

*CABAZON, THE INDIAN GAMING REGULATORY
ACT, AND THE SOCIOECONOMIC CONSEQUENCES
OF AMERICAN INDIAN GOVERNMENTAL GAMING
A CASE STUDY*

CULTIVATING NEW OPPORTUNITIES:
TRIBAL GOVERNMENT GAMING ON THE
PECHANGA RESERVATION

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THE HARVARD PROJECT ON
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In July of 1995, the Temecula Band of Luiseño Indians (often called the "Pechanga Band") opened a small gaming facility with 200 video gaming terminals. The immediate success of the gaming facility was remarkable and largely unanticipated.

After investigating gaming's potential for Pechanga through a combination of market research and networking in Indian Country, the Tribe's economic development officers discovered that the Tribe's economic potential could only be met by the introduction of slot machines, which are among the most lucrative options for any gaming facility. However, in 1995, slot machines were considered illegal under the California state constitution, so in the meantime, the Tribe continued to expand its facility, adding 300 video gaming terminals in October 1995 and another 800 the following spring.

While the Pechanga Entertainment Center was more profitable than any other enterprise in tribal history, by 1996 the tribal government found itself still unable to provide some of the basic services needed on the reservation. A long string of federal funding shortfalls left the Pechanga community with substantial socioeconomic and public infrastructure shortcomings. That year, a fire on the Pechanga reservation resulted in the loss of nine homes. At the time, the Tribe depended on the City of Temecula for fire protection. However, the City, unable to keep up with its own rapid growth, failed to reach the reservation in time to save tribal members' homes.

Spurred by the fires to a new sense of urgency and a desire for increased self-sufficiency, the Pechanga Band (otherwise known as the Temecula Band of Luiseño Mission Indians¹) began an aggressive nation-building effort that included the revitalization

¹ This tribal government is officially recognized by the federal government as the Temecula Band of Luiseño Mission Indians, which appears on official documents, including the Tribal Gaming Ordinance (Act). Pechanga is the name of the Temecula Band's reservation near Temecula, California. The Band is widely identified as "Pechanga", the "Pechanga Band", or the "Pechanga Tribe". This paper will use the latter terms to reflect local preferences and usage.

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and expansion of its governmental institutions, political partnerships, and economic development strategies. Led by numerous dedicated tribal members, the Pechanga Tribal Council worked to strengthen the Tribe's political position within the state and with the federal government. These efforts eventually produced the political environment necessary for sustainable economic development, which was then exploited by the Pechanga Development Corporation (PDC). Working together, the Tribal Council and the PDC created one of the most successful political-economic relationships in Indian Country.

Eventually, this momentum translated into integrated institutions of government and supported innovative political and business relationships. This new institutional vigor served as the foundation for the creation of an award-winning casino resort and the Tribe's exercise of political leadership off of the reservation for the first time in recorded memory. The latter took on its most tangible form in two tribally-driven initiatives that ultimately changed the State of California's constitution to legalize slot machines on Indian lands. With Chairman Mark Macarro serving as spokesperson for the initiatives and the Pechanga Casino generating significant funding for their mobilization, the combination of political and economic power at Pechanga helped re-shape the entire landscape of tribal government gaming in California.

Development at Pechanga has resulted in rapid and profound changes in the quality of life on the reservation. In 2000, for example, a second fire on the reservation was immediately extinguished by the Tribe's new fire department. As a result of the department's four-minute response time, the community lost no homes to the fire. In addition, the Pechanga Band is now setting the standard for fire protection for the region. By 2002, the Tribe had invested nearly \$12 million in fire trucks, new buildings and employees for their fire department. In a recent turnabout, the Tribe's new Pechanga Casino Resort provided temporary shelter for over 600 people from nearby communities

who were displaced from their homes by wildfires in Southern California.² Today, the Pechanga government's gaming and resort revenues have allowed the Tribe to effectively eliminate its reliance on other governments and to create opportunities that benefit the entire region. The results are a sense of independence and self-determination among Pechanga citizens, and productive and mutually supportive relations with the surrounding communities where once there was very little positive interaction between the Tribe and its neighbors.

This case study of Indian gaming's genesis and development on the Pechanga reservation highlights the profound changes made possible by a coordinated strategy of nation building and economic development in Indian Country. It also highlights the profound influence of coordinating intertribal political and economic initiatives. Examining one tribe's particular experience with Indian gaming also provides insight into the ways that federal and state policies actually "play out" at the tribal level.

