognized tribe has chosen to take the lead under NAGPRA for materials originating in shared traditional territory, or chosen to respectfully deter participation for materials found strictly within the Tribe's territory. Consequently, NAGPRA is arguably the most important law for inter-Tribal cooperation between federally and state recognized nations for the repatriation of their ancestral deposits.

STATE MANDATED CULTURAL RESOURCES PROTECTION

California State laws tolerate a wider range of Tribal involvement for the protection of cultural resources. Under these laws, recognition by the State of California distinguishes California Native American tribes that must be contacted for consultation, regardless of their federal status. In California, the Native American Heritage Commission (NAHC) is vested by the state with specific powers and duties that relate to California Native American tribes. The NAHC is the primary government agency for assisting state recognized tribes with the protection of their cultural resources and sacred sites. When land-altering activities occur in California, the NAHC provides lists of tribes affiliated with the lands occupied by the projects to the lead agency

managing the project, so that they may be consulted with. The principal environmental review statute that necessitates Tribal consultation, and is unique to California, is the California Environmental Quality Act (CEQA)(Public Resources Code 21000–21189), which was passed shortly after NEPA in 1970. CEQA requires local and state agencies (collectively called ‘local governments’) to identify the significant impacts of their actions in both ecological and human environments, and to lessen or avoid the impacts, if possible. Projects are reviewed and permitted by the Land Use and Planning Office based on their potential effects on different aspects of the environment and are required to produce specific reports based on those effects.

Under CEQA a project is subject to an initial study, which determines one of three categories that trigger a unique scope of review by the local government. These three categories are: “*Negative Declaration*” finds that the project would not have adverse impacts to the environment, a “*Mitigated Negative Declaration*” views a project as potentially impacting the environment, but mitigation is submitted by the project applicant to avoid or lessen the effects prior to its release for public review, and an “*Environmental Impact Review Preparation*” determines that a project necessitates a full review of all potential effects to the environment, such as plants, animals, noise, air pollution, traffic, cultural resources, and historical resources, and warrants alternatives that reduce those effects. Environmental Impact Reports (EIRs) are required for projects categorized under the latter category or classified as causing adverse effects to the environment. California Native American tribes are invited in this process to help the local government determine which type of review is best per project. Therefore, they are encouraged to review and comment on the ecological, biological, and cultural resources sections of the EIR.

Unfortunately, CEQA is a self-executing statute. Therefore, California Native American

tribes are expected to keep up with all projects occurring in their jurisdiction to ensure proper consultation has occurred for activities required to comply with CEQA. This is incredibly difficult if tribes have limited staff, or if their territories are occupied by a significant amount of proposed development. Another issue is that CEQA upholds categorical exemptions. Under an exemption, a project may obtain a permit for development, without further review. Exempt activities are not subject to Tribal consultation, which makes protecting potential resources or ensuring their reinterment virtually impossible. Such activities include, but are not limited to: construction of one single-family residence, a multi-family residential structure, apartments, and duplexes with no more than six dwelling units, stores, motels, and minor public or private alterations of land. While these alterations may not hold potential for significant impacts to the environment, they ultimately disturb the soil, and therefore, place the resources within it at risk.

Furthermore, Senate Bill 18 (SB 18) (Chapter 905, Statutes of 2004) requires that city and county governments provide meaningful government-to-government consultation with tribes, identified by the NAHC, for any amendments to or adoptions of general or specific plans, or during the designation of land as open space. Since these plans are sets of policies, programs, and maps that form the blueprint of land use within a city's or county's jurisdiction, they may potentially influence impacts to tribal cultural resources during future land-altering activities. Amendments to these plans are requested by either the applicant proposing a land-altering activity that requires a zone change, or by the local government. SB 18 is critical in the protection of 'cultural places' (PRC §5097.9) that are presently encompassed by the jurisdictions of local governments, as opposed to under the direct control and management of tribes. It establishes an opportunity for tribes to request an overarching policy that reduces potential

impacts to tribal cultural resources.

In 2011, California Governor Jerry Brown passed an executive order (B-10-11) that founded the Governor's Tribal Advisor position and encouraged administrative policies that facilitated communication between California tribes and state agencies. To enable a misdemeanor for unlawful disturbances of Native American historical, cultural, or sacred sites, Assembly Bill 52 (AB 52) (Chapter 532, Statutes of 2014) went into effect on July 1, 2015. AB 52 applies to both CEQA and SB 18, and requires that tribes affiliated culturally and traditionally to the area encompassing the proposed project, and also listed on the NAHC Tribal government contacts list, is consulted in good faith. In addition, AB 52 establishes a new class of resources entitled "Tribal Cultural Resources (TCRs)" (Public Resources Code §21074 (a)(1)(A)-(B)), which is defined as a site feature, place, cultural landscape, or sacred place or object, which is of cultural value to a Tribe and is either eligible for the California Historic Register or a local historic register or is determined to be true by a lead agency. While this definition is not ideal in that it gives lead agencies, as opposed to tribes, the ultimate authority to determine if a TCR is truly significant and underscores archaeological-based criteria of the state historic register, it also recognizes that TCRs are a separate category than archaeological resources. For example, archaeological resources may always be TCRs, but TCRs may not always be archaeological resources. AB 52 motivates agencies to recognize the expertise of tribes and recommends productive consultation with their cultural resources representatives in order to lessen a project's impacts to TCRs. Overall, AB 52 is arguably the most progressive legislation in terms of Native American involvement in environmental protection policies and deserves lengthy analysis beyond the scope of this paper. This information is meant only to provide the context in which

the Fernandeano Tataviam Tribe consults to mitigate impacts to TCRs. CEQA, and more specifically AB 52, is the principal statute that influences TCRM as executed by the Fernandeano Tataviam Band of Mission Indians.

CHAPTER FOUR

STEWARDS OF THE LAND

In 2015, Rudy Ortega Jr., already the traditional leader of his own specific lineage, was elected as Tribal President for the Fernandeño Tataviam Band of Mission Indians. Concurrently, AB 52 established a formal requirement for consultation in good-faith with tribes. Under President Ortega Jr.'s guidance, and with the help of AB 52, the foundations of TCRM have flourished into a self-sustaining department. Furthermore, in his roles of leadership President Ortega Jr. continues to cultivate and add to the seeds sown by past cultural resources protectors, which are in turn also being increasingly nourished by AB 52's legislative changes.

Before delving into this topic further however, I should clarify that this thesis focuses on the Tribe's contemporary TCRM practices, and therefore, does not present a linear timeline documenting the Tribe's history as it unfolded prior to 2015.¹⁰ Instead, this chapter is structured around the crucial figures within the Tribe who fought or continue to fight for the protection of resources.¹¹ Having chosen to emphasize key individuals to orient this chapter around, rather than dates, for the sake of clarity I will attempt to outline briefly the broad timeline traversed in this text.

Although TCRM has occurred since time immemorial, the different methods with which it has been practiced by the Tribe can be categorized into three separate periods. The first period is that of the era preceding 1950, when TCRM was practiced traditionally and internally, without official laws or regulations to influence it, and will not be discussed in this thesis necessarily.

¹⁰ 2015 is the year that AB 52 went into effect.

¹¹ Due to the time constraints of this research, I was unable to interview all community and non-community members who have been involved with the department.

The second period is that of the era between the 1950s and 1990s, after Fernandefio community leaders returned from United States military service abroad and began reorganizing efforts to protect resources the “old school” way (Rudy Ortega Jr., personal communication, June 5, 2017) and under CEQA. Finally, the third period covers the 1990s to the present, during which the department became formally established, governed by Tribal code, and standardized in its methodology.

THE LEGACY OF RUDY ORTEGA SR. AND CHARLIE COOKE¹²

The late Rudy Ortega Sr. (1926 - 2009) was born into the lineage of *Siutcabit* (Encino lineage) on December 12, 1926 in San Fernando, California; the city occupying *Paseknga* (Figure 4, 5). His great grandmother Maria Rita Alipaz (1830 - abt. 1867) had inherited the traditional roles held by her father, Francisco Papabubaba (1806 - 1847) to become a leader of *Siutcabit* after his passing in 1847. By then, Maria had partially inherited the land at Rancho Encino, a Mexican land grant (4,460 acres) that occupied the village of *Siutcanga* in present-day Encino from which she descended through her maternal grandmother. At the start of the American period, Maria became dispossessed of her ancestral lands and passed away shortly after, around 1867, leaving one of her surviving sons Antonio Maria Ortega (ca. 1857 - 1941) as the hereditary leader of their lineage. In 1876, Antonio represented his lineage in the Superior Court of Los Angeles (*Porter et. al v. Pablo Cota et. al*) when sued by Anglo-American settlers

¹² In order to provide the reader with background information pertaining to each individual discussed in this thesis, I share aspects of the person’s history, including, but not limited to lineage-village information and personal involvement in affairs pertaining to TCRM. Ancestry is a highly personal subject, and therefore, is not included without the direction and/or permission of the Tribe. All information, unless otherwise noted, is cited from the Tribe’s petitioning documents and/or responses to the Department of Interior (BIA “2009 Narrative”; Fernandefio “Response”; BIA “Criteria A-C”).

for attempting to protect the Tribe's most important cultural resource: land.



Figure 5. Photograph of the late Rudy Ortega Sr., previously elected leader of the Tribe and leader of his lineage. Ca 1985. Used with permission of Tribal President Rudy Ortega Jr. Courtesy of Fernandño Tataviam Band of Mission Indians, 2017.

Antonio was known by the San Fernando Mission (Fernandño) Indians community and 20th century salvage anthropologists as having extensive knowledge of the lifeways, language, and cultural resources of his ancestors. Yet, he did not openly express his indigeneity in San Fernando due to fear of violent consequences (Rudy Ortega Jr., personal communication, 2015).

In a 2008 interview, the late Rudy Ortega Sr. remembered his grandfather:

“[Antonio] never spoke one word of Indian to me... He never spoke to us in our language. Now I know why in those days because my mother used to tell us ‘Remember you’re going to school. Nothing but English,’ because we used to get punished” (BIA “2009 Narrative” 72).

Antonio’s fear of garnering public attention to his heritage was fueled by local rumors of San Fernando Mission Indians involuntarily being sent to reservations (BIA “Criterion C” 18-9), which is confirmed by Ortega Sr.’s recollection above. To protect his family, he sustained traditions within the privacy of his home, and protected his community and cultural resources during these times of secrecy (Rudy Ortega Jr., personal communication, 2015).

Upon the passing of Antonio, his daughter Vera Salazar (1898 - 1981) viewed her nephew, Ortega Sr., as having characteristics of a committed leader (BIA “Criterion C” 20)

deciding he would be suited to take on the responsibilities of leadership. In the 1940s, Ortega Sr. enlisted in military service in World War II, and upon his return, and after the passing of his father, he was appointed as hereditary leader by the elders (BIA “Criterion C” 20). It was Ortega Sr. who organized the San Fernando Mission Indians, a multi-lineal alliance of Native Americans associated with Mission San Fernando. On behalf his people, he continued

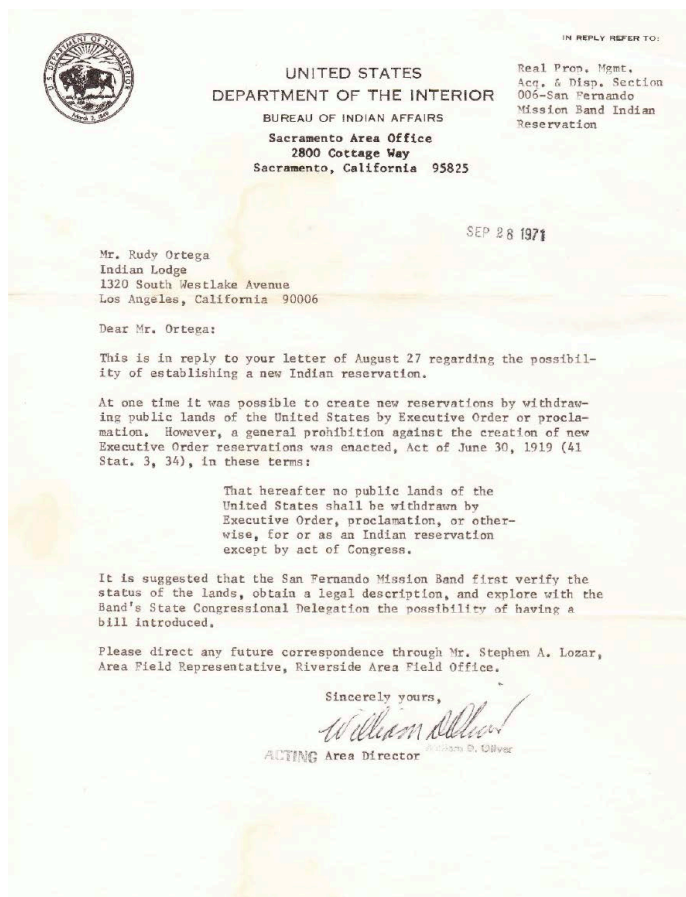


Figure 6: Letter from the United States Department of Interior to Rudy Ortega Sr. in response to his request for a reservation, which would protect his Tribe’s resources. September 28, 1971. Used with permission of Tribal President Rudy Ortega Jr.. Property of Fernandeno Tataviam Band of Mission Indians.

discourse with the federal government that his ancestors initiated decades prior (Rudy Ortega Jr., personal communication, May 17, 2016). In the 1970s, Ortega Sr. requested reservation lands for the multi-lineal San Fernando Mission Indians (Figure 6) over which his people could protect the natural and cultural resources contained within it. Within the community, Rudy's political identity was that of his lineage, known by the community as the "Ortega lineage" (see Figure 4). Having been raised on Coronel Street, a street in San Fernando that has been home to or in the vicinity of many lineage-village members for generations, Ortega Sr. maintained community relationships with those within and outside of his lineage, and these relationships threaded through and encompassed the broader Mission San Fernando Indian network.

Independent of the Tribe, Ortega Sr. established the San Fernando Mission Indian Council, a non-profit organization that included members of the San Fernando Mission Indian community and Native Americans of all backgrounds living in or associated with the local area. Under this non-profit, now known as Pukúu Cultural Community Services, Ortega Sr. negotiated for schools, health clinics, and interpretive centers for the preservation of tribal cultural resources. He also became a founding member of the Los Angeles City/County Native American Indian Commission (NAIC) and an elected commissioner in 1977. The primary purpose of the NAIC is "to increase the acquisition and application of funding resources to the socioeconomic problems of American Indians in Los Angeles City and County without duplication of any service or activity provided by any other County officer or department" ("History"). For decades, Ortega Sr. navigated his inherited traditional leadership roles with his elected positions in the Tribe, non-profit sector, and NAIC to create opportunities that benefitted San Fernando Mission Indians and all Native Americans in the discriminatory landscape of Los Angeles County. As

leader of the San Fernando Mission Indians tribe, elected president of the non-profit San Fernando Mission Indian Council, and NAIC commissioner, Ortega Sr. instilled the importance of networking, collaborating, consulting, and negotiating for policy changes into his son, Rudy Ortega Jr., at an early age.

The late Charlie Cooke (1935 - 2013) was born into the lineage of *Tujubit* (Tujung lineage) in 1935 (Figure 4 and 7). His great-great-great grandmother Eugenia (abt. 1817 - 1928) was born into the Kitanemuk speaking community of Tejon, many members of which remain part of the Tejon Indian tribal community today (BIA "Criterion B" 21). Eugenia's daughter Leandra Culeta (abt. 1840 - abt. 1870) married Jose Juan Leyva (1837 - abt. 1870), a member of a Chumash village in Simi Valley with whom she had a daughter named Josephine Leyvas (1865 - abt. 1952) in 1865. Josephine would become hereditary leader of her lineage, and would marry the son of Santiago Garcia, the namesake of Santiago Canyon (who was reportedly killed by a bear). Ortega Sr.'s grandfather Antonio Maria Ortega would then marry the daughter of Santiago, further strengthening and weaving ties between *Tujubit* and *Siutcabit*. Ultimately, Josephine and her family were evicted from ex-Mission San Fernando lands and moved to Newhall, California around 1882 (Duane Champagne, personal communication, February 15, 2016).

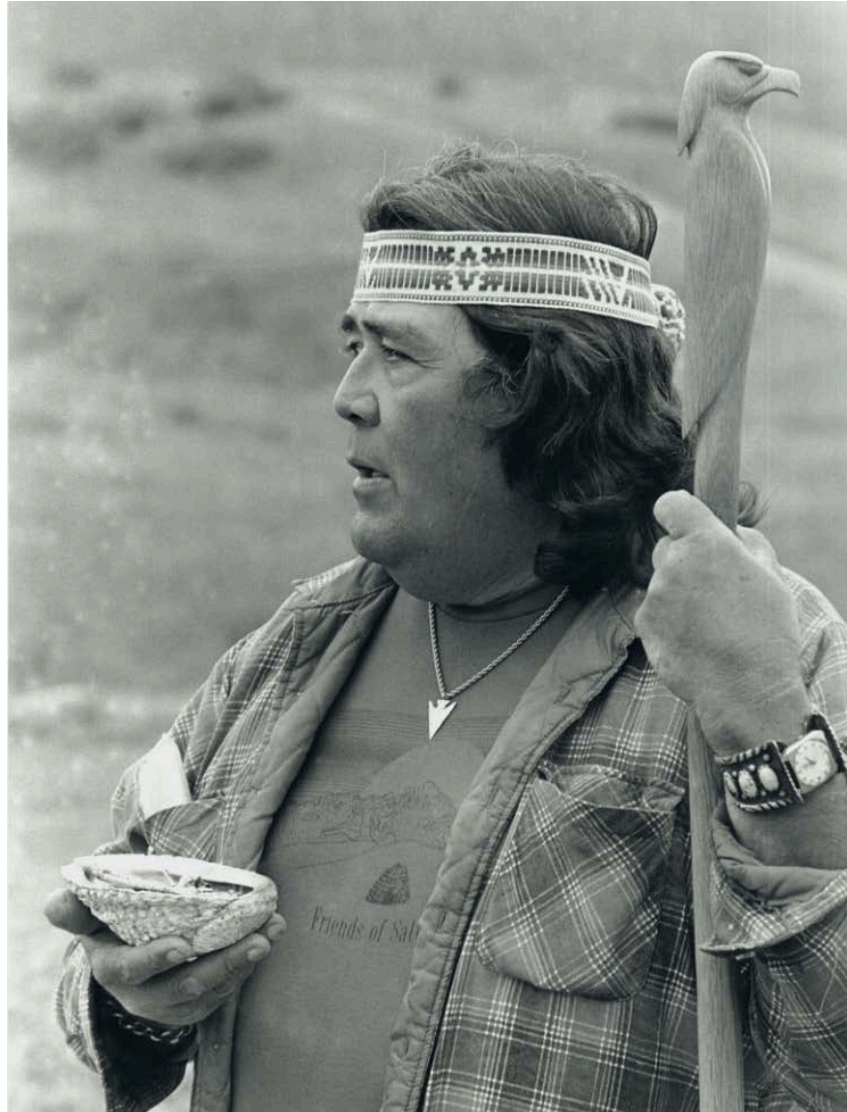


Figure 7: The late Charlie Cooke leads a gathering during Earth Day events at the Satwiwa Native American Cultural Center in Newbury Park, April 23, 1990. Photograph by Linda Rich. Source: News Chronicle Collection, Thousand Oaks Library Special Collections.

Josephine's daughter, and Charlie's grandmother, Frances Garcia Cooke (1883 - 1946) inherited leadership roles for her family locally. Upon Frances' passing in 1946, her daughter Mary Guadalupe Garcia (1901 - 1975) was suffering from increasingly debilitating mobility issues that prevented her from playing an active leadership role in the San Fernando Mission Indian community (Gordon 54). In 1959, in recognition of Charlie's interest and dedication to

the San Fernando Mission Indians, she appointed him as the traditional leader of their family (Gordon 54). In a biography about Charlie entitled *Tiq Slo 'w: The Making of a Modern Day Chief*, his cousin Theodore Garcia Jr. (Ted Garcia Jr.) shared:

“I looked up to [Charlie]. Growing up in Pacoima with a Latin name, people assumed we were Mexican; but my Grandmother Mary made sure we [knew we] were Indian” (Gordon 18, BIA “Criterion C” 24).