In many ways, Pechanga's experiences are typical of tribal governments engaged in gaming. That is, Indian gaming has created significant revenue streams that tribes are able to invest in governmental, social, cultural and political development. Indian gaming has provided unprecedented opportunities for tribal governments to set their own agendas. In other ways, however, Pechanga's rapid growth and development offers lessons for how to maximize the opportunities that Indian gaming provides. Ultimately, Pechanga embodies the simultaneous realization of the U.S. Congress' two fundamental objectives when it passed the Indian Gaming Regulatory Act of 1988 (IGRA): empowering tribal governments *and* stimulating economic development.

² "Resort offers rooms to evacuees." See *North County Times*, <http://www.nctimes.com/articles/2003/10/28/news/californian>. According to tribal sources, between 600 and 700 people affected by the wildfires were granted a complimentary two-week stay at the Pechanga Tribe's hotel.

TRIBAL GOVERNMENT GAMING IN CALIFORNIA

After the passage of the Indian Gaming Regulatory Act (IGRA) in 1988, numerous tribal governments in California attempted to negotiate Class III gaming compacts with the State. However, the tribes and the State had different perspectives regarding the permissible scope of gaming. The result was a stalemate in negotiations where the central debate hinged on whether IGRA allowed tribes to offer casino-style games in states with any Class III gaming (at that time, California had a lottery and pari-mutuel horse-racing, both Class III activities), or whether tribes could offer only the actual games permitted in the state (slot machines were illegal under the California constitution).

During nearly a decade of political and legal uncertainty, many tribes in California, including Pechanga, entered a gaming market with few clearly delineated rights. Under these conditions, most tribes in California approached the establishment of gaming in ways that limited their exposure should the legal dispute over gaming be resolved against their favor. As such, the majority of tribes—wary of legal uncertainties and unpredictable market forces—invested only modestly in casino gaming ventures. Finally, however, California Governor Pete Wilson negotiated a compact with the Pala Tribe in 1997-1998 that was intended to serve as a model compact for all tribes in the State. Notwithstanding the fact that it was the first substantial California compact since *Cabazon*, most tribes in the State found this so-called “Pala Compact” model unacceptable because, among other things, it required that tribal governments work with labor unions and contained a “county participation” clause that effectively required local approval for tribal-state gaming compacts.

Governor Wilson made it clear that the Pala Compact blueprint was a take-it-or-leave-it proposition, yet a majority of tribes, including Pechanga, refused to sign it. They insisted that Wilson’s interpretation of the legal scope of tribal gaming was far too limited. Finally, in 1997, a group of tribes decided to fund

a statewide media campaign and attempt to resolve the scope of gaming issue by statute. By March 1998, 102 tribal governments in California, including Pechanga, had joined a statewide campaign to collect 600,000 signatures in order to place a proposition—Proposition 5: The Tribal Government Gaming and Economic Self-Sufficiency Act of 1998—on the ballot for that November. “Prop. 5,” as it was called, mandated a statutory change allowing tribal governments in California to offer slot machines, arguably the most lucrative form of gaming, in their casino facilities. They soon collected more than 1.2 million signatures, easily placing the initiative on the ballot.

Mark Macarro, Chairman of the Pechanga Band, was chosen by other tribal leaders as the spokesman for the Proposition 5 campaign. He was charged with carrying a simple message to California voters: Because of Indian gaming, tribes have begun the long march back from poverty and hopelessness to prosperity and hope for a better future. In addition to the clear message of nation building delivered by Chairman Macarro, the “Yes on 5” campaign, organized by the Californians for Indian Self-Reliance, invested heavily in an education campaign aimed at teaching California voters about tribal sovereignty, federal Indian policy, and Indian gaming’s benefits to the State.

The tribes’ message of tribal self reliance resonated with voters and the initiative easily passed with 63% of Californians’ vote, receiving more votes than the State’s new Governor, Gray Davis, or any other initiative on the ballot. The public’s support for Proposition 5 ultimately measured more than just support for Indian gaming; it documented the ways that Indian gaming had already positively affected the majority of Californians who had witnessed its tangible socio-economic impacts. Proposition 5 represented a formal legitimization of Indian investment, both human and financial.³ It also served as a testament to the power of American Indian political mobilization, as more than 100

³ Proposition 5 was the first of two major referenda passed by Indian nations in California.

tribes worked together to educate California voters about the Initiative.