Upon Charlie’s return from service in the U.S. Air Force in 1957, he, along with his brother Alvin Cooke and cousin Ted Garcia, became increasingly engaged with Ortega Sr.’s multi-lineal San Fernando Mission Indian tribe. Within the community, Charlie’s political identity was that of his lineage, known putatively as the “Garcia lineage.” He held a strong presence and achieved a great deal in cultural affairs in Ventura County throughout his life. Cooke’s contributions include, but are not limited to, his involvement with Channel Islands National Park, his part in the creation of Chumash Indian Museum in Thousand Oaks, and the fundamental part he played in helping establish the Satwiwa Native American Indian Cultural Center in Newbury Park. As a member of a ranching family, Charlie Cooke eventually settled in Newhall, California, near the village of *Chaguayanga*, to which he and his cousin Rudy Ortega Sr. shared deep personal ties to.

Rudy Ortega Sr. and Charlie Cooke were both critical to the development and implementation of TCRM as a practice in the mid-20th century (Ortega Jr., “Second Interview”). From 1976 to 1982, the cousins worked heavily with local archaeologists, who exhibited interest in protecting areas from future development, to identify cultural sites and develop strategies to protect them (Ortega Jr., “First Interview”). Throughout the latter half of the 20th century, Charlie’s on-ground activism managed and preserved resources directly in the field through a

professional service called Native American monitoring. Meanwhile, Ortega Sr. sought local politicians and developers to assist negotiations for TCR protection proactively, at the earliest stage possible. During this time, Ortega Sr. and Charlie operated out of their homes and on a volunteer-basis, aside from the limited funds accrued through the profession of Native American monitoring. As Ortega Sr. conducted the bulk of governmental and administrative aspects of leading the Tribal government (Rudy Ortega Jr., personal communication, June 5, 2017), Charlie was able to work at grassroots level, collaborating closely with the California State Parks, National Park Service, California Department of Transportation, and the County of Ventura archaeologists and cultural resource professionals to protect coastal sites and repatriate cultural resources on the western edge of Los Angeles County, and well into Ventura County (Gordon). The two figures jointly and independently attended countless public hearings of local Planning Commissions and covered an extensive territory of platforms in order to voice their concerns for potential impacts to cultural resources.



Figure 8: Photograph of the late Charlie Cooke pictured with Rudy Ortega Sr. Used with permission of Tribal President Rudy Ortega Jr. Courtesy of Fernandeño Tataviam Band of Mission Indians, 2017. Photo source unknown.

“WE’VE BEEN INVOLVED WITH CONSTRUCTION FOR CENTURIES”: THE PROFESSION OF NATIVE AMERICAN MONITORING

The central goal of the Tribe is to protect and preserve its cultural resources as proactively as possible (Rudy Ortega Jr., personal communication, June 5, 2017). Recognizing that a growing population demands increased development, the Tribe does not oppose *all* development, but rather, mainly seeks mitigative measures that significantly reduce impacts to their cultural resources prior to ground disturbance (Ortega Jr., “Newsmaker”). The Tribe does, however, consider forceful, all-encompassing opposition to development in the cases of projects that fail to comply with the Tribe’s reasonable requests, or fail to find resolutions for matters

pertaining to the jeopardizing of cultural resources. If positive modifications to projects for preservation *in toto* appear to be infeasible, the Tribe generally requests Native American monitoring, a reactive and adaptive measure that still protects cultural resources to an extent, but does not necessarily call for the ubiquitous avoidance of all sensitive areas. The practice of Native American monitoring was established to prevent any avoidable harm and/or alteration of cultural items, caused by archaeological-based ignorance, during ground-disturbing activities in areas where Native American associated deposits have the potential to be encountered (Martinez and Teeter 28). In one instance, through Native American monitoring, the Tribe's monitor Randall Folkes was able to identify, and thus save, a 50-pound sandstone bowl during development in Santa Clarita, California. Charlie Cooke, as a Native American monitor himself, utilized his cultural expertise to act as a liaison between the Tribe and on-ground excavation teams. Indigenous representation on the field is not a new custom, but became a formal profession after the execution of CEQA in the 1970s. Ortega Jr. elaborates, noting that "In a way, our ancestors have always been involved with construction". He goes on to share further:

"Our ancestors maintained the land, gathered willow, tule, cut materials, and built a *kiic*, or home. They modified the earth in minimal ways, but to an extent, that was construction. Then, in the Mission era, our families formally became construction workers or farmers, but they had been doing that for centuries. And today, the majority of our citizens work in the field- so really, Native American monitoring is just an extension or hybrid of our past."

For decades after the passing of CEQA, Charlie and Ortega Sr. communicated regularly with San Gabriel Mission and San Buenaventura Mission Native Americans to obtain Native American monitoring positions on projects in overlapping territories. They would rely on each other to monitor sensitive projects and respected each other's unique roles in the field. While Charlie

practiced cultural resources management in the field, Ortega Sr. undertook consultation and negotiation responsibilities, proactively interacting with various bureaucracies regarding a plethora of projects, almost fifty years before such interactions would become mandatory in the State of California under AB 52. Therefore, Cooke and Ortega Sr. approach to tackling TCRM through collaborative Native American monitoring, arguably strengthened and advanced the indigenous social network of inter- and intra- lineage relationships within the local area. For not only did Native American monitoring help preserve the Tribe's physical materials, it also compelled communication and cooperation between lineages, which in turn bolstered and expanded the complex social relationships between community members.

Although the Tribe's traditional home base is now densely populated, regions that have not yet been developed are still in existence, albeit these are decreasing almost daily. Even areas that seem relatively developed hold potential for disturbing and/or destroying culturally precious deposits. One prominent entrepreneur of a Native American monitoring firm, Beverly Folkes, reflects:

“If it's never been dug into, you don't know what's there. And you can't say that because everything around it has been developed, there's not gonna be anything there- cause that's been proven in Calabasas. [...] When we went there I couldn't believe it. It was a residential area [...] and there was a plot of land in the center. And that's where they found [a cultural site]. So they just never know. Even if they say 'the area has been developed,' it means nothing to me” (Folkes).

In many cases, contemporary neighborhood developers today refuse to welcome or compensate monitoring by Native Americans during additional development because their original establishments predated CEQA and/or AB 52, for they do not feel that additional resources could be impacted. However, re-development and re-disturbance of those areas holds potential risk for

upturning cultural deposits, though the risk is lower in these situations compared to the possible upheavals that can occur in native, undeveloped soil. In the words of Beverly Folkes;

“In the early years that’s what they used to do- just bulldoze through a development and it didn't matter what was there, they just went on with building whatever they were gonna build...At least now, we’re there. And they (developers) want us there. And that’s important to me” (Folkes).

Bearing this in mind, it becomes apparent that the profession of monitoring works to protect resources buried in both developed and undeveloped lands.

Through monitoring, Ortega Sr. and Cooke worked on countless projects together and apart, and interacted with leaders of local tribes on a regular basis. For example, in 1978, First Financial Group (FFG) proposed to develop a condominium and office complex on a parcel in Encino, California. Due to the historic sensitivity of the land, the City of Los Angeles, lead agency under CEQA, instructed FFG to hire archaeologists to assess the archaeological sensitivity prior to land-altering activities. Six years later, FFG began excavations on another portion of their project, and retained the same CRM firm, Scientific Resource Surveys Inc. (SRS), to monitor ground disturbances, which unearthed prehistoric burials that commenced eight months of archaeological data recovery (Tejada). Although archaeologist Charles Rozaire first recorded the site in 1960, and archaeologist John Romani noted the site in 1975, it was not until these 1984 excavations that the magnitude of the cultural site, and materials within, became evident to archaeologists (Barbara Tejada, personal communication, Oct. 8, 2017). Essentially, the development of FFG triggered the re-disturbance to what had once been, and will always be, the village of *Siutcanga*; a village that was never forgotten by its descendants, but was labeled as

the “Lost Village” by the media.¹³

The excavations yielded a plethora of cultural materials from the land of *Siutcanga*, to which Ortega Sr. is tied. However, the reported misconduct of both ancestral deposits and associated grave goods is still remembered by Tribal citizens today. In October 8, 1984, it was reported that 75 archaeologists were at the site due to the quantity of cultural resources (Los Angeles Times 1984), though some sources claim there were up to 100 archaeologists present at a given time (Barbara Tejada, personal communication, Oct. 8, 2017). These archaeologists reportedly “recovered 10,000 decorative beads made of shells, 800 stone tools, 300 bone tools and more than 250,000 pieces of animal bone from meals” (Los Angeles Times 1984). Meanwhile, researchers at local universities expressed their discomfort at the practices that ensued there: “Indian graves were scattered by bulldozers instead of being carefully excavated...uncovered artifacts were left in the ground for months before being removed...” (“Artifacts”).

Frustrations peaked among local tribes as excavations were conducted without Tribal representation during archaeological excavations. In response, lead archaeologist Nancy Whitney Desautels, of SRS, hired Sparky Morales (Gordon 169), then Tribal Chair for the San Gabriel Band of Mission Indians, to provide monitoring services during excavations, albeit later in the process. Charlie reportedly was made aware of the situation from local archaeologists and, upon visiting the site himself, instructed archaeologists to contact Ortega Sr.; ““He is chief of the Fernandños’... leader for the San Fernando Mission Band. Contact Rudy” (Gordon 170). Ortega Sr. subsequently gave permission to Chairman Morales to monitor the site on behalf of the

¹³ Perhaps this renaming was derived from ‘settler-colonial nostalgia’; a sentiment grounded in a particular longing for the colonial past (Imada 36).

Fernandeño people (Gordon 171), so that he could be free to pursue negotiations with the developer to preserve and protect at least a partial area of the property. Meanwhile, Charlie continued to monitor the excavations independently through 1985, observing archaeologists as they catalogued artifacts on-site during his spare time (Gordon 175).

In 1985, the “Leaders of three Indian tribes, saying that archeological excavation of the ‘Lost Village of Encino’ had desecrated the graves of their ancestors, planned to meet with state and local officials [...] to demand that human bones found on the site be given a ceremonial reburial” (McGarry “Lost”). Among these three leaders were Rudy Ortega Sr. and Charlie Cooke (Figure 8). While the burials had been reinterred on April 15, 1985 at the request of the leaders, other sensitive materials remained stored until Desautels’ litigation was resolved (Barbara Tejada, personal communication, Oct. 3, 2017). According to much of the information recorded in articles contemporaneous to these events, Desautels had claimed she was owed fees from FFG for the cataloging of the unexpectedly large *Siutcanga* collection. As such, she refused to release the collection until she was reimbursed for a portion of the archaeological assessment, and filed a one million dollar lawsuit against FFG in 1987. Meanwhile, frustrations grew among the local Native Americans, including Ortega Sr., who felt wrongfully removed and restrained from viewing their resources. It would take almost three decades for the Tribe to re-locate and re-establish ties to the resources upheaved from *Siutcanga*.



Figure 8: Leaders and representatives of local tribes gather at Siutcanga, present-day Los Encinos State Historic Park in Encino, CA, ca 2000s. Pictured L to R front row: Angie Burns (Gabrielino), Rudy Ortega Sr. (Fernandeño), then-CA State Senator Sheila Kuehl, Charlie Cooke (Fernandeño), L to R back row: Ted Garcia (Fernandeño), Unknown Individual. Source unknown.

For decades following, members of the San Fernando Mission Native American community longed, and actively searched, for those materials, but to no avail. Tejada, who had been organizing a presentation for docents at Los Encinos State Historic Park in 2008, began a project to locate all the whereabouts of the collections that originated in Encino (Barbara Tejada, personal communication, Sept. 20, 2017). Earlier that decade, in 2002, archaeologist Wendy G. Teeter was contracted to handle the first collection of materials excavated by SRS in 1978, which had been donated to California State Parks, and thus, aided in the community-driven attempt to locate the 1984 Encino Collection (Wendy G. Teeter, personal communication, Sept. 22, 2017).

Yet, it was not until 2013 that Tejada located the materials; she had received word that the collection had been incautiously abandoned at a college in San Diego County, over 120 miles from its original location. Tejada shares;

“Their intention was (that the collection would be used) for a project for their lab classes. But they had only sorted and cataloged a portion of it, and grew concerned when they noted fragmented human remains, and they did not have copies of any of the field notes to go with the collection” (Barbara Tejada, personal communication, Oct. 8, 2017).

Shortly after, Ortega Jr., Teeter, and the THCPO visited Palomar College, and by February 26, 2015, Tejada returned those resources back to Encino (Personal Communication, Rudy Ortega Jr., May 17, 2016; Tejada). Teeter recalls; “It was a tremendous mess...(the collection) was in horrible condition. There was rat infestation, water damage from leaky roofs...there was so much work to do” (Wendy G. Teeter, personal communication, Sept. 22, 2017). Since their recovery, Tejada has worked closely with Ortega Jr. to provide limitless opportunities for the Tribe to engage and/or reconnect with the resources that were stripped from and unavailable to them for over forty decades. Today, Tejada has located the 50 additional boxes from the 1984 collection, and continues her meaningful engagement with the Tribe by communicating with, and presenting her findings to, the Tribal government regularly.

TED GARCIA JR.

In 2008, upon completing his search for a successor, Charlie announced the next heredity leader of the lineage would be Ted Garcia Jr. (BIA “Criterion C” 25). Ted’s father, Ted Garcia Sr. (1920 -2008), had been a longtime participant of Ortega Sr.’s multi-lineal San Fernando Mission Indian tribe, and passed his traditional values to Garcia Jr. throughout his life. Today, Ted Jr. is still considered the leader of his lineage, and is the appointed Vice Chairman of the

Elders Council. Like his cousin Charlie Cooke, Ted Jr. has connections to Chumash organizations and interpretive centers based in Ventura County, and is a professional Native American monitor. When asked about the importance of Native American monitoring, Ted shares:

“Private contractors, they tend to... not care about who was there before them. It’s all about money and getting their projects done. And not having people in their way to slow them down or stop them. But [monitoring] is important because they *do* [emphasis added] run into village sites or cemeteries. And I think it’s very important to watch what they’re doing [...]. They take what you find there and it’s set aside and it’s studied, maybe taken to a university or a museum, and therefore, native people don’t really get to see what they’re missing- what their ancestors made- but you know, you do the best you can. At least they’re not thrown into a truck and hauled off to a dump” (Garcia).

Garcia’s concerns stem from past precedents in which some archaeologists have collected items that were uncovered during development, and to this day, have yet to allow descendant communities access to those materials.¹⁴ Ted is a traditional storyteller and stone carver who utilizes cultural resources as a template to recreate and reclaim those materials. As an artist, Ted advocates for the preservation of cultural resources from developers, and in many cases, museums. Therefore, monitoring is important because it creates additional opportunities for the San Fernando Mission Indian community to reestablish ties to resources without the interruption of those interested in preserving them for professional study alone.

¹⁴ While I continue to discuss members of specific professions, such as archaeology, it is important for me to underscore to the reader that generalizations of any kind are dangerous and counterproductive. I use the word “some” here to stress this.

BEVERLY SALAZAR FOLKES



Figure 9: Beverly Salazar Folkes on the grounds of Siutcanga, Rancho Encino at Los Encinos State Historic Park in Encino, CA. 2016. Photo by author and used with the permission of Beverly Salazar Folkes.

One living direct descendent of the *Siutcanga* village, Beverly Salazar Folkes, (Figure 9) has become increasingly engaged in cultural resources management throughout her life. As a child, Beverly was instilled with traditional and cultural values by her mother Vera Salazar and grandfather Antonio Maria Ortega. She recalls her grandfather’s vivid stories of Encino, about life at *Siutcanga*, and of the violent dispossession that ensued under American rule that deeply affected his mother Maria Rita Alipaz. Beverly remembers Antonio as “a healer, (who) carried around and used herbs to heal people. People came to see him” for advice and medical treatments (BIA “Criterion C” 17, footnote 51). For years, she has been a storyteller and guardian of her lineage who has been deeply engaged in school programs to educate youth on the

history of the land. Beverly has always preserved and protected the cultural resources passed down to her, but became more specifically intrigued in on-ground preservation in the late 1980s.

Only in the mid-1990s would Beverly become formally involved in the profession of Native American monitoring, but her commitment to the practice began much earlier. Due to her voluntary involvement with the multi-lineal coalition in the 1960s, she knew leader Ortega Sr. well, and recalls the many instances her brother Manuel Abel Salazar (1924 - 2002) communicated with Ortega Sr. over cultural resources protection issues during that time. “With Ortega (Sr.) and I [...] we both knew we had a bond to (cultural resources protection), we just knew” (Folkes). When asked about her experiences with earlier projects, she remembers an era when Native Americans were not welcome on project sites:

“If I was not monitoring, I was always willing to consult because, to me, it was an honor to be asked [about cultural resources] because there was a time that the developers didn’t want native people on their site ... we were a bother. So, when that began to change, we became more important [...]. Prior to that we were just a nuisance and still in the beginning, it was a power struggle... and we didn’t get the reception we thought we should have. But we just stood there anyways” (Folkes).¹⁵

Today, Beverly is a member of the Elders Council, an active participant with various committees and boards whose interests overlap with her goal of cultural preservation, and serves on the Board of Directors of the Oakbrook Chumash Indian Museum in Thousand Oaks, CA. The firm Beverly established for Native American monitoring in the 1990s, *Native American Monitoring Group*, continues to operate and defend the resources today. Through her firm, Beverly fights to ensure that discovered deposits are enabled to be appropriately retrieved by their living descendants, and reburied with appropriate dignity. She summarizes: “To me, it’s

¹⁵ By “standing there anyways,” Beverly is referring to the profession of Native American monitoring, which involves a Native American monitoring the soil during ground disturbance for upturned resources.

about representing my ancestors” (Folkes).

ALAN SALAZAR

Alan Salazar, the great-grandson of Antonio Maria Ortega, is, like Ted Jr., both a Native American monitor and traditional storyteller. Similar to Ted Jr., Alan strives to protect physical *and* verbal resources, both of which he considers as vital cultural resources. Alan’s father, the late Manuel Abel Salazar Sr., was brother to Beverly Salazar Folkes and interacted regularly with the 1960s multi-lineal tribe. Manuel communicated regularly with Ortega Sr. to protect cultural sites from development, until he relocated the family to Hanford, California, a dairy-farm community where Alan studied the land-altering changes caused by large-scale commercial development. He recounts: “[Developers] wanted to build in desirable areas that are aesthetically beautiful. But areas like that are where (our ancestors) built villages.” To protect cultural sites, Alan donated his time to the attendance of countless meetings with a community of Native Americans living in Kern County, and eventually became a founding member of the Native American Heritage Preservation Council of Kern County. To supplement his traditional knowledge, Alan enrolled in entry-level archaeology courses at California State University Bakersfield, and also began working with local archaeologists in the field to further educate himself on science-based terminologies. Although he sought to gain insight from these archaeologists, his feelings while doing so were oftentimes conflicted, for he found it troubling to witness archaeologists collecting materials solely for scientific purpose, without consulting with tribes or community members.

At present, Alan predominantly works in the Los Angeles and Ventura counties as a monitor. He has served on various advisory councils, including the Ventura Indian Educational

Consortium, is a founding member of the Chumash Maritime Association, a lead Museum Educator for school tours at the Oakbrook Chumash Indian Center in Thousand Oaks, and is currently the Chairman of the Tribe's Elders Council.

In separate interviews, Beverly and Alan both reflect on their first major experience in TCRM. In the mid-1990s, a project led by California Department of Transportation (CalTrans) for Highway 126 expansions disturbed sensitive cultural deposits and ancestors.¹⁶ In a process that entails designating a "Most Likely Descendant" (MLD) for ancestors that have been uncovered during development, essentially an indigenous representative whose ancestry could be traced back to that area, the NAHC identified Beverly as the MLD of the project. As MLD, and through her monitoring firm, Beverly retained nephew Alan Salazar as the monitor for the project, while she directed and guided the management of the sensitive cultural deposits. A report documenting the opening ceremony of the highway quotes Beverly and Alan describing the project as "extremely difficult for a lot of reasons" (Garcia "Trail of Years"). "My ancestors lived here and many of their remains were right underneath that road..." Alan relays, "But we can't stop development. We haven't been able to stop it for the last 500 years." Beverly also describes the situation as "heartbreaking" and "emotional," but finds comfort in knowing that the ancestors had "been reburied where they will never be disturbed again" (Garcia "Trail of Years"). Since this project, Beverly and Alan have held prominent roles in numerous other on-ground management of TCRs.

¹⁶ Sensitive locations will not be disclosed in this thesis.

CHAPTER FIVE

1990s AND ONWARD: LEADERSHIP OF TRIBAL PRESIDENT RUDY ORTEGA JR.

In summary, Rudy Ortega Sr.'s political strategies and grassroots activism spearheaded the present-day consultation protocol of the Tribe's TCRM, while Charlie Cooke's on-ground leadership and relentless presence established the Native American Monitoring business operated by the Tribe today (Ortega Jr. "Second Interview"). Their legacies live on in a plethora of ways to this day. Ortega Sr. sought and succeeded in consultation with developers and negotiated for the protection of ancestral sites, and his son has assumed the mantle. As a child, Rudy Ortega Jr. was tailored and trained to take on the duties of successor to his father Rudy Ortega Sr.. By 1999, Ortega Jr. was appointed as the next lineage leader by elders in a full consensus (BIA "Criterion C" 22), a traditional position that he still holds today. As a long-time volunteer for the Tribe, Ortega Jr. was placed in close vicinity to his father, so as to be exposed to the qualities exhibited, and strategies employed, by a tribal leader, that he would eventually cultivate as future leader. Additionally, while Ortega Jr. was a teenager, he worked diligently with his father to book meetings with local politicians and developers in hopes of creating legal requirements for Native American consultation prior to development in Los Angeles County. For over two decades, Ortega Jr. volunteered his time towards identifying projects to ensure that they worked closely with the Tribe, as well as with other local tribes, for the protection of natural and cultural resources.

As the youngest son of Ortega Sr., Ortega Jr. has followed his father's footsteps in both the local and greater Native American communities of Los Angeles. He was appointed to the

NAIC by Mayor James Hahn in 2004, re-appointed by Supervisor Sheila Kuehl in 2014, and would eventually become Chairman of that commission. Moreover, Ortega Jr. is the Executive Director of the Tribe's non-profit Pukú Cultural Community Services, oversees Haramokngna American Indian Cultural Center in the Angeles National Forest, which exhibits and preserves cultural resources of the local areas, and is an active member of multiple other Native American organizations. In the Spring of 2015, six years after the passing of his father, Ortega Jr. was elected as leader of the Tribe's Senate and constitutional government (BIA "Criterion C" 22). As Tribal President, Ortega Jr. continues to promote TCR protection, serves as the executive negotiator and consultant for sensitive projects within the Tribe's jurisdiction, and, through his capacity as Commissioner, lobbies local politicians to incorporate guidelines for consultations between lead agencies and tribes within Los Angeles City and County jurisdictions.

For decades, the Tribe has been politically involved with a number of large-scale, ongoing projects. One critical example is the Tribe's long-term commitment to the Santa Susana Field Laboratory (SSFL) Project. SSFL consists of a 2,849-acre site that is heavily contaminated from decades of rocket testing, nuclear and liquid metals research and experiments from 1949 through 2006 ("About the SSFL"). The land there is deeply tied to the cultural, spiritual, and ceremonial lifeways of the local lineage-villages that now identify as Fernandeano Tataviam, Ventureño Chumash, and/or Gabrielino Tongva. Today, the property occupies a region where hundreds of cultural sites remain relatively untouched by development, albeit contaminated, or within proximity to areas thought or determined to be contaminated. Located in Ventura County, California, within Simi Hills, SSFL contains a complex of properties owned by the National Aeronautics and Space Administration (NASA) and The Boeing Company (Boeing), while other

portions are leased by Department of Energy (DOE). As a State agency, the California's Department of Toxic Substances Control serves as lead agency of the project under CEQA to the principal landowner, Boeing, while federal agencies are responsible for their analyses under NEPA ("Santa Susana"). In accordance with Section 106 of NEPA, the project consults with federally recognized tribes. Therefore, the Santa Ynez Band of Chumash Indians (SYBCI), the only federally-recognized tribe that claims connection to the property, is designated as the lead consulting tribe. However, they are also consulting with several non-federally recognized tribes who have more direct connections to these sacred lands.

For years, the Fernandeano Tataviam and local Native American representatives advocated for a distinct council in which they could privately express their concerns for certain areas without divulging sensitive locations to the public. By 2014, DOE inaugurated a formal council called the *SSFL Sacred Sites Council* (SSFL SSC). The SSFL SSC is an elected body made up of leaders and designated representatives from the Santa Ynez Band of Chumash Indians, Fernandeano Tataviam Band of Mission Indians, Ventureno Chumash, and Gabrielino Tongva (Dept. of Energy B-32). These representatives seek interest in the Project's cleanup strategies because of the potential impacts to their cultural resources. The SSFL SSC "meet regularly to consider topics regarding relevant issues and concerns, including properties at SSFL that are of traditional or religious cultural important to the tribes. They have contributed to the Environmental Impact Statement (EIS), including preparing their tribal histories and perspectives (included in Chapter 9 of EIS)" (Dept. of Energy F-20). As SSFL SSC council members, representatives of the Tribe may confidentially express their concerns with other Tribal representatives who jointly consult, review, and comment on future endeavors pertaining to the

Project's potential impacts to cultural and natural resources.

The Tribe's involvement with SSFL extends as far back as the 1970s, when Ortega Sr. requested consultation with federal agents in order to list the land on the California Register of Historical Resources (Figure 10). Meanwhile, the Tribe hosted, and continues to host, gatherings and ceremonies within the SSFL property, including an annual Chumash Intertribal Gathering and Powwow at Boeing-Rocketdyne Recreation Center ("Black-Dutch") that was led by Ortega Sr., Ortega Jr., and then-senator Jim Garcia. Ortega Sr. and Charlie's long-term involvement with SSFL in both cultural and political affairs established a professional relationship with State and Federal agencies under which consultation is now occurring. As the project gained momentum in the 2000s, Rudy Ortega Jr., Beverly Folkes, and Alan Salazar continued the Tribe's representation and still provide cultural resources oversight today.

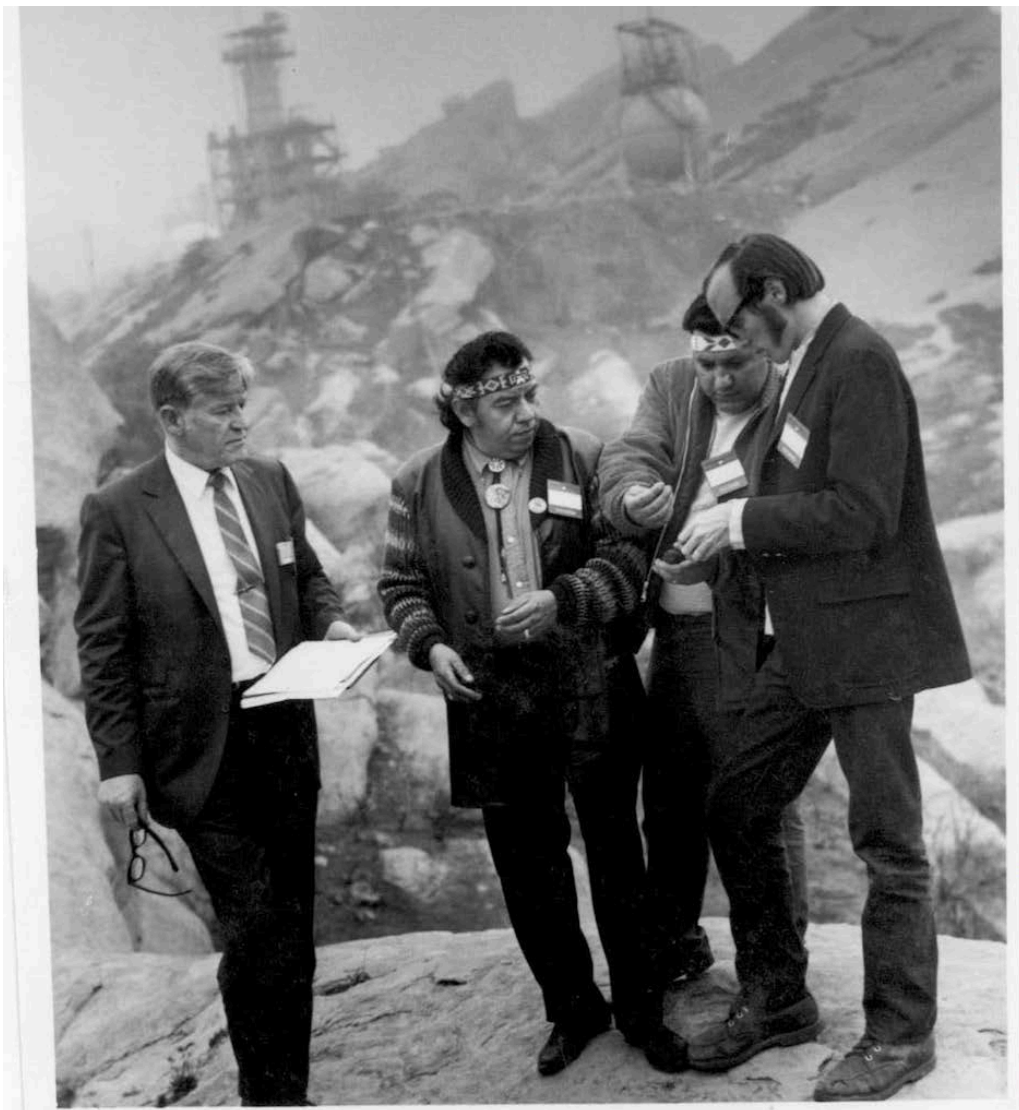


Figure 10: Rudy Ortega Sr. (center) at Santa Susana Field Laboratory, c.a. 1970. Used with permission of Tribal President Rudy Ortega Jr. Courtesy of Fernandño Tataviam Band of Mission Indians, 2017.

ESTABLISHING A DEPARTMENT

Ortega Sr. believed it was crucial to educate local governments that Native Americans are not only thriving, but also fully capable of protecting their own resources. Meeting project planners provided an opportunity for Ortega Sr. to humanize the process of TCRM for

developers, negotiate for creative ways to protect resources, and organize professional relationships with developers across the local area. While many developers expressed disdain for cultural resources impact mitigation because of additional costs, others sought to reduce their footprint on the land. Ortega Sr. and Cooke's involvements in large-scale projects across the Los Angeles and Ventura counties anticipated the protocols that would be developed en masse by Tribal citizens in the 1990s.

It was during the 1990s that volunteers from the Tribe and Tribal government (collectively called "TCRM volunteers") helped construct official guidelines for the TCRM department. After Rudy Ortega Jr., Tribal senator William Gonzales and son Isaac Gonzales organized their efforts and began consulting on behalf of the Tribe, TCRM was formally established under the name "Cultural Environmental department" in 1997. TCRM volunteers were limited; the number of people donating their time fluctuated because of the demands of full-time careers or family commitments. Those able to volunteer devoted time and energy outside of their regular lives to draft, oversee, and engage in consultation with projects, and worked closely with local Native American monitors to ensure sites had Native American representation during construction. However, TCRM volunteer were still met with hardships. Firstly, volunteers had no access to funding opportunities, and were therefore severely limited in the hours they could donate to TCRM. Secondly, there was no formal office space to congregate in, and so TCRM volunteers worked separately from their homes. Government-to-government consultation is a difficult process, and made more difficult with the constrictions of not having a formal space in which to log all communications and project updates can. Today, Ortega Jr. believes a fundamental setback of working from their homes was that agencies were hesitant to

share confidential information with the Tribe without any visible guarantee that the reports would remain protected. Third, due to volunteers maintaining their regular full-time careers, there was hardly opportunity for agency representatives to meet with the Tribe outside of normal business hours. Since volunteers worked during those hours, many opportunities for consultation were missed. Yet, against the odds, TCRM volunteers found opportunities to protect their resources, met regularly, shared notes and correspondences with one another, and implemented a standard practice for TCRM. To help organize consistent roles among TCRM volunteers, Ortega Jr. drafted protocols that became standardized in 2002.



Figure 11. Current Tribal Administration Office of the Fernandeño Tataviam Band of Mission Indians, located at 1019 Second St., San Fernando, CA. Located on the northern portion of the railroad tracks in San Fernando, Native Americans were not allowed in this area historically. Photo by author and used with permission of Tribal President Rudy Ortega Jr.

For years, the Tribe researched avenues to receive funding for a stationary office to host TCRM activities. The Tribe applied for the *Administration for Native Americans grant* for two consecutive years before finally being awarded the grant of \$60,000 for an administrative building in 2000 (Rudy Ortega Jr., personal communication, June 5, 2017). By obtaining a formal space, Ortega Jr. was able to expand the tribe's non-profit sector, under which more grants could be attained, and have a secure area that supported the TCRM operations. During this same year, Ortega Jr. still managed, performed consultation services, and negotiated for Native American monitoring jobs for Tribal citizens. "The Tribe didn't do monitoring formally under its name until 2000, because we were just consulting," says Ortega Jr.. "The Tribe didn't really perform monitoring [until 2000], but we allowed the families to do monitoring. As a government, we felt it was better to help guide and protect [through government-to-government consultation], versus being on the ground." With an office space, TCRM volunteers were more capable of coherently managing in-office consultation guidelines and on-ground Native American monitors.



Figure 11. Steven Ortega, the current Vice President, and previous Chair of the THCP Committee, locates TCR while monitoring ground disturbances for a project in San Fernando, CA. 2015. Photo by author and used with permission of Vice President Steven Ortega.

As project notifications flooded their inbox through the early 2000s, Ortega Sr.'s sons Rudy Ortega Jr. and Larry Ortega, and cousins William Gonzales and son Isaac Gonzales, volunteered to review countless documents that required both legal and environmental expertise (Ortega Jr., "First Interview"). They were expected to respond to these documents with information about cultural resources that would help projects reduce or eliminate adverse effects to them. In addition, they were required to provide documented proof of those cultural resources

through archaeological or academic records. Without funding for a database or external research, the TCRM volunteers consulted with the older generation of the Fernandño Tataviam community to record sites in ways that would potentially assist their efforts in protecting them. Meanwhile, agencies consulting with the Tribe still had the authority to disregard the information presented.

In 2002, interests for TCRM increased among Tribal citizens and monitoring projects heightened. Ortega Jr. began to develop a more standardized protocol for TCRM by rewriting the 1997 guidelines to include Native American monitoring. He and his brothers conducted interviews with relatives who had been involved in aspects of cultural resources management to develop the department's goals. They visited local Native American monitors from the Gabrielino and Ventureño Native American communities to discuss monitoring collaborations and hardships. Ortega Jr. recalls, "There was a ton of research on what others were doing. We spoke to [family] like (Charlie) Cooke, Beverly Folkes, Randy Folkes, Alan Salazar, the Gabrielinos like Anthony Morales, Sparky Morales, Vera Rocha...." In addition, they continued meeting with elders to record oral stories tied to places that could be potentially threatened by development. Still, their efforts were not compensated, and consequently, modifications to the department were made over the course of two years.

For years, Ortega Jr. advocated for an internship through the University of California Los Angeles ("UCLA") School of Law. In 2004, the Tribe finally gained interns from the college to assist in developing their Tribal Historic Code (Code), a governing document that dictates how the TCRM department should operate. The ordinances and laws contained in the Code apply to cultural resources residing within the maximum extent of the jurisdiction of the Tribe (Title 11,

§7-102 (B)) (Figure 1). Almost a decade earlier, Section 101(d)(2) of the NHPA established a program in which Tribal Historic Preservation Officers (THPOs), officially designated by federally recognized tribes, assumed functions of State Historic Preservation Officers on Tribal Lands (“What Is NATHPO?”). The Tribe found it important to utilize nomenclature which reflected that being used already, and by federally recognized tribes, and so replaced their Cultural Environmental department with the ‘Tribal Historic and Cultural Preservation department’ (THCP department). The officer designated with the responsibilities of the THCP department is known as the Tribal Historic and Cultural Preservation Officer (THCPO). Ortega Jr. states that, since THPOs are required to submit proposals to the National Park Service, a federal agency, the Tribe incorporated the term “Cultural” within the THPO title in order to distinguish the Tribe’s TCRM program from those of federally recognized tribes.

THE TRIBAL HISTORIC AND CULTURAL PRESERVATION DEPARTMENT

The high standards of the Tribal Historic and Cultural Preservation department (THCP) are regulated by the Tribe in processes established in its governing documents. The THCP department relies on a hierarchy of operations (Figure 12). Firstly, the Tribal Senate, consisting of the executive and legislative branches, governs the Tribe and defends its constitution, code, and the overall rights of all Fernandeano Tataviam peoples, and therefore, is the supreme overseer of the department. Secondly, the Tribal Senate is served by the THCP Committee (Committee), which is composed of TCR experts and chaired by an appointed Tribal Senator, on all legislative and policy matters related to cultural resources (Title 11 THCP Section 11-201 and 203). The Committee is the governing and policy determining body of the THCP department that

supervises and guides its staff. Thirdly, the Council of Elders (Elders), a council that holds co-principal advisory responsibilities for the THCP department, serves in an advisory capacity to the Tribal Senate, Committee, and the THCP department as deemed necessary, and more commonly for culturally sensitive topics that necessitate permission, advice, and/or traditional knowledge. Fourthly, the staff of the THCP department, which includes the Tribal Historic and Cultural Preservation Officer (THCPO), do not supersede the Elders or the Committee, whose decisions can be overruled by the Tribe’s executive branch of government.

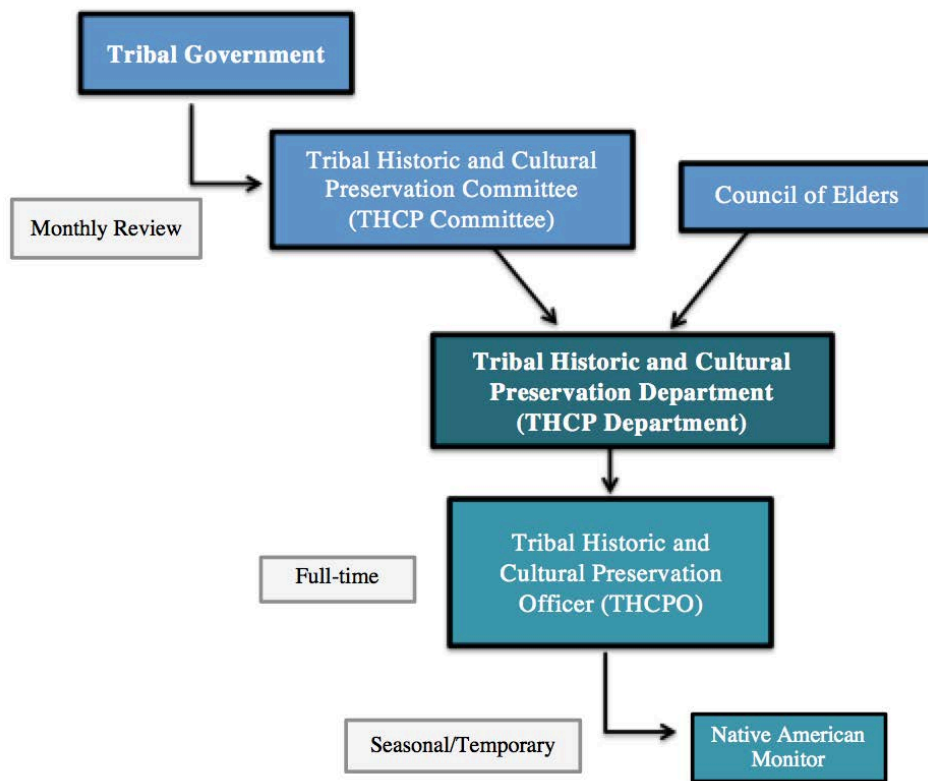


Figure 12: Organizational Structure of the THCP Department, 2017

The THCP department functions as an expression of the Tribe's inherent sovereignty by assuming the responsibilities over cultural resources preservation within the Tribe's jurisdiction (Figure 1). As a liaison between the Tribe and local governments, the THCPO interacts with both elected and traditional Tribal leaders, museums, institutions of higher education, and private and professional organizations for the purposes of managing, protecting, and preserving cultural resources. In order to perform its duties, the THCPO must maintain a current knowledge of all laws, policies, and procedures relating to cultural resources, and must obtain an understanding of the local history and land.