Proposition 5's legality was almost immediately challenged in the courts. In December 1998, a lawsuit challenging the constitutionality of Proposition 5 was jointly filed by labor unions, Las Vegas interests, and card rooms. While incoming Governor Gray Davis and Attorney General Bill Lockyer had reversed the State's opposition to Proposition 5 after taking office in January 1999, the State's courts found Proposition 5 unconstitutional in February 1999.⁴ In response, tribes in California started negotiating gaming compacts with Governor Davis, who appointed Judge William Norris as state negotiator. Through the state association of tribal governments, known as the California Nations Indian Gaming Association (CNIGA), tribal nations came together to negotiate a single Class III gaming compact that would serve nearly all tribes in the State. At the same time, tribes began collecting signatures to place another Indian gaming proposition on the state ballot, this time an initiative to amend the state constitution to legalize slot machines on Indian lands.

On September 10, 1999, the tribal-state compact was signed between the State of California and 61 tribal governments. Shortly thereafter, AB 1953 passed the State Legislature, ratifying the compacts. As a final step, the State Legislature placed Proposition 1A, a constitutional amendment provision, on the March 2000 ballot. Proposition 1A essentially legalized slot machines and banking card games on tribal lands and put into effect the 61 tribal-state gaming compacts signed in September, 1999.⁵

⁴ The California Supreme Court ruled that Proposition 5, which was written to allow Indian gaming to continue, was invalid because the California Constitution at that time specifically banned Nevada-style gambling.

⁵ Specifically, it inserted the following language into the State constitution: "the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by

Ultimately, voters approved Proposition 1A with 65% of the vote, marking the first time that tribal governments in the United States had prompted a change in a state's constitution. In a final hurdle, on May 16, 2000, the United States Department of the Interior approved the tribal-state compacts for Class III gaming in California, ending a decade-long struggle by Indian nations in California to exercise their federal gaming rights. For the first time in their history, the Pechanga band had a real shot at economic development with the lawful introduction of tribal government-owned slot machines and card games on their reservation.

THE TEMECULA BAND OF LUISEÑO MISSION INDIANS (PECHANGA)

The political victories achieved with the passage of Propositions 5 and 1A followed a long history of isolation from political power for the Pechanga community. The political disenfranchisement of the Pechanga Band began with the arrival of the Spanish, the first Europeans to colonize their traditional homelands, which were eventually surrounded by the State of California. Indeed, the Tribe's ability to become a major player in state and national politics in the late 1990s is remarkable in light of centuries of geographic, political and cultural encroachment by outsiders.

The Tribe's success derives partly from its commitment to maintaining traditional cultural and political structures. Spanish Franciscan missionaries, sent into California by the Spanish government in the eighteenth century to accompany the military, first began the practice of converting local Indians and turning them into forced laborers supporting the often lavish

federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts." Proposition 1A, ratified 2000.

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consumption of the clerics. Indeed, the mission system was more than a religious effort. It was a comprehensive system of social, cultural, and economic control. As described by anthropologist Florence Shipek,:

“The standard colonial mission policy was to bring entire villages into a mission and turn them into a self-supporting and self-sufficient community by teaching them Catholicism and European-style agriculture, crafts and animal husbandry. The missions were expected to supply the army with food and to supply laborers for the settlers in the pueblos and for the private ranchos (landholdings) granted by the government to retired soldiers and settlers, thus taking land needed by the Indians for their own subsistence.”⁶

In the case of the Luiseño, however, numerous cultural and demographic factors limited the reach of the mission system and contributed to their continued social, political and economic survival. The widely dispersed nature of Luiseño villages, for example, inhibited the ability of the Spanish to implement their standard colonial program. As a result, the Luiseño managed to avoid being uprooted from their traditional homelands. This, in turn, blocked the complete destruction of their traditional economy, even in the face of the introduction of new religion and crops, and decimation brought by drought and disease aside.⁷

The year 1826 marked the beginning of a new era for tribal nations in California. The Mexican Revolution resulted in Mexico’s independence from Spain – and Mexico at the time included California. The Mexican government pledged to secularize the missions by transferring the responsibility for all missions from the Franciscans to clerics supported by parishioners. This process was completed in 1834. The clerics were replaced by secular *mayordomos*, whose extravagant

⁶ Shipek, Florence. *Pushed Into the Rocks*. Lincoln: University of Nebraska Press. 1987, pp. 19-20.

⁷ Shipek, p. 23.

lifestyles were supported by the forced labor of American Indians in much the same way the lifestyles of the clerics had been. Later, the Mexican governors granted the best mission farmlands to Mexican citizens in large tracts that often included entire Indian villages and fields. The residents of these villages were used as cheap labor by the grantees. During this period, several Indian pueblos were created, including one occupied by the Luiseño.⁸

In 1848, the United States and Mexico signed the Treaty of Guadalupe Hidalgo to settle the Mexican-American war. In California, the treaty had the abrupt effect of making Mexican citizens—including the Luiseño—Americans.⁹ At that time, the majority of California's American Indians constituted the labor base for "agricultural and stock-raising activity as well as for whaling, fishing, stevedoring, and road and railroad industries in addition to the food production taking place on Indian lands."¹⁰

Following the establishment of U.S. Department of Interior in 1849, the U.S. federal government implemented a number of measures to determine who had land rights in California. Typically, appropriate evidence supporting recognition of Indian land tenure was ignored, and property was routinely ceded to private, non-Indian landholders.¹¹ In 1865, President Grant determined that the best approach to the land rights issue was to develop one single reservation at San Pasqual for all Indians in Southern California. Tribes were vehemently opposed to this idea: Not only was the land proposed for the reservation poor for farming and grazing, but a move to the reservation would also involve abandoning their homes and traditional lands, which many tribes still held in 1865. In 1871, President Grant was

⁸ Shipek, pp. 25-26.

⁹ Shipek, p. 28.

¹⁰ Shipek, p. 33. Stevedoring involves the loading and unloading of cargo from ships in port.

¹¹ See Shipek, pp. 28-34 for further detail

swayed by newspapers and Eastern supporters of tribes and canceled the Executive Order establishing a single reservation.¹²

Eventually, multiple reservations were formed, their boundaries having been decided by the Smiley Commission, whose purpose was to locate tribal lands and boundaries in Southern California but whose work subsequently has been faulted for its inaccuracy.¹³ Many Luiseño, whose lands were enclosed by the Warner Rancho, were moved to the Pala Reservation when the owners of the rancho refused to sell the land containing the Luiseño villages.¹⁴ In 1892, the Pechanga Reservation was established nearby. At that time, many of its residents were “refugees” who had been evicted from Temecula area ranchos by the local sheriff.¹⁵

EARLY ECONOMIC DEVELOPMENT STRATEGIES AT PECHANGA

From the time of the formation of the reservations until recently, farming constituted the most prevalent form of American Indian economic development throughout much of Southern California. Tribes across the region engaged not only in food production for themselves, but also in cash crop farming. Fruit and honey were popular products, and a number of tribes developed highly productive orchards. Some also raised cattle and poultry. After 1891, so-called “market garden” crops were added, including tomatoes, yams, onions, chili peppers, squash and watermelons. These crops eventually replaced wheat, beans, and corn as cash crops. The Pechanga reservation had limited water, but some

¹² Shipek, pp. 34-35.

¹³ See, generally, Shipek.

¹⁴ Often, the land where Indian villages were situated possessed the richest sources of water, but was “owned” by non-Indian ranchos. Rancho owners commonly refused to sell just those portions occupied by Indian villages and, instead, asked outrageous prices for the entire rancho. The federal government, unwilling to pay those prices, often moved those Indians living on ranchos to reservations elsewhere. See Shipek, pp. 43-44.

¹⁵ Shipek, pp. 47-48.

tribal members nevertheless were able to use dry farming techniques to produce income during certain parts of the year.

Not until the mid-twentieth century did Southern California tribes such as Pechanga begin to engage in other economic development ventures. Outside companies, attracted to the reservations by their general absence of state and county zoning laws, sometimes approached the tribes about on-reservation ventures, but more often than not the businesses they proposed were deemed unsuitable or inappropriate by both tribal governments and their constituents. For example, at Pechanga, nearby Rancho California developers proposed a waste disposal project on the edge of the reservation which the Tribe had to fight for more than a year before prevailing.¹⁶ Alternatively, the Tribe consistently sought other economic development avenues considered more culturally appropriate. For years, Pechanga sold sand from a sand wash on the reservation, a venture that yielded approximately \$20,000 a year and supported one paid employee.¹⁷ The Tribe also attempted to garner some revenue from a swap meet and a winery, both of which eventually failed.¹⁸

By far the most successful economic development venture at Pechanga has been gaming. Gambling is not new to the Pechanga Band; early chroniclers of Luiseño culture recorded the existence of numerous games of chance. Two, called *tepanish* and *chehut*, were described in detail in a 1908 Bureau of Ethnology report.¹⁹ The casino-style gambling that takes place today on the Pechanga Reservation, of course, bears little stylistic resemblance to the traditional games historically played by the Luiseño people, but the concept of gambling is culturally congruent for Luiseño. This has helped arm today's Tribe with

¹⁶ Shipek, p. 126.

¹⁷ Amy Minnear, personal communication, Nov. 13, 2002.

¹⁸ Anthony Miranda, personal communication, Nov. 14, 2002.