The THCP department operates as an expression of the Tribe's inherent sovereignty by assuming the responsibilities of cultural resources preservation within the Tribe's jurisdiction (Figure 1). As a liaison between the Tribe and local and state agencies, the THCPO interacts with both elected and traditional Ferndeño leaders, museums, institutions of higher education, and private and professional organizations for the purposes of managing, protecting, and preserving cultural resources. In order to perform its responsibilities, the THCPO must maintain current knowledge of laws, policies, and procedures relative to cultural resources, and must obtain an understanding of the local history and land.

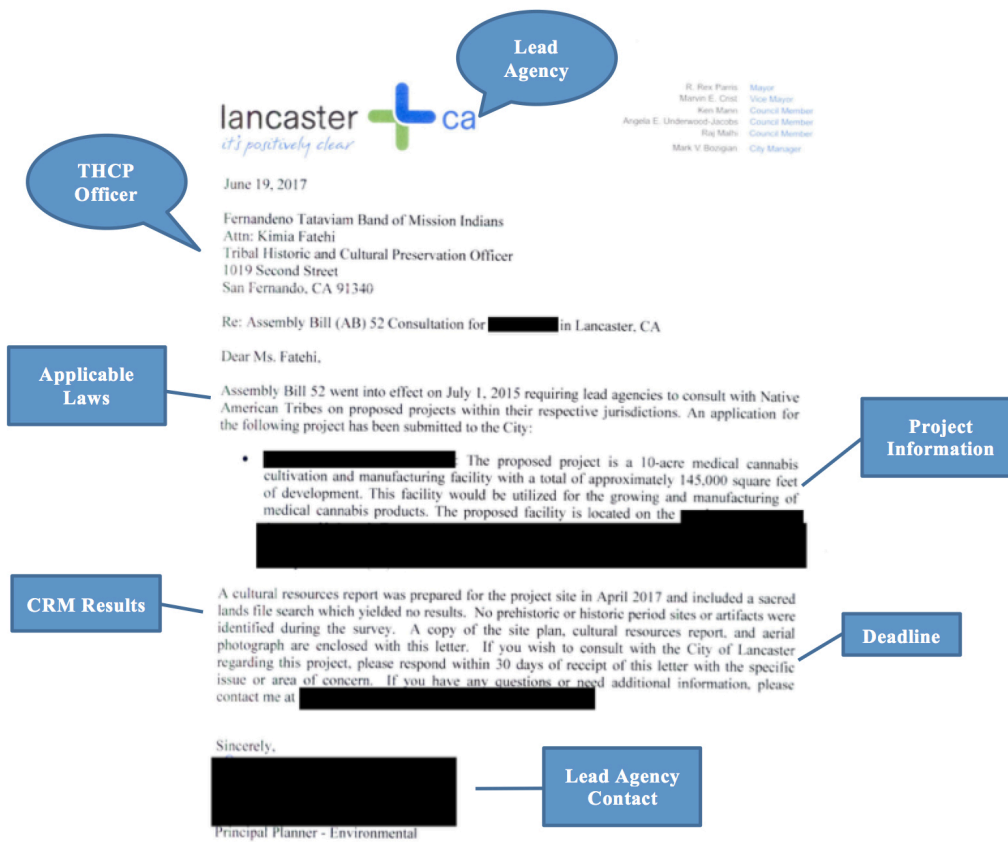


Figure 13. Sample of Notification Letter to THCP from lead agencies regarding a proposed project. Used with permission of Tribal President Rudy Ortega Jr. Courtesy of Fernandeno Tataviam Band of Mission Indians, 2017.

Principally, the THCPO receives, reviews, and responds to local government requests for information on the presence of cultural resources for properties to be impacted by the projects they manage (Figure 13). If the project is located in an area believed to contain TCRs, the THCPO seeks to consult with the lead agency to protect them. Following their request for consultation, the THCPO researches, collates, and presents evidence of TCRs to the lead agency, and is responsible for submitting mitigation measures that would potentially eliminate, or significantly reduce, impacts to TCRs. Hence, the THCPO is the principal communicator between the Tribe and local governments when consulting under CEQA. In their capacity as

cultural resources representative, the THCPO reports to, and engages with, the THCP Committee and Elders Council, and coordinates public Tribal hearings for projects that request the formal support of the Tribe.

Among these assignments, the THCPO also performs all clerical work pertaining to the THCP department as well. This includes, but is not limited to; reviewing and documenting all project notifications within the Tribe's database, communicating, recording all communication, with lead agencies, collecting and storing non-sensitive cultural information and archaeological sites, collecting reports submitted to the department by Native American monitors, producing end-of-project reports for projects that retained a Native American monitor, and more.

Additionally, the THCPO manages on-ground Native American monitors, inspects projects during excavation activities through site visits, maintains consistent communication with multiple project excavation teams, and follows up on all projects that have engaged in Tribal consultation. In their capacity as defender of TCRs, the THCPO should hold some background in archaeology in order to review and respond to archaeological reports, and must understand cultural, archaeological, construction, and legal terminologies.

Finally, the THCPO organizes monitor training workshops for Native American monitors (Figure 14), and opportunities for Tribal citizens to engage with cultural resources that have been donated to the care of, or procured by, the Tribe. Additionally, the THCPO is the principal NAGPRA coordinator for the Tribe and is responsible for locating, and pursuing, cultural resources curated at museums or other facilities. Under both CEQA and NAGPRA (*see* Chapter Two), the THCPO interacts with TCRM representatives of local federally recognized tribes whose territories overlap with the Tribe's, and with these projects in shared territories, partners

with other local tribes to share concerns on behalf of their respective Tribal governments. If a

project area is

understood to be in

traditionally shared

territory, but under the

contemporary

jurisdiction of one tribe,

the TCRM

representatives

determine which tribe

will take the lead as the

principal consulting

tribe, which is not

mandatory, but

sometimes preferred by

the tribes. Hence, the

THCPO regularly

interacts with neighboring TCRM departments, including the Tribe's northern Kitanemuk

relatives, the Tejon Indian Tribe, and its eastern Serrano relatives, the San Manuel Band of

Mission Indians.

What eventually became the 'THCP department' was developed under the leadership of

Ortega Jr as direct result of the long-term preservation efforts of Ortega Sr. and Charlie Cooke,



Figure 14: Alan Salazar displays obsidian projectile point created in a workshop on lithic production for Native American Monitors led by Dr. Matthew Des Lauriers, Archaeologist. March 25, 2017. Photo by author and used with the permission of Alan Salazar.

and in response to the need for consistent consultation due to the increased quantity of projects taking place within the Tribe's jurisdiction. Through implementing the professional consultation approach of his father Ortega Sr. and the additional cultural resources expertise of Charlie, Ortega Jr. continued the demand for consultation with developers throughout the 1990s. "The hard part is having other governments respect our Tribal government," comments Ortega Jr.. Without the respect of local and state agencies, consultation with the Tribe is reduced to a checked-off requirement as opposed to meaningful discourse. After almost two decades of professional consultation services, the Tribe has gained the limited trust and respect of agencies, but with no guarantee of its permanence.

EXTERNAL PROJECTIONS ONTO TRIBE

The politics of visibility are complex, especially in a metropolitan area like Los Angeles County where the public community has pre-conceptualized ideologies of indigenous peoples and the media of Hollywood perpetuates the fetishization of Native American cultures. This being the case, widely oversimplified ideas of how Native Americans *should* engage in TCRM are projected onto the Tribe in many ways. Harmful narratives are supplemented by Western tales that dangerously romanticize the Tribe's sensitive relationships to the natural and human environments. Such is the case with the "Lost Village at Encino" (*see* Chapter Four), where contemporary practices, and use of the land, by descendants were expropriated by those who viewed Native Americans in a particular way. These narratives pigeonhole the Tribe into a category that holds little room for alternative paradigms.

In many cases, projects that were established prior to the implementation of AB 52 did

not necessarily engage in Tribal consultation or uphold a review of impacts to tribal cultural resources. With its jurisdiction being heavily occupied by expanding development, the Tribe values members of the public who alert the THCPO to projects that surpass proper and diligent evaluations of impacts to the resources. Local archaeological, historical, and environmental groups often contact the THCPO with positive intentions and have drawn awareness of projects that may have otherwise led to irreversible damages to TCRs should the tribe not have been notified and ultimately intervened. However, many activists seek to manipulate the Tribe's history to benefit their own, irrelevant notions or causes. Public calls to the THCPO have included the following: *'You're really going to let your land get developed?,'* *'There's probably a village nearby, you can't let them build here!,'* and *'Just think about your ancestors!'* Meanwhile, these same individuals vocalizing such discontent do not necessarily recognize their own occupancy on the Tribe's territory, and end up appropriating the Tribe's history to trigger its citizens emotionally.

To the Tribe, full opposition to land-altering activities, or development projects, requires careful consideration. Backing its opposition through research, legal actions, or spreading information to public interest groups, is costly and takes considerable time and energy. Having been involved in professional TCRM for decades, the Tribe favors expressing its concerns proactively, timely, and in collaboration with project managers, ultimately benefits its community and preserves its invaluable resources more effectively than outright denunciation. Therefore, first and foremost, the Tribe seeks to engage in consultation to protect its natural and cultural resources. If the THCPO determines that the project will dangerously or unethically impact TCRs irrespective of mitigation measures, the Tribe will forthrightly oppose the project

to protect them. To evaluate each case and its potential impacts to TCRs, the Tribe invites all involved and interested entities, including the staff of the THCP department and members of the public, to attend a Tribal hearing hosted by Tribal senate. Ortega Jr. shares;

“If a local suburban neighborhood is opposing development within their City, that’s when the outside community will reach out to us. They will not request our comments or opinions for any other matter unless it aligns with theirs. And they are very quick to label us as ‘sellouts.’ We are useless unless we meet their needs as ‘Indian,’ which to them is synonymous with ‘radical environmentalist.’”

Such stereotypes depict the Tribe as incapable of negotiating, or consulting for the protection of cultural resources, and reduce its positionality within the landscape to an ethnic or minority group rather than an autonomous government and sovereign body.

In the 1970s, Charlie and Ortega Sr. were confronted with a multitude of scenarios that demonstrated how deeply erroneous stereotypes of native peoples were embedded into Western culture, and how carelessly those stereotypes were flouted as pretexts for independent and/or selfish purposes. For example, environmental activists would falsely claim that archaeological sites existed in an area solely to slow developments down, to which Charlie showed disdain and no support for (Gordon 92).

“The situation was worse early on. Now, many activists try to mask their concerns by telling us that they’re worried about the ‘environment’ or ‘disturbing our villages’ ... It’s very rare that someone accidentally tells us that they want the tribe to support them because the development is too ‘modern looking’ for their neighborhood,” comments Ortega Jr.

In many cases, public opposition to development is rooted in disdain for aesthetic changes to their neighborhoods and/or fear of incoming communities. Regardless of these unrelated reasons, situations do arise where activists bring development projects to the THCPO’s attention, even if

for unrelated reasons. Therefore, the Tribe remains welcoming to outside concerns and notifications, so long as they do not aggressively seek to overshadow the Tribe's own inherent right to govern, and make decisions, over the resources.

CHAPTER SIX

DISRUPTIONS TO TRIBAL CULTURAL RESOURCES PRESERVATION

AB 52 requires local governments to consult with California Native American tribes when evaluating a development project's impacts to natural and cultural resources. Prior to the bill's passing in 2015, the Tribe had limited access to establishments available to engage and consult with. Specifically, the Tribe was restricted to consulting with environmental consultants, or CRM firms, consisting of individuals considered to be resources 'experts'. During this time, Tribal President Rudy Ortega Jr. firmly believed the Tribe should consult on a government-to-government level with lead agencies, rather than provide its expertise to subsidiary firms and/or professionals that could either exploit or belittle those knowledges. Although the Tribe sought representatives of local governments to consult directly with its TCRM department, local government representatives would often abruptly re-route the Tribe to the project's CRM firm. As result, the Tribe became loosely categorized as a public special interest group, a check off box, rather than a sovereign government entitled to enter all discourse related to cultural resources, on a governmental and lead agency level. Consequently, the Tribe's concerns regarding potential impacts to resources were only entertained sporadically, being dependent on the political climate of the local government and/or the opinions of the environmental consultants retained for the project. To compensate for this, TCRM volunteers strove, indefinitely and incessantly, to reach, and receive cooperation from, local government representatives not required to communicate with the Tribe, let alone disclose project

information unavailable to the public.¹⁷ More often than not these efforts proved fruitless. In order to gain access to project information not already available online, TCRM volunteers had to adhere to the lead agency's policies for attaining public records, which generally required the volunteers to physically visit offices, and pay for access and copies of the desired records (Appendix A). Data gathering thus swiftly became costly for volunteers reviewing hundreds of projects per week.

Although consultation is now *welcomed* under AB 52, that has not necessarily resulted in California Native American tribes being fully integrated into the system, nor in their being given the means to maintain engagement. While AB 52 is a positive amendment, there still exist significant setbacks that negatively affect Tribal participation in the reformed consultation process. This chapter addresses the four most prominent disruptions that thwart the Tribe's process of TCRM under CEQA.

DISRUPTION #1: CONSULTATION DOES NOT GUARANTEE PROTECTION

The first major disruption to the recently institutionalized form of TCRM is the fact that consultation does not necessarily guarantee protection of TCRs.¹⁸ The Tribe may expend hours of energy and personal resources towards consultation in order to protect TCRs, without any assurance that the TCRs in question will even be considered for protection by the lead agency; the same local governments that they have fought for the opportunity to consult with directly for

¹⁷ I use "TCRM Volunteers" in the past tense because, prior to AB 52, the position of the Tribal Historic and Cultural Preservation Officer was an unpaid position. Once the Tribe's partial solution for funding deficiencies gained traction after AB 52, around 2015, it supported the payment of what would otherwise be TCRM volunteers. Therefore, while volunteers are still involved in many ways, the principle TCRM contact is a funded position.

¹⁸ By "protection," I mean that a lead agency has the authority to enforce mitigative measures to a project in order to reduce impacts to resources or areas of concern.

decades. There is no universally understood and applied interpretation of TCRM consultation, because there are significant variations among its manifestations in the Tribe's interactions with representatives of different local governments, who can also be called *principal project managers* or *planners* (collectively referred to as "planners"). However, the basic concept can be outlined as follows; generally, the process is initiated when the THCPO expresses interest in a project, after which the planner responds and coordinates consultation. During consultation, the THCPO engages in a meaningful dialogue with the planner and submits substantial evidence that demonstrates: (1) there are or could potentially be TCRs present on the project's property, (2) there should be protective measures in place that eliminate the project's impacts to those resources, and (3) those measures should be enforced by the lead agency as a condition of approval of the project.

Formally, Public Resources Code §21080.3.1(a) defines consultation, with a cross-reference to Government Code §65352.4, as a:

"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. Consultation between government agencies and Native American tribes shall be conducted in a way that is mutually respectful of each party's sovereignty. Consultation shall also recognize the tribes' potential needs for confidentiality with respect to places that have traditional tribal cultural significance.

This modern, set definition of consultation's essential components is important because it encourages the replacement of the practice's previous status quo with its more progressive form. Lead agencies must pursue, to an extent, the Tribe for consultation, as opposed to allowing the Tribe's historic pursuit of the lead agency to remain the regressive standard. The manner in which Tribal consultation takes place is dependent on scale of the project, and may range from

an e-mail exchange to a series of in-person meetings with multiple project entities, including but not limited to, the planner, applicant, and CRM firm, and can span weeks, months, or even decades. Additionally, while AB 52 advocates for the recognition of Tribal sovereignty and superior knowledge base, there are no requirements for local governments, or their planners, to heed the facts and better informed judgments the Tribe offers. Additionally, political stances towards tribes fluctuate constantly, and dictate the level of local government-to-government engagement obtainable to them. Consultation “in good faith” (PCR §21080.3.1(a)) with tribes is now only recommended, but planners are not obligated to uphold this recommendation, and may put forth minimal effort, rather than legitimate consultation, without repercussion for their negligent actions. Therefore, even though there exists no common template for consultation, the paradigm of what it *should* be is discernible to tribes consulting, or being welcome to amicable and respectful discussions, and being so, consultation not practiced in good faith is equally apparent.¹⁹

Consultation currently occurs principally between the Tribal and local government. Nonetheless, the THCPO oft invites the participation of other parties in the consultation process that might positively enhance, or expose the flaws of, the planner’s interpretation of TCRs, as well as support that the Tribe itself is fully informed of TCRs on the project property. Among these entities are the CRM firms retrieved by the lead agency to evaluate a project’s impacts to archaeological and paleontological resources. CRM-driven investigations include, but are not limited to, the following: (1) a records search of cultural resources through a preliminary literature review at the South Central Coastal Information Center (SCCIC) at California State

¹⁹ This is not to say that a universal form of consultation should exist, or that it would pose a potential solution to the problem. I only mean to show that consultation can be as unique as each individual project it seeks to review, and therefore, a collective statement on how “successfully” or “unsuccessfully” it occurs is virtually impossible.

University, Fullerton, which comprises of the California Historical Resources Information System (CHRIS), and over 7,000 prehistoric and historic archaeological site documents, (2) a Native American Sacred Lands file review that locates cultural resources within the project's boundary if already filed in the NAHC records, (3) additional consultation with California Native American Tribes, and (4) a pedestrian field survey of the project's property to evaluate the potential sensitivity of the land, and bases its conclusions on the discovery, or lack thereof, of surface deposits and/or other evidence that suggests the location is a potential cultural/archaeological site.

As advocates of local material culture with extensive backgrounds in science, those employed by CRM firms provide advice to lead agencies on how to protect resources, if those resources are identified, and consequently, at risk, by proposed land-altering activities. These recommendations usually adhere to one of the following rubrics: (1) that the project has the potential to disturb cultural resources, and that a qualified archaeological monitor should be retained for soil disturbing activities, (2) that the project has the unlikely potential to unearth cultural resources, but if any unearthing of ambiguous materials should happen during the course of development, a qualified archaeologist should be called to evaluate the finds immediately, or (3) that a project places no risk to cultural resources, and that no recommendations are necessary. Rarely are tribes incorporated in these mitigation measures to view, assess, or retrieve discovered TCRs, as professional experts and/or direct descendants of those materials. Since tribal cultural expertise is not contained in information centers or transmittable records, consulting with tribes directly is central to reducing impacts to TCRs. Including CRM firms in consultation with planners presents an opportunity for the THCPO to improve understanding across the board, and

amenably educate CRM archaeologists open to additional guidance on methods to optimally interpret local indigenous history.