¹⁹ Sparkman, Philip Stedman. *The Culture of the Luiseno Indians*. Berkeley: University of California Publications in American Archaeology and Ethnology. 1908, p. 212.

the capacity to manage the political and cultural impacts of its gaming success.²⁰

Once exclusively a cultural institution, gambling at Pechanga has been transformed into a principally economic one. The Pechanga Resort and Casino was built on land previously designated for tribal economic development. The casino site—called the Kelsey Tract after the Indian Office inspector who recommended that the Pechanga Band receive it—was retained by the Band in 1912 so that they might have some “small acreage of moderate farmland” with a better water supply than the rest of the Pechanga reservation.²¹ The Kelsey tract remained in executive order status for decades, impeding the Tribe from fully developing the land according to its own design.²² Finally, in August 1988, H.R. 2615 accorded the Kelsey tract trust status.²³ Today, a windmill still stands in the casino parking lot, signifying its agricultural origins. The Tribe has intentionally left the windmill in place as a sign of economic development and sustainability, a mission now left to the casino to fulfill.²⁴

TRIBAL GOVERNMENT GAMING AT PECHANGA: THE PECHANGA RESORT AND CASINO

After the opening of the Tribe’s original Pechanga Entertainment Center in 1995, Indian gaming, owned and controlled by the government of the Temecula Band of Luiseño Mission Indians, developed rapidly at Pechanga. Early revenues were invested heavily in tribal infrastructure and institution-building in order to

²⁰ More generally, research indicates that historic prominence of games of chance in tribal communities increases the receptivity of tribes to contemporary gaming enterprises. See Miriam Jorgensen, *Bringing the Background Forward: Evidence from Indian Country on the Social and Cultural Determinants of Economic Development*, Doctoral Dissertation, John F. Kennedy School of Government, Harvard University, June, 2000.

²¹ Shipek, p. 62.

²² Shipek, p. 62.

²³ H.R. 2615 From Lexis-Nexis “Public Papers of the Presidents.”

²⁴ Anthony Miranda, personal communication, Nov. 14, 2002.

prepare for the anticipated expansion of gaming. Revenues were also used to help finance the two statewide referenda that settled the question of Indian gaming's legality in California and facilitated the process of negotiating a tribal-state gaming compact. Once the legality issue was definitively settled by the California constitutional amendment permitting slot machines on Indian lands in California, Pechanga began construction on an expanded destination resort that eventually replaced its original facility.

In June of 2002, the Temecula Band of Luiseño Mission Indians celebrated the historic grand opening of the Pechanga Resort and Casino. The new resort includes a four-diamond hotel with 522 luxury rooms, pool and spa services, a 125-seat teleconferencing theater, 1,200-seat showroom and performance theater, a 24,000 square-foot ballroom, and seven restaurants ranging from a snack bar to an upscale steakhouse. The casino has a 600-seat Bingo Hall, 2,000 Vegas-style slot machines, and a player rewards club.

The Pechanga Resort and Casino is California's only "four-diamond" resort and casino, one of only twelve such facilities in the nation. The four-diamond rating, a prestigious honor awarded by the American Automobile Association (AAA), was bestowed upon Pechanga in a record time of six weeks subsequent to its opening. Pechanga deliberately built the facility in order to achieve the four-diamond rating. In an effort to meet the strict standards for this designation, the Pechanga Development Corporation (PDC) decided to demolish the beginnings of an earlier expansion to accommodate the structural requirements set forth by AAA, whose standards for the award cover everything from room service to hair dryers to the type of ice buckets in the hotel rooms.²⁵ The PDC's commitment to long-term planning with the Pechanga Resort and Casino is consistent with its overall approach to gaming and has served to strengthen the Tribe's position within the region.

²⁵ Memo by Dual Cooper, Casino General Manager, Oct. 16, 2002.

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The Pechanga Resort and Casino is a full-service destination resort as well as a casino, and gaming is just one of the many additions to the region that the resort provides. The state-of-the-art showroom is the only theater in the area to house nationally renowned touring productions such as *Grease* and *Amadeus*.²⁶ Its convention facilities also are the largest in the region,²⁷ and are used frequently by local businesses and organizations, including the Boys and Girls Club and the Temecula Valley Chamber of Commerce.²⁸ The arena has the capacity to host major sporting events; in January 2003, it hosted a major boxing event that was broadcast live on HBO.

The new casino employs visual touches of Luiseño culture that complement the facility's overall interior design and are likely to be noticed only by tribal members and others who are well-attuned to Luiseño imagery. For example, the tiles in the bathrooms and the wall hanging in the entrance to the conference center are inspired by petroglyph designs found in Temecula's surrounding mountains and echo the petroglyphs' motif of a red paint derived from iron oxide.²⁹ The mural above the hotel's front desk portrays a well-known eagle's nest located on the Pechanga Reservation, and the baskets in the Cabaret bar display the renowned basket-weaving skills of Luiseño women.³⁰

The injections of Luiseño cultural motifs are subtle, and the decision to integrate, but not emphasize, tribal cultural elements derives from the Tribe's philosophy that the Pechanga Resort

²⁶ Anthony Miranda, Personal Communication, Nov. 11, 2002.

²⁷ The nearest comparable facilities are in San Diego. Anthony Miranda, Personal Communication, Nov. 11, 2002.

²⁸ Alice Sullivan, Personal Communication, Nov. 15, 2002.

²⁹ Sparkman, p. 209.

³⁰ A number of different historians have noted the skill of Luiseño basket-weavers. Baskets were typically woven from a combination of long grass and splints from the aromatic sumac. Some were woven so tightly they were capable of holding water. Baskets were made in several shapes, for purposes ranging from storage to carrying children. For more information, see Horace Parker, *The Historic Valley of Temecula*, Balboa Island, CA: Paisano Press, 1965, p. 13; and Sparkman, 204.

and Casino is a tribal business and not a political statement. “We don’t need to prove we’re Indian,” said Miranda. “We know who we are. If you know our culture, you know that the snake design [on the floor of the hotel lobby] was part of our traditional puberty ceremony. You will recognize that pattern and it will be meaningful. If you don’t know that, it’s just a cool looking design.”³¹

INSTITUTION BUILDING: THE PECHANGA DEVELOPMENT CORPORATION

Early on, Pechanga invested considerable human and capital resources in the development of strong institutions of self-government as a means of exercising their sovereignty in multiple contexts, notably gaming. The Pechanga Resort and Casino is entirely owned and operated by the government of the Pechanga Band (through its Pechanga Development Corporation). This is somewhat unusual for facilities of its size in Indian Country, where large and very upscale facilities have often pushed tribes to rely on the experience of major outside operators. By the 1995 opening of its first gaming facility, the Pechanga Entertainment Center, and since, however, the Tribe has managed its own gaming facilities, developing as needed the governmental institutions and business management mechanisms required to do so. In this way, Pechanga is taking full advantage of the tribal governance and economic development opportunities ingrained in the Indian Gaming Regulatory Act of 1988. In embracing both goals simultaneously, Pechanga has crafted an approach to nation building that serves as a model for other tribes.

Research conducted by the Harvard Project on American Indian Economic Development finds that economic development is more likely to occur and be sustained when tribal governments make their own decisions about what approaches to take in

³¹ Anthony Miranda, personal communication, Nov. 11, 2002.

development and what resources to utilize in that development.³² Indeed, when tribes are able to exercise their sovereignty through self-determined economic development, as Pechanga has, they consistently outperform development efforts driven by non-tribal decision makers. The reasons lie in two areas. The first is accountability: Because tribal government decision makers are directly accountable to their citizens for the consequences of their government's decision-making—while federal agencies, non-tribal developers, state governments and other outsiders are not—those that craft and implement their own development agendas tend to fare better than those that don't.³³ The second source of improved performance is cultural: Tribal control of tribal programs and initiatives increases the chances of making choices, settling disputes, and getting all of the “little things” (from hours of operation to personnel grievance procedures to meeting protocols) “right” in the sense of fitting with the home community's cultural standards of “right” and “legitimate.”³⁴

Evidence from such diverse areas as forest management (under PL 93-638 contracting for tribal takeover of otherwise federal

³² Cornell, Stephen and Kalt, Joseph. “Reloading the Dice: Improving the Chances of Economic Development on American Indian Reservations,” in *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development* American Indian Studies Center, UCLA, Los Angeles, California, 1995) and Cornell and Kalt, “Sovereignty and Nation-Building: The Development Challenge in Indian Country Today.” *American Indian Culture and Research Journal* 22, no. 4, November 1998.

³³ For more on the issue of accountability, see Stephen Cornell, “Accountability, Legitimacy, and the Foundations of Native Self-Governance” (Harvard Project on American Indian Economic Development, Project Report Series 93-1, Harvard University, Cambridge, MA, January 1993).