Once the THCPO engages in consultation, they divulge detailed information regarding the potential presence of TCRs. However, as has been noted previously but is integral to reiterate, consultation does not mean protection of all resources is a given, even if they are proved indubitably significant to the Tribe. A tribal cultural resource is currently described as any site feature, place, cultural landscape, sacred place or object, which is of cultural value to a tribe, *and* is one of the following: on or eligible for the California Historic Register or a local historic register, *or* the lead agency, at its discretion, chooses to treat the resources as a TCR (PRC 21074 (a)(1)(A)-(B)) (Roberson 2014). Thus, although the category of resources has expanded, the THCPO is still subject to external eligibility mandates to be considered for lawful protection. Ultimately, if the resources fail to meet those requirements, the lead agency assumes authority over the final determination on their significance, and thereby the protection warranted of the TCRs. Therefore, it is key for the THCPO to persuade the lead agency that TCRs exist in accordance with the accepted domain, are incontrovertibly significant, and thus qualify for protection from proposed land-altering activities. To this effect, the THCPO submits a wide variety of evidence to the lead agency, both sensitive and/or public in nature, regarding the potential presence of TCRs, during consultation. Yet, there remain no guidelines to standardize or supervise the lead agency's interpretation of that information, nor control over who is authorized to interpret it. As such, the THCPO may invest enormous amounts of time and funding into *proving* something known or unknown exists, only to have someone without, possibly, any professional qualifications, or ancestral ties to the resources, analyze that data, and

thus potentially render the proof it proffers meaningless. With no guarantee that their meticulously compiled information will be positively accepted as “substantial evidence”, or even correctly computed, under AB 52, the THCPO becomes stuck in a catch-22. This frequently triggers the second disruption to TCRM: the difficulties of supplying concrete “substantial evidence” that TCRs exist to local governments whose prerequisites for qualifying that evidence vary and change continuously.

DISRUPTION #2: NATIVE AMERICANS ARE EXPECTED TO PROVE THE KNOWN AND UNKNOWN

The second disruptive element inhibiting TCRM today is the expectation for tribes to prove TCRs exist within a project’s boundary, regardless of whether the actual existence of those resources is known or unknown. If, generally, the Tribe is certain cultural activity occurred on or near the project property, some local governments still expect the THCPO to demonstrate that a physical resource will be corporeally impacted in order to justify their request for mitigation. This is highly problematic because urban development has suffocated many local cultural sites and left them, along with the now hypothetical TCRs enshrouded there, irretrievable to the Tribe for centuries. Furthermore, unknown resources continue to be buried without ever being identified, let alone recovered, as the “substantial evidence” of their existence beneath the surfaces that is required to protect them is nigh impossible to obtain. Additionally, cultural sites that have been untouched by development, and thus suspected to contain TCRs, checkerboard the region, but have remained inaccessible to the Tribe due to restricted access, or the openly hostile attitudes towards the Tribe for contemporary Tribal use from property owners. It is thus

illogical to assume the Tribe can acquire proof of TCRs from locations it has had severely limited access to for hundreds of years. Therefore, the THCPO is faced with endless, often insurmountable, hurdles just to prove that the known *and* unknown exist, after which they must exemplify further how and why these resources are important enough to be saved from land-altering activities.

In consultation the THCPO is expected to provide “substantial evidence” that affirms TCRs exist *and also* are likely to be impacted. The precise nature of acceptable evidence is believed to be ambiguous by local governments, but AB 52 defines “substantial evidence” as:

“Elder testimony, oral history, Tribal government archival information, testimony of a qualified archaeologist certified by the relevant tribe, testimony of an expert certified by the Tribal Government, official Tribal government declarations or resolutions, formal statements from the THPO, historical notes such as those found in Harrington Papers and other anthropological records” (AB 52 Technical Advisory June 2017).

One would hypothesize that the categorical expansion of “substantial evidence” under AB 52 would increase the THCPO’s success rate in proving resources exist. However, in my direct experience as a THCPO, I have found planners infrequently treat all of the above listed forms of evidence as proof, regardless of what the law recommends. Instead, they request scientific documents that *support* the above listed types of evidence. In my attempts to correct them, and cite the legislature, they frequently involve their legal counsel, and exercise heavy resistance towards engaging, in-good faith, with the Tribe any further. In many cases, empirical data that supplements the THCPO’s evidence is totally unavailable. The Western model of recording and researching information is based in the esoteric ideology that knowledge is a universal right, whereas to the Tribe, physical records are not necessarily preferred or wanted in its domain, which emphasizes the keeping and sharing of information through mental and oral means. The

Tribe's knowledge system is made more complex by the reluctance of specific individuals to reveal some extremely sensitive areas to local governments, due to the fear of potential trespassing by outsiders and enthusiasts. Consequently, consultation itself disrupts indigenous tradition and culture, but in service of the Tribal government, operates to protect them. Thus, consultation is a multi-faceted endeavor that strives to find constructive compromises between mitigation and adaptation.

In some situations, even supplementing a type of evidence laid out in AB 52, such as an elder's testimony, with empirical data, is still insufficient to 'convince' the planner. In one consultation example in the western San Fernando Valley region, the THCPO illustrated that the property proposed for development was bound by cultural/archaeological sites, and therefore, had likely potential for uncovering TCRs. Eight archaeological sites within 0.2 miles of an area should support the fact that the region was heavily utilized by indigenous people, seeing as human activities are recognized to extend beyond a single locus of geographical coordinates. Additionally, the lands have been utilized for centuries; Native Americans did not disappear upon settler arrival. In the local area, the lineage-village communities continuously reclaimed the lands through the Spanish, Mexican, and American periods. However, because the project property fell in a gap area that a CRM firm identified as having 'no archaeological significance', the lead agency refused to consider the THCPO's supporting evidence proving TCRs. Essentially then, to effectively convince lead agencies that TCRs exist, the THCPO must constantly modify and match the types of evidence they compile and present, according to the individual expectations of each individual planner in each individual case. Although the THCPO stands their ground in support of Tribal knowledge, if they do not convince the planner of a site's

significance, then the lead agency has the authority to undermine the THCPO's recommendations based on their own arbitrary pre-requisites, and as result, TCRM can be stalled and/or halted altogether. In such scenarios, the third disruption to TCRM is often incited: the issue of archaeological data being valued higher than Tribal knowledge.

DISRUPTION #3: "BUT THE ARCHAEOLOGIST SAID ...": A HIERARCHY OF KNOWLEDGE

The third disruption to TCRM occurs when archaeological evaluations take precedence over those completed by the THCPO and/or Tribal citizens. The reverse prioritization is that which warrants adherence to: archaeological data, if considered, should be recognized as supplementary to Tribal knowledge. For years, tribes have sought and struggled to obtain, tell, and/or protect their past (Watkins 432), and these goals sometimes depart from those common in archaeology. Historically, the field of archaeology neglected the desires and requests of Native Americans, and was built upon foundations that privileged Western knowledge and interpretation systems (Atalay 280) in the study and survey of the local material culture. Archaeological investigators historically used Native Americans as "interpreters, guides, and laborers, and viewed [them] as sources of labor and information" (Charles 31), without consideration of their inherent expertise. Consequently, a dichotomy was established in which archaeology as a discipline functioned separately from the people whose past it studied (Watkins 432), with the opinions of the archaeologists taking precedence over those of the Native Americans . The ripples of these historically disproportionate power dynamics are still felt today. Alan Salazar shares:

"If an archaeologist dropped a trowel in the ground, say, 50 years ago, and we uncover it

today, *that's* [emphasis added] when you can call the area an archaeological site. Until then, these places are *Native American* [emphasis added] sites. They are Tataviam sites. They are village sites, habitation sites, food-processing sites. To call these things "archaeological" is to say that our heritage *belongs* to archaeology. It doesn't. No one gives us credit. Not even our own ancestors can be ours" (Salazar).

As a Native American monitor, Salazar has experienced projects in which TCRs have been uncovered on lands tied directly to his heritage, and yet, the archaeologist's recommendation over the handling and treatment of the deposits was given priority over his own. For Salazar, the most frustrating part about being a Native American monitor has been the lack of academic initials, and thus status, following his last name:

"We, [Native Americans], are not viewed as equals... I don't have many regrets in life, but not finishing and getting a degree- to be thought of as more legitimate - it would have been more helpful."

He finds that, although he is a respected elder with some formal education in archaeology and over 20 years of field experience, his analysis might still be placed second to someone with neither his personal affiliations, nor professional experiences, simply due to his lack of formal education in archaeology.

In direct resistance to power inequalities, tribes have fought to protect, manage, and study their own heritages independently, which has initiated "*Indigenous Archaeology*," (Silliman 218) or archaeology for and by Native Americans. Indigenous archaeology recognizes and respects potential differences in worldviews between Tribal and archaeological communities, without demanding that they be different (Silliman 218). Rather, it requests that researchers honor the historical exploitations of Native Americans instead of the scientific commitments of the archaeological field (Silliman 218). It also calls for a reform of the power dynamics between

Native Americans and researchers, and creates bedrock for an anthropological discipline that recognizes sovereignty and offers a nexus to improve inter-community relationships with. Unless operated by a tribe, CRM firms do not usually practice ‘indigenous archaeology’, and are not required to do so when hired to evaluate projects. Contrastingly, lead agencies do not require the archaeologists they employ to even be trained in, or have a formal education on, the local material culture. These CRM firms are not required to have an understanding of Tribal protocols, extend invitations to the Tribe to participate in cultural/archaeological investigations of properties, or consider the Tribe when disposing of artifacts. To date, the THCP department has yet to encounter indigenous archaeology being practiced under CEQA by CRM firms, but seeks to integrate those methods into the future handling of TCRM, once funding sources are stabilized.

CRM has not always stressed the participation of Tribal communities. The historic controversy over who owns the past has led to legislation that is insensitive to the needs and desires of Native Americans; the very, and only, peoples who can trace their ancestries to the resources at stake. As a practice, archaeology still values cultural materials for public benefit at the expense of considering their importance to tribes, while all legal responsibilities of CRM are embedded in federal and state cultural preservation laws that promote Western research and public knowledge over Tribal knowledge. The idea that cultural materials should be shared with the public in order to contribute to a collective understanding of American heritage supports the dubious claim that archaeology *owns* cultural resources. Universal ownership is oftentimes rooted in a theory of logics shared by researchers who prioritize innovative scientific data over concern for the consequences or dangers of producing that data for tribes (Hill 120). The

Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa-470mm; Public Law 96-95 and amendments to it) exemplifies this claim, stating its purpose as being “to secure, for the present and *future benefit of the American people* [emphasis added], the protection of archaeological resources and sites which are on public lands and Indians lands....” These parameters lack any mention of the significance of cultural resources to Native Americans, and in addition to this exclusion, emphasize *public* rights to *particular* knowledge funds. This message is reinforced by the Society of American Archaeology’s principles of archaeological ethics, dated 1996. Of the eight principles, the first reads:

“Stewards are both caretakers of and advocates for the archaeological record for the *benefit of all people* [emphasis added]; as they investigate and interpret the record, they should use the specialized knowledge they gain to promote public understanding and support for its long-term preservation” (Principle No. 1).

It is not until the fourth principle that Native Americans are even acknowledged, and, moreover, their first reference is condescending, conveying them as an ethnic group that archaeologists should “reach out to” (Principle No. 4), rather than citizens of sovereign governments they are obliged to consult with and include in all of their ventures. Consequently, the principles archaeologists are instructed to follow definitively relegate a tribe’s recommendations to below an archaeologist’s.

As the cultural resources affairs representative, the THCPO engages with CRM archaeologists in a multitude of ways. After CRM archaeologists conduct assessments of a property’s cultural/archaeological sensitivity through surveys and archaeological reports, the THCPO reviews and comments on them. Such reports directly influence planners considering the cultural resources mitigation to be enforced onto a project. If archaeologists fail to identify

cultural/archaeological resources, then a lead agency will not require measures to diminish potential damages to them. However, failure to locate deposits during preliminary record searches and pedestrian surveys of the project property does not eliminate the potential for uncovering resources during soil disturbing activities. When projects occur on native and undeveloped soil, or developed land that has been ‘sealed’ for years, sometimes even a century, local governments are often influenced to believe that the land is void of cultural significance. Although recognition of Tribal knowledge and expertise is encouraged under AB 52, lead agencies still tend to hold archaeological evaluations in higher regard. In general, planners tend to recognize the comments of CRM archaeologists as factual, and those of the THCPO as biased, abstract, or emotionally-driven. In many cases, when the THCPO contradicts the CRM archaeologist, lead agencies respond with something along the lines of:

“But the archaeologist said the project will have no impacts to cultural/archaeological resources. We need you to submit proof that a TCR is buried and/or present on the property.”

Convincing the lead agency to contemplate the THCPO’s requests or judgments as seriously as they would those of ‘scientific professionals’, is timely, costly, and many cases, ultimately disappointing and ineffectual. Thus the opinions of CRM archaeologists directly influence lead agencies on both their determination on whether a project will impact TCRs, and the degree to which they will legitimize Tribal knowledge, often at the expense of the Tribe’s own influence.

As it currently stands, CRM firms are perceived by the public to practice archaeology in good faith, champion the protection of all sites regardless of their scientific significance, and advocate for Native American involvement at all stages. This is in fact merely the paragon of the ideology they should work to uphold while influencing lead agencies to properly interpret the

human history of the local environment and the land. For, as in any profession, the attitudes towards the practice fluctuate, are oftentimes dependent on the individual professionalism and moral codes of each specific firm's staff, and unfortunately vary in their subscription to the ideal. Although a CRM firm is intended to have the resources' best interest at heart, the training of their principal investigator heavily dictates the quality and breadth of data produced, and thereby can be detrimental to TCRs when incompetent or ill-informed. This threat is amplified by the allowal of CRM firms to employ archaeologists that lack general knowledge of the local material culture, appropriate training, and/or bare-minimum execution of archaeological services in the field. Essentially, there is no contemporary solution for holding CRM firms accountable when they fall short of legal compliance or ignore the law's essence (Martinez and Teeter 28), nor are there consequences that could compensate for the potential loss of TCRs due to archaeological negligence. Compounding this issue is the lack of high standard archaeological training demanded by a CRM firm from prospective employees hired to conduct CEQA work. While archaeologists who may have no archaeological experience at all, or no experience in the region they are working, continue to be permitted to lead as authorities over TCRM matters without consideration of Tribal knowledge, it will remain exceedingly difficult to reform the practice.

Today, the Tribe encourages the THCPO to value the expertise of archaeologists, so long as they are respectful of, and inclusive to, the tribal cultural expertise of its citizens.²⁰ Beverly Folkes believes the situation between Native Americans and archaeologists are better now than they were in the past. She recalls a time when archaeologists uncovered and destroyed burial

²⁰ As in any profession, the goals and attitudes of archaeologists are as diverse and varied as the materials they study. My goal is not to generalize any professional or field in which they work. It should not be assumed that all archaeologists support unequal power dynamics with Tribal communities, or that archaeologists are non-native, for that matter.

sites without notifying or consulting with the Tribe (Folkes). As a practice, she values archaeology and the scientific expertise of archaeologists by advocating for their presence in the field to monitor alongside Native American monitors, but is unsettled by the fact that her suggestions are sometimes placed second to an archaeologist's (Folkes). Another frustration occurs when, without respect for Tribal citizens and knowledges, professional researchers working for CRM firms aggressively attempt to "educate" Native Americans and presume to tell the Tribe it's own story (Beverly Salazar Folkes, personal communication, July 17, 2017). Ultimately, Beverly believes that archaeologists' respect for the Native American people they encounter and work with, is not only critical but should also be an obvious given, considering how archaeologists would not have their professions at all, or at least not in the local area, if it were not for the materials left by her and her tribe's ancestors (Beverly Salazar Folkes, personal communication, July 17, 2017). Similarly, Alan Salazar's professional experiences with CRM archaeologists have also improved, although he recognizes that his goals still do not always align with theirs (Salazar). He shares:

“(my feelings) have definitely evolved (towards archaeologists). For one, I’ve been doing this long enough that if I’m out in the field and I find something, and I take it to the archaeologist (on-site), I’m literally just asking for their *opinion* [emphasis added]- and that’s it.”

These sentiments are shared among Native American monitors who encounter archaeological investigators in the field that trivialize constitution of meaningful relationships with the Tribe. As long as archaeologists respect the peoples tied to the materials they study, so will Tribal leaders and representatives, such as Rudy Ortega Jr., Ted Garcia Jr., Alan Salazar, and Beverly Folkes, keep hoping that the unequal power dynamics between their inter-community relationships will

continue to improve.

Today, many professional academic and/or CRM archaeologists practicing in the local area have already established meaningful relationships with the Tribe. For years, they have championed the protection of cultural resources and assisted the THCPO with supportive corroboration at the Tribe's request. For example, should the THCPO take issue with a CRM firm's methods or reports, local archaeologists that are friends to the Tribe will provide letters of support for an archaeological re-evaluation of the property. Therefore, membership in both archaeological and Tribal communities does overlap, and sets a positive precedent for future perpetuation of meaningful collaborations between the two groups. For years, many local archaeologists have voluntarily provided lectures, Native American Monitoring training courses, and workshops that aim to funnel archaeological information to Tribal citizens. Curator of Archaeology at the Fowler Museum at UCLA Wendy G. Teeter, and California State Parks Archaeologist Barbara Tejada, are among the many who have contributed extensive archaeological-based assistance to the Tribe regarding countless matters. Others, such as archaeologist Albert Knight, have generously donated collections of archaeological reports, books, and materials to the THCPO. Therefore, amid the fluctuating relationships between the THCPO and archaeologists are some that are resolutely celebrated by the Tribe. However, situations that favor the significance of archaeological evaluations over those constructed from the Tribal point of view, and willfully ignore the truth that archaeology does not have all the answers or ownership, disrupt TCRM tremendously.

DISRUPTION #4: NATIVE AMERICANS ARE (STILL) EXPECTED TO PROVIDE FREE LABOR

The fourth disruption posed to TCRM is the expectation that Native Americans ought to provide consultation services for free. Currently, projects are not required or even encouraged to compensate tribes for their tribal cultural expertise. As a result, more often than not, Tribal-information is supplied at no cost to the applicant, yet the Tribe is still considered a stakeholder of a project because the potential gain of TCR protection is looked on as equivalent to financial compensation for professional services given. While the protection of resources is the Tribe's ultimate goal, it cannot fund or fuel the staffing of a THCPO or the running of a TCRM department. In addition, with consultation not being a secure avenue of translating Tribal-information into enacted mitigation measures or TCR protection, the already weak investment is exposed to receiving no financial pay-off whatsoever. Seeing as once the THCPO submits information to the lead agency, it is then at the full discretion of the lead agency to determine if the evidence qualifies as proof, all out of pocket expenses channelled into TCR protection is at risk of achieving absolutely nothing. In other words, an unbalanced reciprocal transaction occurs in which Tribal knowledge is provided in exchange for the *opportunity* to simply *request* mitigation measures that protect resources, without any security that the measures will ultimately be adopted, or compensation for other services, expertise, or suggested improvements contributed to the project.

This abstention of due compensation becomes further unjust when the following is taken into account: expertise of tribes arguably reduces costs for a project. If local governments

conclude that the THCPO's evidence supports the implementation of measures that reduce the project's impacts to TCRs, then the project directly benefits by planning for and/or eliminating unforeseen costs via the acquired knowledge. If the applicant avoids or lessens impacts to cultural/archaeological areas, the project profits by eliminating large archaeological-based costs that would ensue had construction disturbed those resources after development began (Rudy Ortega Jr., personal communication 2017). To clarify, if unknown TCRs are uncovered during land-altering activities, archaeological monitoring and testing of the area containing those TCRs, with the Tribe's oversight and monitoring of those activities, will likely be initiated immediately. Moreover, if the project did not appropriately plan for the discovery of TCRs, it could be placed on hold until issues are resolved. These situations are expensive and can be avoided with thorough consideration of the Tribe's invaluable information during earliest stages of development. Of course, if an applicant avoids culturally significant areas altogether, then they would also entirely avoid these additional costs to their project.