³⁴ Jorgensen, op cit., for example, finds that program performance improves as indicators of Native cultural distinctness increase. That is, there is not a contradiction between strong and distinct native culture, on the one hand, and outstanding management and operations, on the other. On the importance of cultural congruence, see Stephen Cornell and Joseph P. Kalt, “Where Does Economic Development Really Come From? Constitutional Rule Among the Contemporary Sioux and Apache.” *Economic Inquiry*, Vol. 33, 1995, 402-426.

functions) to health care and housing programs (under self-governance compacts), emphatically demonstrate the potency of self-determined and self-governed local control by tribes.³⁵ What is particularly impressive at Pechanga is the speed with which and extent to which tribal control has yielded positive results in both nation building and economic development.

In the early 1990s, the existing Pechanga Business Committee began to look toward gaming as a potential economic development option, having witnessed its success on nearby reservations. In a conscious effort to insure that the tribe's development arm would be capable of making quick business decisions and insulate its decision-making process from political interference, Pechanga created a new entity, the Pechanga Development Corporation (PDC) as a distinct corporate arm of the Tribe. Rather than running businesses enterprises from the tribal council chambers, PDC would operate with its own board and corporate status. In taking this step, the Tribe's decision to separate day-to-day business management from politics quickly became one of the cornerstones of Pechanga's impressive success in both governance and economic development. Pechanga joins a growing number of tribes in Indian Country whose successful tribal governments who have clearly divided functions between tribal elected officials and tribal enterprise management. This separation of functions enables tribal councils to play the indispensable roles of formulating and authorizing policies that advance their tribes' long-term strategic goals, while allowing enterprise managers to keep day-to-day management decisions depoliticized and focused on solid and efficient operational performance.

Pechanga illustrates the lesson that to empower the Tribe as a self-determined sovereign, legitimize the tribal council as truly a

³⁵ See, e.g., Krepps, Matthew B. "Can Tribes Manage Their Own Resources? The 638 Program and American Indian Forestry." In *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development*, American Indian Studies Center, UCLA, Los Angeles, 1995, 179-203; and Jorgensen, op cit.

governing body, and avoid cycles of failed enterprises and programs, the tribal council must give up certain power – the power to micromanage day-to-day business operations. Decades of federal intervention and program oversight practically demanded that tribal councils micromanage reservation economic and social programs, since tribal councils were the go-betweens linking federal authorities and dollars to reservation communities. This has left a legacy across Indian Country in which tribal elected officials at the highest level, ostensibly charged with making law and charting the strategic course of their respective nations, spend their time chasing federal grants or worrying about day-to-day operations for tribal programs.

Pechanga breaks this mold. It makes obvious the results of extensive research on tribal economic development corporations, which finds that the politicization of day-to-day business decisions is the primary obstacle to sustainable tribal economic development. It endangers business profitability and efficiency and creates an unstable investment environment for tribal members and potential outside investors alike.³⁶ According to Michael Cameron,

The structure of many tribal governments allows elected officials access to the daily operations of tribally owned businesses. In addition, the short terms of elective office prescribed by most tribal constitutions politicize nearly all official decision making, including business decisions... This frequently makes business planning difficult, leads to instability in business management, and places extraordinary burdens on tribal enterprises... The close association of tribal politics and tribal business, combined with the unique legal status of American Indian tribes, raises the risks to outside

³⁶ See, for example, Stephen Cornell and Joseph Kalt, “Reloading the Dice: Improving the Chances of Economic Development on American Indian Reservations,” in *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development*, 1995, pp. 1-59.

investors...placing the tribe at a disadvantage in the competition for capital and expertise.³⁷

The PDC as it was designed in 1993 possessed a very simple structure, consisting of five positions: President, First Vice President, Second Vice President, Treasurer and Secretary. Elected by a majority vote of the tribal membership, these representatives are collectively known as the General Council. In many tribal development corporations, officers or directors report to legislative branches, or tribal councils, of their tribes. The PDC, however, answers directly to its shareholders – the tribal membership, which both elects the PDC Council and dictates the scope of its powers. Pechanga’s tribal government, because it, too, possesses a General Council structure, remains very much an inclusive and participatory democracy. “Everyone who has something to say can say it” is the general consensus, and most citizens of the Pechanga Band are both involved in and informed about the workings of their government. According to Pechanga attorney John Macarro, general membership meetings can be a harrowing experience for those seeking the approval of tribal members: “[Tribal citizens] take a contract and just shred it to bits. They’re sophisticated and confident enough to take on an attorney.”³⁸ The sophistication of the Pechanga citizenry, according to PDC member Anthony Miranda, has grown along with the Tribe’s enterprises.³⁹

The five PDC positions had yet to be elected in 1993, when the PDC signed a joint management agreement with Grand Casinos. At that time, the members of the now-defunct Business Committee were working on a volunteer basis on behalf of the PDC. Soon, however, the Tribe appointed an interim PDC that consisted of just two members: Anthony Miranda, who later became President of the PDC; and Jennie Miranda, at that time

³⁷ Cameron, Michael W. “A Prototypical Economic Development Corporation”, in *What Can Tribes Do? Strategies and Institutions in American Indian Economic Development*, 1995, pp. 61-90.