To put it plainly, conducting professional consultation services at the expense of a tribe's accrued resources, in lieu of having the debt fall on the project itself, is pure exploitation. To the same effect that archaeological, paleontological, or biological consultants are compensated, California Native American tribes, whose bonds with resources are constantly at stake as result of land-altering activities, and whose efforts to protect those resources are contingent on the soil-disturbing processes of development, should also be compensated for their consulting services. Whether it is through consultation with the lead agency or correspondence with the CRM firm, Tribal knowledge enhances and/or streamlines the environmental investigations mandated under CEQA. If CRM firms are funded by projects to conduct research for a range of

environmental topics such as cultural/archaeological resources, then the tribe(s) affiliated with those resources should receive a percentage of those allocated funds for their intellectual properties.

Consultation is costly for tribes. In one contemporary project, development is projected to disturb approximately one-half a million cubic yards (cy) of soil on *Paskenga*, now known as Sylmar, California. In 2016, the THCPO engaged with this project planner by submitting a formal request for consultation, sharing ethnographic publications that suggested the property was part of a village, and requesting that Native American monitoring be adopted as a mitigation measure. The lead agency then requested *additional* proof of TCRs on the project property; a property that has been inaccessible to the Tribe for centuries. A full year after the THCPO submitted its evidence, the lead agency replied:

“The information provided pursuant to the formal consultation process is not specific **nor does it demonstrate that a TCR exists within the project site** [emphasis added]. Without evidence of the likely existence of TCRs in the project area, the [Lead Agency] is unable, nor is the [Lead Agency] required pursuant to AB52, to implement the mitigation requested by Tataviam [a.k.a the Tribe]. Therefore, since there are no known TCRs within the project area, the [Lead Agency], acting in good faith, hereby concludes consultation.”

The THCP department interprets ‘consultation in good faith’ under AB 52 as a series of meaningful dialogues between the planner and the THCPO on the history of that land, the potential for disturbing resources, along with the understanding that certain types of proof are circumstantially non-tangible. However, the planner is able to manipulate the phrase as grounds to reject the submitted evidence, in a letter, one year in the making, they distribute to forcefully conclude consultation. Furthermore, despite the legislature that they themselves quote encouraging Tribal-centered documents to be considered, this lead agency still utilizes the CRM

firm's assessments as their sole justification to discredit that presented by the THCPO. In addition, the planner recommends explicitly that "Tataviam assist the [Lead Agency] by specifically identifying TCRs within the boundaries....", without, of course, considering their assistance to be a *service*. Yet there is no compensation for the Tribe's services to the planner or project as a whole thus far. The THCPO is thereby denied funding to locate and provide additional proof to counter the results of the CRM firm. Were projects to compensate the Tribe, then it could at least financially secure the staff and means to produce the types of Western-conforming data expected by local governments whose expectations remain unregulated.

Nevertheless, CEQA does not prevent tribes from seeking compensation. Section 21089

(A) states:

"A lead agency may charge and collect a reasonable fee from a person proposing a project subject to this division in order to recover the estimated costs incurred by the lead agency in preparing...an environmental impact report ('EIR') for the project."

Lead agencies such as the County of Los Angeles collect upwards of \$20,000 in fees for EIRs. It follows that, if tribes are submitting information to the environmental consultants producing those documents, then a portion of their payment should be allocated to tribes for their contributions. In order to prevent the continued exploitation of Tribal knowledge and people, "positive changes need to be made as to how Native Americans should be employed as professional consultants rather than serving as unpaid informants" (Charles 31). As a tribe with limited access to funding, the Fernand o Tataviam Tribe has advocated for all tribes to be respected as paid professional consultants for decades. "Tribes are tribal cultural resource advisers, and as such, deserve compensation for their professional services," says Ortega Jr. Yet,

forty-seven years after CEQA was initiated, there are still no programs in place to guarantee that tribes consulting in California receive compensation for their services. Not having the debt of TCR investigations fall on those actively seeking to alter the land hands the debt over to those working to protect it, which is nonsensical and unfair. Meanwhile, the acceptance of bartering services provided for a chance or hope to achieve a goal is not expected of any other group involved in the project review processes. Ultimately, the work tribes do remains in the category of volunteer work, while Tribal citizens themselves are fixed within the trope of environmental caretakers obligated to saving resources.

Non-federally recognized tribes have limited access to any grants that fund a TCRM department, while tribes recognized by the federal government have alternative solutions to funding issues. For example, only a select number of tribes are eligible to join the National Association of Tribal Historic Preservation Officers (“NATHPO”), whose funds are projected to reach \$87,410,000 in 2017 (“History of Funding”). Tribal Historic Preservation Officers (THPOs) that are members of NATHPO are designated by tribes to direct a program approved by the National Parks Service (NPS) that reflects the roles of the State Historic Preservation Officer, but on Tribal lands (“What is NATHPO?”). Tribes already recognized by the United States government may apply for membership by submitting their formal plans for this program, which details how the THPO will carry out official historic preservation responsibilities. Meanwhile, tribal heritage grants exist that finance the unique goals of federally recognized tribal governments, which include but are not limited to; establishing a GIS system and training, preserving particular sites, and documenting and mapping spaces. The provision of such faculties can mean the difference between obtaining verifiable ‘substantial evidence’ and cultural

information easily dismissed as ‘not specific nor [demonstrable]’ enough to qualify as such, during TCRM. Since funding is provided by federal agencies, such as NPS, in response to federal laws, only federally recognized tribes are eligible to apply or receive them. Ultimately, one is left to wonder: if not partaking in consultation due to lack of funding resources means possibly risking adverse effects to cultural resources, then how do non-federally recognized tribes fathomably practice TCRM without carrying a financial burden?

CHAPTER SEVEN

(PARTIAL) SOLUTIONS: FUNDING OPPORTUNITIES FOR TCRM

As explained in Chapter Six, consultation under AB 52 occurs only when land-altering activities are proposed. Therefore, rightful compensation for Tribal consultation services *should* fall on the applicant, and be the individual or entity proposing the project's responsibility. This chapter addresses the fees collected by local governments, and the fact that no resources are required to be allocated to the Tribal government for its review of projects. It investigates how the Tribe established a system that promotes TCRM, but not at its financial expense, and what the process fully entails. Lastly, it uncovers the direct benefits of funding, which helps support the Tribe's high standards for TCRM.

For decades, citizens of the Tribe have volunteered to provide consultation services without any opportunity for or commitment of payment in return for their services. TCRM volunteers would, and continue to, expend hours of energy during consultation with hardly any reimbursement for the time, expertise, and improvements they donated to a project. Tribal President Ortega Jr. shares:

“The only form of reimbursement for services was through [Native American] monitoring. I felt that that was pushing the level of indigenous intelligence to the very bottom” (Ortega Jr., “Second Interview”).

According to Ortega Jr., monitoring has, in many ways, reinforced stereotypes of Native Americans as being incapable of providing professional consultation services. For decades, applicants have refused to pay for consultation services or modify their projects to the Tribe's requests, but nonetheless agree to hire a Native American monitor for their project's

soil-disturbing activities (Ortega Jr., “Second Interview”). Ortega Jr. recalls:

“The only pay was if the [volunteer got a] monitoring job...[but] that was the culture, which I felt that was wrong because we weren’t really providing the best type of consultation services [because of that]” (Ortega Jr., “Second Interview”).

Due to funding limitations, the Tribe began securing Native American monitoring jobs for its citizens to secure the financial remuneration of TCRM volunteers and protect TCRs through on-ground management. However, the Tribe itself did not solicit a percentage of the funds accrued through monitoring to circumvent placing personal financial burdens on its citizens (Rudy Ortega Jr., personal communication, June 5, 2017). Instead, the Tribe actively pursued consultation, and refrained from engaging in monitoring until its THCP department and policies became fully developed in the 2000s. Thus, the Tribe preferred, prior to 2005, to keep monitoring positions under the autonomy and guidance of Fernandéño Tataviam families, rather than affiliated with the Tribal government (Ortega Jr., “Second Interview”). Since families managed those monitoring jobs, the Tribe did not request a percentage of the profits, and therefore, funding to employ staff in its THCP department was severely constrained. Formal management of Native American monitoring came in 2005, upon development of the Tribal Code, a governing document that set official procedures for its THCP department. Under this governing document, the Tribe established guidelines for both its TCRM volunteers and on-ground monitors.

Although Native American monitoring is a source of funding, it should not be the sole avenue through which Tribal expertise is compensated. In general, Native American monitoring positions produce a variety of concerns for professionals in that field. One such concern being, each monitoring job is contingent on a project’s unique plans for soil disturbance and could last

anywhere from one day to several years. With no guaranteed source of income or promise for employment spanning any explicit length of time, monitors must often uphold regular seasonal or temporary jobs during the periods in which monitoring is not active. Although the process is not standardized, the general method of retaining monitors involves developers contacting local tribes or independent monitoring firms with request for a financial proposal. Upon receipt of multiple proposals, a bidding war ensues in which monitors are pitted against each other and, consequently, encouraged to reduce their pay rates in order to be chosen for the job. Thus, the intelligence and experience of professional Native American monitors are depreciated because the supply exceeds the demand, and once more it is the developer who saves the dollar. Again, Native Americans become labeled as financial burdens, whose presence and services are perceived as ‘a given’. Although Native American monitoring is continuously shaped by the unforeseen circumstances of a project, monitors describe it as a rewarding profession that reconnects citizens with ancestral deposits otherwise vulnerable to adverse impacts. If procured by the Tribe, Native American monitoring generates income for the THCP department in that a percentage of the proposal funds is allocated to financing overhead costs, which include consultation and research. Nevertheless, Native American monitoring is not a financial solution to the neglect of consultation compensation to tribes.

The goal of the THCP department has always been to establish *proactive and preventative* cultural resources protection measures, by identifying sensitive areas and eliminating unnatural disturbances to them. In the era prior to AB 52, Ortega Jr. exercised the political skills learned from his father to advocate for meetings with local governments to share with politicians the need for proactive mitigation. By expressing the need for tribes to engage in

reviews of this scope at the earliest stage of the project, Ortega Jr. hoped to underscore how tribes can work *with* developers, so long as the developer is responsive to the tribes' requests. However, acknowledging the lack of resources on hand to fund staff to take on those consulting roles, and elders who provide expertise to staff, Ortega Jr. sought creative fundraising opportunities.

In the early 1990s, Ortega Jr. began investigating avenues through which to overcome the lack of compensation and funding options available to tribes. He researched how other Southern California Native American tribes were receiving funding resources for TCRM, outside of federal grants, and found that “no tribes were collecting fees for consultation” (Ortega Jr., “Second Interview”). Ortega Jr. also discovered that local governments were charging applicants fees to review their projects, but no tribe in California was known to be collecting a fee for their contributions to one of these review processes. He explains:

“We started working on how we can work with planners and how we can be *proactive* [emphasis added] in providing the best possible guidance (for TCR protection)...We began investigating how counties were reviewing projects and we wanted to mirror that.”

According to the County of Los Angeles' Department of Regional Planning's (CLADRP) Financial Responsibility Form, it is their policy to:

“recover from applicants for land development approvals the full cost of processing such applications, including all time spent by County staff to review, comment, coordinate and communicate with applicants....”(“Financial Responsibility”).

Tribes are also reviewing and processing applications, spending time to review, comment, and coordinate and communicate with the lead agency, CRM firms, and the applicant. Yet the Tribe is not required to receive such a recovery for these identical costs, not even a partial one.

Moreover, CLADRP collects “Environmental Fees” from applicants for reviewing a project's

impacts to the environment, which includes an assessment of cultural and natural resources, which are separate from labor compensation. To receive an initial and/or fully-encompassing environmental review, the applicant must pay between \$1,440 and \$10,000. Furthermore, CLADRP collects additional fees for the particular TCRs evaluated for impacts. Take the oak tree, as a specific example, perhaps the Tribe's most valued and sacred natural resource. Oak trees have long provided acorns, a dietary staple and important food source, to the Tribe, and as expected, other TCRs are thus often discovered near this resource. Whenever an oak tree is deemed by the Fire Department as incumbent to be reviewed, the CLADRP collects a fee per the number of trees to be examined, which ranges from \$245 to \$1,124, as of 2017. The CLADRP also collects a fee for Oak Tree permits filed for oak tree removals, which ranges between \$999 and \$5,546. The Tribe's relationship to oak trees dates far before the arrival of settlers, and yet, tribes are not being compensated to review their potential removals by projects.

In CLADRP's Environmental Assessment Form, the applicant must agree to an archaeological disclaimer that reads:

"Under the discretion of the Dept. of Regional Planning, proposed projects may be forwarded to the Archaeological Information Center for consultation regarding potential impacts to historical and cultural resources, in order to assure the protection and preservation of Los Angeles County's historic and archeological resources. **This review requires a nominal processing fee which will be billed directly to the applicant by Cal-State University** [emphasis added]. By my signature below, I understand this process and possible additional fees" ("Environmental Assessment").

Therefore, fees are being received for the review of impacts to archaeological resources, but tribes are not receiving any portion of those funds, and remain excluded from the requirement for

transactions entirely.²¹ Moreover, the California Department of Fish and Wildlife (CDFW) also: “imposes and collects a filing fee” (“CEQA Environmental”) for their own preservation efforts:

“To defray the costs of managing and protecting California’s vast fish and wildlife resources, including, but not limited to, consulting with other public agencies, reviewing environmental documents, recommending mitigation measures, and developing monitoring programs”(“CEQA Environmental”).

As of 2017, CDFW collects between approximately \$1,000 to \$2,200 for its consultation, review of projects, and development of monitoring programs, all of which are services that the Tribe also provides. Lastly, in brief, a “Responsible Agency” complies with CEQA by considering the environmental impact report, or declaring that the project will have negative effects on the environment when evidence demonstrates so. The Responsible Agency is thereby trusted to reach its own conclusions on whether and how to approve the project in question (Section 15096 of Title 14 CCR). Under CEQA, the Tribe’s responsibilities are similar to those of a Responsible Agency, in regards to TCRs, with the exception that it does not have “discretionary approval power” over projects (Section 15381 of Title 14 CCR). However, as the Tribe invests the same amount as, whilst simultaneously denied the same control granted to, such agencies, the Tribal government has, at minimum, lawful reason to demand filing fees for its review of a project. Having identified the permitting processes adopted by local governments as that which sanctioned compensation, Ortega Jr. invested in creating a document that would institutionalize a similar system for the enlisting of Tribal services.

In 2004, Rudy Ortega Jr. retained interns from the UCLA School of Law’s TLCEE

²¹ This is not to say that the Tribe depends on local governments to collect funds on its behalf. The Tribe is a sovereign government, and therefore, does not depend on the rules of other local governments to dictate what fees are allocated to its departments. However, additional language that would require applicants to compensate tribes could potentially be *helpful* to the process.

program to assist him in drafting a permit that aimed to rectify the acceptability of withholding funds from tribes engaged in project reviewal and consultation. Together, they co-authored the first *Cultural Resources Permit* (“Permit”) (Appendix A), which was formatted to deliver the Tribe’s idiosyncratic knowledge of, and collected information on, pertinent tribal cultural resources in exchange for a modest fee. Outlined prior to the formal defining of TCRs under AB 52, the Permit retrieved and organized details on the following TCR categories: natural features and resources, cultural resources, archaeological studies, and oak trees. “The idea was that the Tribe would not provide consultation services to the project until this Permit was filed with our THCP department, and the applicant paid the filing fee,” explains Ortega Jr.. To ratify the Permit, Ortega Jr. was required to pursue local governments, educate their staff on the intent and necessity of the Permit, and request that it be considered as a condition of approval for projects. Since local governments did not fully participate in Tribal consultation prior to AB 52, implementing the Permit was a daunting task that required both staff and time. Deficient in both, Ortega Jr. placed the Permit on hold until the Tribe had further interns and/or volunteers at their disposal to take on the challenge.

By 2007, Tribal Attorney Nicole Johnson joined the Tribe as a graduate student from UCLA. Having worked in the field of TCRM for federally recognized tribes, she had experienced firsthand the challenges of consultation for tribes already funded by federal sources, and so was prepared for the steeper uphill battle being waged by the Fernandeano Tataviam tribe. That year, Johnson played a critical role in logging, reviewing and responding to projects in the THCP department. Concurrently, Ortega Jr. and Johnson were able to resume efforts towards certifying the Permit. During this time Johnson shadowed Ortega Jr. in Tribal consultation and

recollects the first meeting in which she witnessed him discuss compensation to tribes:

“The first instance [the Permit] came up was with Project X [removed for confidentiality]. They wanted to discuss oak trees - they were removing 300 oak trees. Each of those represents dollars because there are permits that need to be filed (with local governments). Cities are doing this and developers have that expectation of city and county governments. [She asks herself] Why aren't tribes doing the same? Because tribes notoriously have the challenge to keep up (with project notifications)” (Johnson).

According to Johnson, Ortega Jr. strongly negotiated for the restriction of oak tree removals under Project X, to preserve an area in which TCRs could be reburied which was facing upheaval, or, alternatively, for oak trees to be replanted if disturbances by the project were deemed unavoidable (Johnson). Ultimately, the applicant not only rejected his requests, but also refused to compensate the Tribe for the damages their project would produce. Nevertheless, Ortega Jr. did not give up advocating for Tribal governments to continue to review projects, negotiate for impact reduction, and request reasonable fees for their efforts.

Publicizing the Permit occurred in two stages. First, Ortega Jr. circulated the Permit to local governments in order to help them understand and support its use for and among tribes. Second, Ortega Jr. shared the Permit with tribes that might be interested in seeking compensation for their consultation services, and thereby assist in promoting its going into effect. As an appointed commissioner to the NAIC, Ortega Jr. had already established professional partnerships with local government representatives and advocated for all tribes to be consulted with at the earliest stage possible. At the same time, in 2004, SB 18 had passed, requiring cities and counties to contact and consult with California Native American Tribes before adopting or amending a general or specific plan regarding, or designation of, an open space (Gov. Code, §65352.4., “Senate Bill 18” (Burton, Chapter 905, Statutes of 2004)). Yet, there was still no

similar requirement for government-to-government consultation on projects that were subject to CEQA. Therefore, Ortega Jr. strategically used consultation under SB 18 to coordinate meetings with local city and county planners to introduce and champion the motives behind the Permit. Johnson recalls a meeting in 2007 in which Ortega Jr. met with the Director of CLADRP, who was both receptive and sympathetic to the proposal.

“We didn’t present the Permit, but we did present the idea. [We framed it like]: ‘we want to establish better communication between your department and ours.’ Rudy raised (to the Director) the idea of fees, and they understood because it’s the same model used by them” (Johnson).

As the understanding that tribes should have an opportunity to collect fees began to meet some traction within local governments, Ortega Jr. requested additional support from archaeologists. He shared the permit with California State Parks and Angeles National Forest archaeologists who had collaborated with the Tribe on various projects. They provided their input, recommendations, and publicly shared their support for the process (Johnson). Today, Ortega Jr. explains that his ultimate goal for the Permit was to establish a template that could be modified and used by all California Native American tribes, should they wish to rehabilitate their own TCRM models.

In order for the Permit to gain momentum among tribes, Ortega Jr. sought to present the idea at local conferences hosted by local Tribal governments. In 2007, Ortega Jr. was invited by representatives of the San Manuel Band of Mission Indians to attend the 9th Annual NATHPO conference hosted by the Agua Caliente Band of Cahuilla Indians in Palm Springs, California (Johnson). With the theme being *Cultural Heritage Records Management in Indian Country*, Ortega Jr. was allocated the platform to discuss his permitting process. “My understanding is that

each [tribe] had their own interpretation on how to implement certain things [from the Permit],” he shares. While the tribes were interested, they also posed the question: how were they going to make local governments comply (Johnson). “Our interest and intent was to give them the idea and platform, and let them manifest it for their own Tribal communities,” shares Ortega Jr.. In general, the politics between Tribal and local governments fluctuate in California, since some do not even recognize the existence of California Native American tribes altogether (Rudy Ortega Jr., personal communication, June 5, 2017). While ruminating over the political variations that are apt to affect tribes consulting under CEQA, Ortega Jr. finds that: “[It isn’t ideal for tribes] to copy and paste from us because we have different politics in our area.” He also notes that, at the time of the conference, tribes in many regions of California were still fighting just for the right to receive consultation, and such as, viewed permitting as something of a pipe dream. Today, it is unclear which tribes, if any, implemented the process, or modified it for their own governments (Ortega Jr., “Second Interview”).

For the subsequent decade, TCRM volunteers forwarded the Permit to developers, and the document has since been met with mixed success. In its earlier years, of approximately 500 notifications per month, only 1 to 2 projects would seriously consider the Permit, whose initial fee was a humble \$300 (Ortega Jr., “Second Interview”). This level of compensation hardly covered overhead fees, let alone the ability to offer volunteers full-time positions as THCPOs. With time, however, developers became familiarized with the Permit and began to voluntarily file it with the THCP department, albeit primarily without filing the fee. As a helpful tool to gather pertinent project information, the Permit is useful because it organizes and collates information that would otherwise have to be scavenged haphazardly by the volunteer. Therefore,

the receipt of unpaid Permits reduced the research burden on TCRM volunteers, though clearly failed to subsidize their services. This generated another negative feedback loop: with volunteers limited due to the Tribe's inability to pay them, enforcing the Permit's fees became an arduous challenge that fell stagnant. Efforts to render the permit *and* its fees obligatory would stall until a revival took place in 2014.

INCREASED PERMIT MOMENTUM

The Tribe finally received additional interns by 2014, through UCLA's TLCEE program (collectively referred to as "THCP interns"). These interns were then specifically trained by Ortega Jr. to renew the fight to formalize the Permit process. At this time, Ortega Jr. amended the Permit to reflect the requirements established by AB 52, which would become fully effective in 2015. As one of two interns who began working for the Tribe in 2014, I became directly engaged with the unreliable attitudes of planners towards Tribal consultation, especially in regards to requests of compensation for it. In its initial stages in 2014, the Permit was often ignored by planners who threatened to conclude consultation should the Tribe continue pursuing compensation from the applicant. Eventually, as AB 52 has become familiarized, and the NAHC continues to educate local governments on the intent of the legislation, planners have become more open to adhering to the Permit process. Today, planners generally seek to understand the Permit so as to clearly relay its function to their applicant, who will ultimately be paying the fees. Under the guidance and leadership of Ortega Jr., the THCP interns had been trained to not only implement the Permit in its entirety, but also manage Native American monitors, and respond to all project notifications and consequent environmental documents. As interns from

UCLA, we were able to jointly provide 40 hours a week to the THCP department, which fueled more success with the permitting process.

Once Tribal consultation became legally required under AB 52 in 2015, the THCP interns began utilizing the Permit as a document to formally initiate consultation, which funded their positions, formally, as THCPOs. As such, consultation with the lead agency did not begin until the THCPOs received a completed Permit and filing fee. In general, planners complied with this alteration to the Tribe's consultation process and instructed their applicants to file their fees with the Tribal government prior to commencing TCR consultation. In many instances, representatives from the City of Santa Clarita, County of Los Angeles, and the City of Simi Valley forward the Permit to applicants for the majority of their projects. As an additional approach of encouraging applicants to file the Permit, the THCP department also secured policy changes within local government jurisdictions that instruct applicants on how to proceed. For example, in consultation under SB 18, the THCPO amended the Old Town Newhall Specific Plan for the City of Santa Clarita to read:

“[The City shall] notify the Fernand^o Tataviam Band of Mission Indians of all Old Town Newhall Specific Plan projects that involve soil disturbances, as complete applications for such projects are received. **All activities requiring an Initial Study performed under the Old Town Newhall Specific Plan projects shall file a Consultation Application with the Fernand^o Tataviam Band of Mission Indians [emphasis added]**” (“4.1.050”).

This amendment requires projects that are subject to environmental review within the jurisdiction of the Old Town Newhall Specific Plan to proactively file the Permit as a condition of approval of the project. Such an amendment removes the financial burden of consulting from the Tribal government, and redirects the responsibility of information-gathering on the applicant.

While many local governments recognize the Permit's necessity, others still seek to understand the process. The City of Los Angeles (LA City) is one such local government that is hesitant of, and generally resists, the Permit to this day.²² This is highly problematic seeing as the jurisdiction of the LA City extends well into the Tribe's jurisdiction (Figure 1), and encompasses the majority of San Fernando Valley. Additionally, the bulk of project notifications to the THCPO pertain to projects located north of the Santa Monica Mountains, which are therefore 'led' by LA City. Of the approximate 200 notices the THCP department receives per week, the City of Los Angeles represents over 80% of those projects. To date, not a single project under the lead of LA City has filed a Permit or compensated the Tribe for its professional services, and refuses forthrightly to do so. For example, when the THCPO requested that one of their applicants file the Permit, LA City responded:

“It is our understanding that AB 52 does not actually require the applicant to participate in the consultation process, complete any application, or pay any fees. AB 52 describes the consultation process as fundamentally between the City, as the lead agency, and the tribe... (Appendix B).

Clearly, interpretations of AB 52 by local governments fluctuate to a troubling degree. The evaluation of AB 52 by LA City contrasts significantly from neighboring governments that interact with the Tribe's Permit process regularly. While 'paying fees' to tribes is 'not required', it is also not prohibited, and is the policy of the Tribal government with which LA City consults. As the principal communicator between the Tribe and the applicant, lead agencies have an obligation to respect the Tribe's policies. Instead, LA City seemingly considers the Tribe as an

²² This example is representative of the present situation, which may improve unexpectedly today, tomorrow, or in the future. TCRM is not fixed; it is a continuously changing process. There is still opportunity, in the future, for local governments. such as LA City, to improve, or change, the ways in which they engage with the Tribe. Therefore, I present this information solely to surface some of the hindrances faced by the THCPO today.

entity expected to provide services at their request, without compensation of those services. It is important to note that these oscillating interpretations becomes most detrimental when the phrase ‘consultation in-good faith’ is willfully misconstrued as something *other* than understanding the unique expertise of, and rights entitled to, Tribal governments. The letter continues:

“The City asked both specific and general questions about the nature of the tribe’s research process, what the fee would be spent on, and the presence of any tribal cultural resources at this site, and the degree to which the tribe’s research for the Proposed Project could inform other projects in the City. To date, it remains unclear to the City whether there is substantial evidence supporting potential impact to tribal cultural resources at this specific site.” (Appendix B).

As aforementioned in Chapter Five, in order to determine if TCRs exist, the THCPO must research and produce substantial evidence. In order to conduct research, the Tribe must obtain funding to compensate a THCPO. As such, substantial evidence cannot, and should not, be produced without compensation. Yet LA City does not acknowledge this, and instead opts to cite ambiguities as justification to perpetuate a regressive treatment, and blatant exploitation, of the Tribe. Since LA City produces the greatest quantity of project notifications than any other local government engaged with by the Tribe, and still fails to recognize the Permit as a mandatory level of review of a project, it therefore generates the greatest resistance to the Tribe’s ongoing battle for constructive TCRM. For the sake of protecting TCRs, the THCPO still engages in consultation with LA City, albeit at the Tribe’s financial expense, and is hopeful that positive changes will be made. For other local governments that do not comply with the Tribe’s policies, or for projects located in highly sensitive areas in its jurisdiction, the THCP department seeks an alternative method of encouraging applicants to adhere to the Tribe’s requests: agreements.

ALTERNATIVE STRATEGY: CONTRACTUAL OPPORTUNITIES

An alternative strategy for protecting TCRs, independent of the Permit, is through agreements. When projects are located in highly sensitive areas, the THCPO requires that applicants agree to the terms of the Tribe in a legally binding document called a Cultural Resources Agreement, before cooperating in consultation with them. The Cultural Resources Agreement, drafted by Ortega Jr., Johnson, and other members of the Tribe's legal counsel, obliges applicants to comply with the recommendations of the THCPO. As result, the Tribe gains assurance of TCR protection and the applicant gains the expertise of a Tribal government to reduce impacts to invaluable resources. By negotiating its terms early in the planning process, the THCPO can secure areas for potential reburials should sensitive deposits be uncovered, gathering areas for private Tribal land use, avoidance of areas in which development should be prohibited, areas for replanting native plants, and compensation. Since meaningful dialogue with the planner can occur decades before ground disturbance actually takes place, the agreement binds the applicant to updating the THCPO on any and all modifications to the project. As of now, agreements comprise the ideal way to handle TCRM in sensitive areas, so establishing them as the ubiquitous standard for *all* projects is not imperative.

To date, the Tribe has negotiated over twenty Cultural Resources Agreements with developers in the local area. One large contractual commitment is in Santa Clarita Valley, the heart of Tataviam territory that encompasses most of the lineage-villages from which the Tribe descends. Located on the upper watershed of the Santa Clara River drainage, the valley is best known for its 262-acre theme park Six Flags Magic Mountain, which occupies one of the largest

and most sensitive cultural spaces of the Tribe: *Chaguayanga*. Historically, developers in the Santa Clarita Valley neglected to recognize contemporary Tataviam people. CRM firms retained on behalf of the projects proposed and carried out there have contributed to the Tribe's unsuccessful erasure by labeling them as an extinct people. To contradict these erroneous and archaeological-driven narratives, the Tribe has been vocalizing their presence and concerns for decades.

In 1993, the Newhall Land and Farming Company (NLFC), now known as FivePoint, announced plans to develop roughly 5,000 acres of land in the Santa Clarita Valley under the Newhall Ranch Specific Plan. In 2007, Ortega Jr. negotiated an agreement with NLFC that confirmed the utmost protection of known TCRs, and incorporated mitigation to lessen potential impacts to buried resources. Under this agreement, NLFC will retain Native American monitoring services for all ground disturbing activities associated with future grading and development of NLFC projects, provide funding to the Tribe for cultural enrichment programs, and endow the Tribe with one-acre of land for a cultural center to accommodate Tribal activities, educate surrounding communities, and champion the preservation of its rich cultural heritage for future generations. Ortega Jr. also negotiated for access to 5,000 acres for gathering and spiritual purposes for his people, which includes areas that have been unauthorized for Tribal use for centuries. In addition, the Tribe helped prepare and develop the *Historic Properties Treatment Plan* in 2010 for the most sensitive areas on the NLFC property, which will aim to preserve numerous cultural sites in the Santa Clarita region, that cannot be publically identified due to fear of public looting, through its identification of areas in which development or pedestrian activity should be made forbidden. As result of consultation with the Tribe, the project has incorporated

additional areas as open space, while cultural sites remain protected. By providing its Tribal Cultural expertise in the initial stages of the project, the Tribe has assisted the project in reducing impacts to TCRs, conserving susceptible or meaningful areas from development, and establishing cultural enrichment programs for the benefit of Tataviam people (Rudy Ortega Jr., personal communication, June 5, 2017).

Another example of a successful contractual agreement between the Tribe and developer occurred with the Chiquita Canyon Landfill (CCL) project. After negotiating for an agreement, Ortega Jr. helped identify TCRs within the boundaries of the proposed expansion, the most significant of which was a ceremonial space called Bower's Cave. The rock shelter was named after the Anglo-settler who "founded" it, although it had never been lost by the descendants of those who utilized the cave. This sacred space yielded a cache of sensitive materials when it was originally disturbed by Anglo-settlers in 1884, the majority of which are currently stored at the Peabody Museum of American Ethnology at Harvard University, or became lost in transit. Originally, the CCL expansion planned to desecrate the cave completely. However, under the Cultural Resource Agreement, Ortega Jr. negotiated for CCL to preserve the ancestral space, as well as require Native American monitoring to supervise all ground-disturbing activities within its vicinity. Prior to CCL, the site was privately owned, and its owners refused to allow the Tribe to have access or re-establish its relationship with the ceremonial rock shelter. Due to the Tribe's persistent negotiations, CCL now notifies and requests the permission of the Tribe when enthusiasts request to visit the cave, and allows full access to Tribal citizens for ceremonial use. As direct result of the Cultural Resources Agreement, the Tribe's cultural space is protected, and Tribal bonds to the resources contained there are strengthened by way of inherent rights, which

continue to be preserved through TCRM.

WHAT CAN BE ACHIEVED THROUGH FUNDING

Through compensation retrieved by its Permit, the Tribe has supported the full-time employment of a THCP director and officer since 2014. Consequently, the staff of the THCP department can systematically manage, record, and respond to notifications for all projects breaking soil within the Tribe's jurisdiction. It can also financially support the surveying of land by its TCR experts, Tribal elders, and Tribal senators, and can employ archaeologists to re-evaluate dubious archaeological information for projects occurring in sensitive regions. Moreover, the THCP department's funds cover the creation of reports for the Tribal government and the management of hearings in which Tribal citizens or members of the public discuss controversial projects. The Tribe is also now able to obtain the resources to oversee its Native American monitors, conduct site visits, and provide on-ground TCR oversight during a project's excavation activities. In 2017, the THCP department established its first paid 8-week internship, which enabled an assistant to shadow the THCPO, and thereby gain experience in TCRM under CEQA.

For years, the Tribe sought to establish a TCR database to archive particular locations and knowledges for future generations. However it was only after receiving funding from the Permit that the Tribe was able to purchase a subscription to ArcGIS, a geographic information system software. This confidential database contains a plethora of archaeological, cultural, and historical information from both internal and external sources, and is now available to the Tribe to utilize and contribute to. The Tribe also has the means to fund staff to input thousands of

archaeological sites and site records into the database that are located within their cultural resource jurisdiction. As result of this mapping tool, the THCPO can more efficiently assess a site's geographical sensitivity based on a variety of factors pictured and listed on the map. In addition, the THCPO can deduce more specifically the likelihood of uncovering TCRs in any given area, based on visible regional patterns. Lastly, the Tribe can support interviews with Tribal elders to incorporate into its reports, hire Tribal archaeologists to conduct additional research, and fund an ethnographer to write a TCR report, should that be necessary.

The Tribe has proactively harnessed its expertise to create and implement a permitting process that makes its TCRM self-sufficient. This is not to say that it has been propagated without some resistance, but, perhaps more importantly, it *has* been met with widespread understanding and respect from many local governments. It is also not to say that tribes without the permitting process cannot achieve independently run TCRM, or that all tribes should be implementing a permitting process, but rather, that Tribal governments should not have to carry the financial burden of engaging in TCRM, and there are partial solutions to the still pervasive expectation that they should do so.

CONCLUSION: POLICY IMPLICATIONS FOR THE FUTURE

The complex history of the local area has directly affected the fluid relationships between the Fernandeño Tataviam Band of Mission Indians and the land. Since the arrival of settlers, the Tribe's access to areas within its jurisdiction has been disrupted and increasingly limited, but not completely terminated. Many cultural sites and resources have been buried beneath the soil for centuries, or are located on private property, and therefore, remain inaccessible to Tribal citizens. As a result, the Tribe must constantly renegotiate its relationships with its cultural materials and spaces. For a tribe whose jurisdiction is increasingly occupied by urban expansion, agency is primarily maintained by Tribal citizens' and leaders' proactively defending their invaluable resources through a process called Tribal Cultural Resources Management (TCRM). The practice of TCRM operates as both an expression and assertion of the Tribe's sovereignty. It favors consultation with local governments for the protection of tribal cultural resources (TCRs) threatened by land-altering activities, and consequently, reinforces the nexus between the Tribe and the resources that would otherwise be desecrated. As a synthesis of the Tribe's traditional beliefs and contemporary goals, TCRM is a complex and multifaceted process that works to protect, preserve, and reclaim TCRs.

When executed under the California Environmental Quality Act (CEQA) and Assembly Bill 52 (AB 52), TCRM is an arduous process that places the responsibility of protecting resources on tribes. As a still-evolving practice that is continuously re-shaped to overcome externally imposed interruptions to TCR protection, TCRM applied by the Tribe, today, is a wholly different procedure than that of the era preceding AB 52. Yet, disruptions continue to

inhibit the THCP department and its ability to enact the most advantageous methods of TCRM. These disruptions include, but are not limited to, four fundamental issues: (1) Tribal consultation does not guarantee protection of TCRs, since TCRs are required to meet particular standards of eligibility before protection is even considered, (2) in consultation with local governments, tribes must *physically prove* that TCRs exist, despite having had limited access to the land for centuries, to achieve TCR preservation, (3) tribes are oftentimes expected to present particular types of proof that are grounded in Western knowledge systems, and thus far more difficult for them to procure, to support their claims, and (4) Tribal consultation is offered to projects without the requirement of due compensation for their expertise, research, and time.

Under the existing framework of TCRM consultation, tribes review documents that assess a project's impacts to the environment, and provide their recommendations to the local governments managing those projects, known as the lead agency, accordingly. Through this exchange, tribes unquestionably *improve* projects by reducing potential impacts to TCRs as direct result of their knowledges, and yet, there is no compensation dispensed to tribes. Therefore, Tribal governments with no access to funding opportunities for cultural resources preservation, such as that of the Fernandño Tataviam Band of Mission Indians, are required to participate at their own financial expense, which is costly when their jurisdictions are subject to an abundance of land-altering activities. Instead, this debt should rightfully fall on the project that calls upon, and necessitates, their Tribal expertise.

As it stands, the crux of the matter is centered around the fact that there is no obligation of any kind for projects to compensate tribes for consultation under CEQA. In direct response to the lack of financial recompense, the Tribe has created and implemented a Cultural Resources

Permitting system that funnels information from the applicant to the Tribe early in the process, and relieves its own government of the financial burden of engaging in TCRM by placing a fraction of that debt on the project applicant. Though some local governments are cognizant of the process's legitimacy, others fail to comprehend its just intent, and compromise its legal basis by rejecting completely. Therefore, the Permit is not yet unanimously accepted and utilized, but has nonetheless partially-solved a longstanding issue for the Tribe. As a whole, the Permit has produced numerous benefits through its accretion of funds, which now sustains a stable TCRM system that fosters the protection of irreplaceable resources from impending disturbances.

TCRM is a continuous learning process for all entities involved. Hence, the Tribal Historic and Cultural Preservation Officer (THCPO), or cultural resources representative of the Tribe, must not only keep a thorough and updated comprehension of the law, but must also be an educator willing to help local governments understand and accurately apply those laws. Local governments must be continually re-familiarized with both the importance of TCRM, and the hardships that thwart Tribal governments from successfully engaging in it. Local government staff changes regularly, and with new personnel come new interpretations of, ignorance of, and/or personal biases against, TCRM.²³

One exceptionally important tool for procuring beneficial responses to the Permit is networking. Being aware of this, Tribal President Rudy Ortega Jr. has launched and upheld copious professional relationships with representatives of local governments through a variety of ways. He has managed to forge these influential contacts by ceaselessly engaging in a wide range of community affairs, and seizing all opportunities to network with local officials, whom with he

²³ To spearhead this process, the Native American Heritage Commission (NAHC) has provided a series of trainings and materials that educate and encourage local governments on the spirit of AB 52.

can then lobby for crucial advances to TCRM for all tribes in the local area. Since 2004, Ortega Jr. has utilized his capacity as commissioner, and then Chairman, of the Los Angeles City/County Native American Indian Commission to interact with employees of the City and County of Los Angeles in a manner that promotes fundamental changes towards how local governments *should* be engaging with tribes, which is still presently underway. Ideally, he imagines that once/if all Tribal governments in the local area adopt, amend, and utilize the Permit, a Tribal consultation norm will be generated that local governments will be expected to abide by. Setting such a precedent would also be a crucial advancement in the general campaign to emancipate the tribes from carrying the financial burden of actions led by the settler government. For the Permit symbolizes, literally, the Tribe's right to exact what they are owed, from transactions rendered in the present, at least.

President Ortega Jr. has taken further advantage of his political engagements, by uncovering, then addressing, specific hindrances that negatively influence local governments' responses to the permitting process. For example, "the main concern from local governments is that there is no clear determination as to how many tribes can implement the Permit," Ortega Jr. shares. The implication here is, local governments worry that projects occurring in shared territories may be subject to Cultural Resources Permits from more than one tribe, and thus more than one fee. As a potential resolution to this situation, Ortega Jr. believes that leaders of Tribal governments in the local area must come together to determine inflexible jurisdictions in order to designate a 'Lead Tribe' for activities occurring in shared areas. This would be similar to the 'lead agency' process under CEQA in that, of the multiple tribes tied traditionally and/or historically to a single area, one principal tribe would take on the responsibilities of permitting,

conglomerating the concerns of other interested Tribal governments, and consulting on their behalf. However, President Ortega Jr. also recognizes that the Permit may be infeasible for, or not necessarily wanted by, all tribes.

Regardless of what tribes determine is best for their respective governments, there must be fundamental changes made to contemporary environmental policies that encourage, if not insist, projects to compensate tribes. Under current legislation, Tribal consultation is widely accepted by local governments as a free process, but tribes should not be expected to carry the financial burden of mitigating impacts to TCRs as result of activities led by settler governments. If local governments, and experts retained by those governments, are compensated for their reviews of, or services for, projects, it follows that Tribal governments should not be categorized as unpaid environmental caretakers when embroiled in the same work.

Ultimately, if the Tribe wishes to engage in comprehensive TCRM, then it has little to no alternative but to meet the demands of the lead agency in order to protect its TCRs; for if it refuses, or is unable, to participate in consultation due to denied and/or limited funds and personnel, TCRs will remain at risk regardless. On the reverse side of the coin, local governments are in a win-win scenario, credited for endorsing Tribal participation, but discharged of any accountability, in either the financial or evidential sense, to back up this stance. For the system currently revolves around the expectation that tribes expend their own limited resources to fund their mere admission into the TCRM process. Moreover, after encouraging tribes to divulge their knowledges of TCRs, these agencies and planners may still reject the validity of those knowledges on the grounds of manufactured reasoning and/or inflexible definitions. TCRM efforts are impacted when the THCPO is faced with such

conclusions, which take considerable time and funding from the Tribe to disprove to local governments. Therefore, the Tribe operates in a catch 22 in which the resources are at stake, with or without Tribal consultation, and the sum of their consulting investments ensure only the mere chance to salvage TCRs. Nonetheless, whilst Tribal consultation is costly in the financial burden it produces, withholding consultation due to limited funds is even more costly and detrimental to the Tribe in other, more profound, ways. In response to this conundrum, the Tribe has proactively created and propagated methods to make its TCRM self-sustaining, via its Permit and contractual agreements with developers.

The Tribe has been engaging in consultation under CEQA since its introduction in 1970. Almost half a century after its adoption, CEQA has yet to be amended to bind projects to compensate the Tribe's participation. While the Tribe does not rely on the laws of a foreign government to dictate its TCRM, those policies do dominate, and affect, the practices among local governments, which ultimately influence TCRM efforts. Local governments are not responsible for collecting fees *on behalf* of the Tribe, a sovereign nation, but rather, should, at the very least, encourage their applicants to adhere to the protocols of the Tribal government. Furthermore, although the Tribe has exhibited tremendous fortitude and resilience in their fight to carry out TCRM in an environment fixed against them, their independent efforts will not provide long-term solutions without some overarching legislative assistance. Now is the time to amend legislation to enforce applicants to compensate, respect, and take heed of, Tribal consultation, before the land and its original inhabitants, along with the resources embedded within that land and cherished by their peoples, are irreversibly impacted.

APPENDICES

APPENDIX A: Example of lead agency response to the THCPO when they requested project information needed for Tribal consultation. Used with the permission of Tribal President Rudy Ortega Jr., May 2017.

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<http://planning.lacity.org>

October 19, 2016

SENT VIA EMAIL TO [REDACTED] NOT FOLLOWED
BY U.S. MAIL

Ms. [REDACTED]

RE: Public Records Act Request For Records Regarding [REDACTED]

This letter is in response to your request dated October 18, 2016, seeking from the Department of City Planning pursuant to the California Public Records Act (CPRA) records relating to the above.

The Department of City Planning has determined it may be in possession of records responsive to the portion of your request regarding the documents within the subject case file. These records will be available for your review beginning tomorrow, October 20, 2016. Please call me at 213-978-1260 to **set up an appointment to review the records**. At that time, you may request copies of any of the documents, the **cost will be .10 cents per page**. (Los Angeles Administrative Code section 12.40). Our Department will be sending you a separate response regarding the consultation portion of your request.

Our Office hours are as follows:

Monday – Thursday 8:30 a.m. to 4:00 p.m.
Friday 8:30 a.m. to 3:00 p.m.

Sincerely,

[REDACTED]

APPENDIX B: Template of Cultural Resources Permit by the Fernandeano Tataviam Band of Mission Indians. Used with the permission of Tribal President Rudy Ortega Jr., May 2017.



**Fernandeño Tataviam Band of Mission Indians
Tribal Historic and Cultural Preservation Department**

**CONSULTATION FORM PURSUANT TO THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA)
PUBLIC RESOURCES CODE 21080.3.1, SUBDS. (B), (D), AND (E)**

FOR THCP STAFF USE ONLY:		USGS Quad: _____
Date Recv.: _____		TSPS Category: _____
Lead Agency: _____		THCP File No.: _____
Project No.: _____		

1. APPLICANT			
COMPANY		PROJECT MANAGER	
ADDRESS			TELEPHONE
CITY	STATE	ZIP	EMAIL

2. AGENT if different from applicant			
COMPANY		PROJECT MANAGER	
ADDRESS			TELEPHONE
CITY	STATE	ZIP	EMAIL

3. SUBJECT PROPERTY (PROJECT SITE)			
COUNTY			
ASSESSOR'S PARCEL NUMBER		TOWNSHIP AND RANGE	
PROPERTY ADDRESS			
CITY	STATE	ZIP	

4. CULTURAL AND PROPERTY DATA	
Has the area been previously developed? (If Yes, please also fill out Section 5)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Were Native American monitors used during previous ground disturbing activities? (If yes, please include copies of the monitor records)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Has the site been previously surveyed for archaeological resources? (If yes, please include copies of previous archaeological surveys.)	<input type="checkbox"/> YES <input type="checkbox"/> NO
Is the project in or near an area containing known archaeological resources or containing features (drainage course, spring, knoll, rock outcroppings, or oak trees) that indicate potential archaeological sensitivity?	<input type="checkbox"/> YES <input type="checkbox"/> NO
Has a Sacred Lands File or other cultural resource records search been completed? (If yes, please include copies of records)	<input type="checkbox"/> YES <input type="checkbox"/> NO
SOURCE OF RECORDS Did the search indicate the presence of archaeological resources within the project site?	<input type="checkbox"/> YES <input type="checkbox"/> NO
If no known archaeological resources were specified within the site, within how many miles of the site, are resources known or believed to be present?	MILES:

5. PREVIOUS ACTIVITIES	
In what year(s) has the project site been previously developed?	YEAR:
If exact dates are unknown, was the project site developed:	<input type="checkbox"/> UNDER CEQA/AB52 <input type="checkbox"/> PRIOR TO AB52, UNDER CEQA <input type="checkbox"/> PRIOR TO CEQA <input type="checkbox"/> UNKNOWN
GRADING ACTIVITIES	
How many cubic yards of soil has been previously removed from project site?	CUBIC YARDS:
Does the project site contain fill?	<input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNKNOWN
What percentage of the site contains fill?	_____ % <input type="checkbox"/> UNKNOWN
From where did the fill originate? (If origin lies within Tribal Territory, please answer the next question and attach geotechnical report(s))	<input type="checkbox"/> UNKNOWN
To what percentage was the soil compacted?	_____ % <input type="checkbox"/> UNKNOWN

6. PROPOSED ACTIVITIES		
How many cubic yards of soil is planned for EXPORT?	CUBIC YARDS:	<input type="checkbox"/> BALANCED ON-SITE
How many cubic yards of soil is planned for IMPORT and from where does the soil originate?	CUBIC YARDS:	SOIL ORIGINATE:
How many cubic yards of soil is planned for GRADING?	CUBIC YARDS:	

7. CONSULTATION SERVICES AND FEES

Please identify which Category this Project belongs to:

<p>(1) \$ [REDACTED] Consultation Fee Projects with an estimated 0.25 to 50 cubic yards of planned ground disturbance.* The fee covers Services 1-5 listed below</p>	<p>(2) \$ [REDACTED] Consultation Fee \$ [REDACTED] consultation fee for projects with an estimated 50.01 to 1,000 cubic yards of planned ground disturbance.* The fee covers Services 1-7 listed below.</p>
<p>(3) \$ [REDACTED] Consultation Fee Projects with an estimated 1,000.01 to 10,000 cubic yards of planned ground disturbance.* The fee covers Services 1-9 listed below.</p>	<p>(4) \$ [REDACTED] Consultation Fee Projects with an estimated 10,000.01 or greater cubic yards of planned ground disturbance.* The fee covers Services 1-15 listed below.</p> <p>This fee also applies when the amount of planned ground disturbance is unknown and/or a recorded archaeological site is recorded within the Project boundary.</p>

Enclosed is a check addressed to the **Fernandeño Tataviam Band of Mission Indians** for the appropriate amount, as specified above.

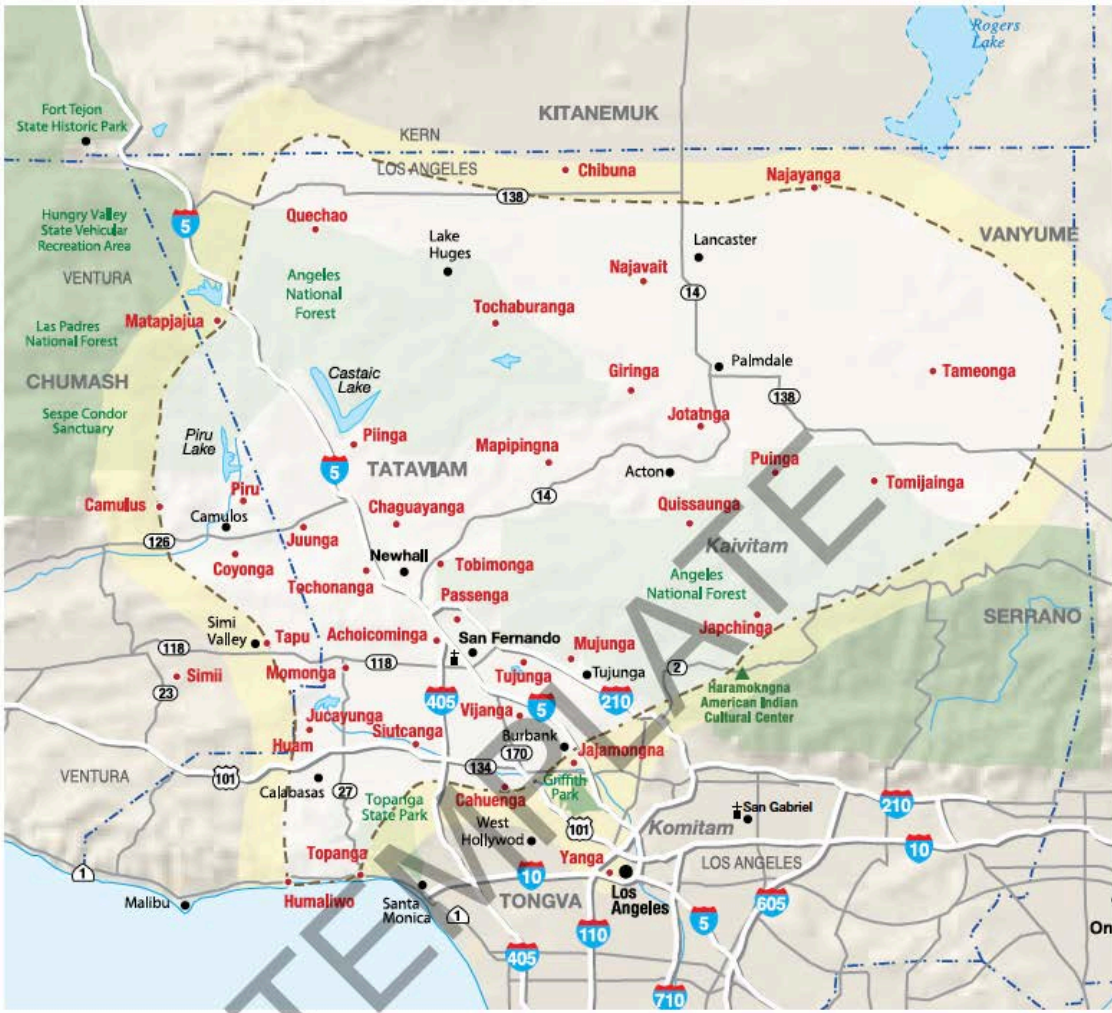
- SERVICES**
1. Retrieval of pertinent Project Documents/Reports from the Lead Agency for the purposes of analysis
 2. Review of proposed Project
 3. Review of Archaeological Documents/Surveys/Reports
 4. Tribal Record/Database Search
 5. THCP Comments and/or Mitigation Measures, if necessary
 6. Confidential Tribal Sensitivity Point System (TSPS) Report
 7. Confidential TSPS Comments with Mitigation Measures included, if applicable
 8. One or more of the following: Declaration of Need for Project Amendments, Declaration of Need for Native American Monitoring, Declaration of Need for Limited Native American Monitoring, Declaration of Need for Daily Native American Inspections Only, or Declaration of No Native American Monitoring or Inspections Required
 9. One of the following: Declaration of Tribal Archaeologist Needed Onsite or Declaration of Archaeologist Not Needed Onsite
 10. Confidential Fernandeño Tataviam Band of Mission Indians Cultural Report
 11. Optional Tribal Ethnography (public excerpt of Service 9, provided for inclusion in environmental reports produced for the Project, and at the request of Applicant)
 12. Tataviam Council of Elders Review
 13. Negative Declaration or Negative Mitigated Declaration, with mitigation recommendations included, if applicable
 14. Tribal Historic and Cultural Preservation Committee Hearing (held on behalf of the Project, if found to require additional consultation within the tribal government)
 15. Consultation Status Reports, as requested

* "Ground Disturbance" is defined as: any man-made disturbance of the ground surface, which includes movements of soil, dirt, or rock. Ground disturbance includes, but is not limited to, grading, trenching, coring, boring, cutting, and sluffing.

8. APPLICANT CONSENT	
I have read, understand, and consent to the submission of this form to enter into consultation with the Fernandño Tataviam Band of Mission Indians. If an agent/consultant signs for the applicant, please submit a letter of authorization from the applicant with original signature(s):	
SIGNATURE	DATE
If the record owner is a company, corporation, or association, include a copy of Statement by Domestic Corporation. It is the responsibility of the owner to notify the Tribe of any changes in ownership during processing.	

9. APPLICANT OR AGENT CERTIFICATION	
I hereby certify that:	
<ol style="list-style-type: none"> 1. The information provided in this application, including all attachments, are accurate and correct; and 2. I have carefully reviewed all items under Section 5 and 6 and included all applicable required information; and 3. I understand that the submittal of inaccurate or incomplete information and plans may result in extension of the consultation period. 	
SIGNATURE	DATE

10. DOCUMENT DISTRIBUTION		
The Services provided (see Section 7) include the forwarding of documentation to the applicant or agent. If the designated recipient of documentation has already been listed above in Section 1 or 2, please be certain that the contact information is accurate and mark one of the following to receive service documentation:		
<input type="checkbox"/> Applicant <input type="checkbox"/> Agent		
If the designated recipient of documentation is different than the identified Applicant or Agent, please fill out the following:		
NAME		
ADDRESS	EMAIL	TELEPHONE
CITY	STATE	ZIP
Which form of document distribution should be used? (choose one)		
<input type="checkbox"/> Certified Mail <input type="checkbox"/> Email		



Fernadeño Tataviam Band of Mission Indians Historical Tribal Territory



Tribal boundary depicted is based on registered tribal citizens' ancestral villages. Due to kinship networks and social exchange, this hard boundary does not include all of the abundant locations associated with Tataviam cultural resources and ancestry. Therefore, the overlap yellow boundary accommodates the natural mobility of ancestral and contemporary Tataviam people, which are also known to be well associated with the tribe and sensitive cultural resources.

All projects breaking soil within the tribal boundary are subject to Tataviam jurisdiction, whereas any projects occurring within the yellow boundary may be subject to further analysis by other surrounding Tribal Governments.

APPENDIX C: Example letter to THCPO in response to the Cultural Resources Permit (Consultation Form), dated February 19, 2016. Used with permission of Tribal President Rudy Ortega Jr., May 2017.

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CITY PLANNING
CITY PLANNING COMMISSION

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3lacity.org

February 19, 2016

[REDACTED]
Fernandeño Tataviam Band of Mission Indians
Tribal Historic and Cultural Preservation Department
1019 Second Street, Suite 1
San Fernando, CA 91340

RE: AB 52 Tribal Consultation Process
[REDACTED]

Dear Ms. [REDACTED]

Thank you for making time to talk last week. This letter memorializes the start of the AB 52 tribal consultation process for the Proposed Project that began on February 12, 2016. During this telephone conversation, we discussed the receipt of your letters dated January 14, 2016 and January 25, 2016. The first letter requested a formal request for consultation and for the City to send the tribe several documents related to the Proposed Project. All the documents you requested – the Project Application, Initial Study, Site Plans and total amount of grading and excavation – were sent to you on January 20, 2016. The second letter requested the City forward that letter and its attachments, including a Consultation Form, to the applicant. The City has complied with your request to forward your materials.

However, your second letter raised an important concern for the City as it reads in part: "the lead agency is advised that the Tribe must receive a completed Consultation Form from the applicant or a designated agent to conduct consultation in a timely manner and provide mitigation recommendations." The City's position is that this separate request of the applicant should not delay or impede the consultation process started last week. This same letter also stated that the tribe must charge a consultation fee of the applicant. It is our understanding that AB 52 does not actually require the applicant to participate in the consultation process, complete any application, or pay any fees. AB 52 describes the consultation process as fundamentally between the City, as the lead agency, and the tribe. Based on our reading of AB 52, we do not believe the City has the authority to delay the EIR review or project approval if the developer does not pay the fee or provide the requested information.

In addition, the City asked both specific and general questions about the nature of the tribe's research process, what the fee would be spent on, and the presence of any tribal cultural resources at this site, and the degree to which the tribe's research for the Proposed Project could inform other projects in the City. To date, it remains unclear to the City whether there is substantial evidence supporting potential impacts to tribal cultural resources at this specific project site that would necessitate any specific mitigation measures. If you have additional information or evidence, we welcome you to request an additional meeting, and/or submit that information/evidence to the City. As the lead agency, we further ask that the City be invited to be part of any future discussion between you and the applicant as it pertains to the presence of tribal cultural resources.

Please do not hesitate to contact us at your earliest convenience.

Respectfully, [REDACTED]

[REDACTED]

Department of City Planning

cc: [REDACTED]

[REDACTED]

APPENDIX D: Thesis approval by Executive Branch of Tribal government.

The thesis of Kimia Fatehi is approved.

Rudy Ortega Jr., Tribal President

Steven Ortega, Vice President

Elisa Ornelas, Tribal Treasurer

Lucia Alfaro, Tribal Secretary

Fernandeño Tataviam Band of Mission Indians

2017

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