³⁸ John Macarro, personal communication, Nov. 14, 2002.

³⁹ Anthony Miranda, personal communication, Nov. 13, 2002.

CASE STUDY: CULTIVATING NEW OPPORTUNITIES

also Chairperson of the Pechanga Band. Both were paid an hourly consulting fee and concentrated their efforts on explaining the potential impacts of a tribal gaming facility to members of the local community in order to generate local support for the Tribe's larger economic development plans.

In April 1994, the PDC held its first election, in which tribal members elected Anthony Miranda, Patricia Maldonado, Andrew Masiel, Larry Miranda and Butch Murphy to the PDC. Originally designated by the Pechanga Tribal Council as lifetime appointments, the five PDC positions were reconfigured to two-year terms after one of the members resigned. In addition, the Tribe decided to reduce the number of PDC members from five to four. The decision to limit the PDC to four members was culturally driven, as the Tribe believed that an even number better facilitated Pechanga's traditional, consensus-based approach to decision making and specifically economic development. Rather than having an odd number of PDC members—where the vote of one could break a tie—having four members reflects the Tribe's commitment to consensus-building and the democratic process. The PDC's Anthony Miranda described its function this way:

We run the development corporation very simply and that's on a consensus basis...we very rarely take things to vote. We will sit there, and argue and fight but come to a consensus to where everybody feels comfortable in moving forward....So we always have a shifting of allies within the corporation because you can't really have...a power block within the corporation itself. It is ingrained within the Tribe...because we're all, in a sense, still a family running the operations.⁴⁰

By January 1995, the PDC was working on plans for the temporary facility and aggressively building a workforce. PDC began interviewing people for positions with the new gaming facility and held a job fair for tribal members. The Tribe broke

⁴⁰ Anthony Miranda, presentation at Harvard University, Jan. 7, 2003.

ground on the temporary facility in April 1995. During the construction phase, the construction manager brought in by Stan Dru developed a strong relationship with tribal members, and eventually left Dru to work for the Tribe. Also at this point, the PDC opened up a school to train tribal members to become poker and blackjack dealers.

Miranda described the construction phase of the Tribe's first facility as "a homespun deal." The Tribe had very little money or credit. Armed only with the promise of future revenues once the gaming facility opened, a construction crew of four men worked for 45 straight days installing trailers, carpet, patios, and steps for the new facility. As the scheduled opening date moved closer, members of the PDC divided up duties amongst themselves in spite of the fact that none of them had any previous gaming experience. Butch Murphy handled security, surveillance and maintenance. Larry Miranda took charge of cards and card tables. Pat Maldonado handled human resources. Anthony Miranda, utilizing his banking experience, handled accounting and finance, as well as construction. At the outset, the gaming facility had no general manager and no comptroller.

The first facility, the Pechanga Entertainment Center, opened during the July 4th weekend in 1995. It employed 135 people and its first payroll was \$25,000. The facility became so "swamped" with patrons on opening night that PDC members had to open the gaming machines to get smaller bills to be used for change. Members of the PDC worked 36 straight hours after the opening of the entertainment center.⁴¹ The first facility had gravel parking lots and no sewage system aside from an old diesel tank buried beneath the trailers. The only refreshments served were soft drinks. At one point, Miranda noticed people leaving after a half hour of play to go to a restaurant because the facility didn't serve any food. To solve the problem, he "went to the nearest convenience store, bought all of the trail mix, snacks, and candy they had, and gave it away in little plastic cups." It was this

⁴¹ Ibid.

practice that led many to dub the Pechanga Entertainment Center as “the casino where you get a cookie.”⁴²

The Pechanga Entertainment Center proved so successful that by late October 1995, the PDC had already engineered its first expansion; they subsequently expanded the facility several more times prior to the construction of the Pechanga Resort and Casino in order to keep pace with patron demand. Pechanga’s original facility operated for the first two years without a general manager primarily through the innovation and quick learning of the PDC members. “Gaming is not inherently different than any other business,” said Miranda. “We just did what we had to do, and it worked.”

THE PECHANGA GAMING COMMISSION

Prior to opening the Pechanga Entertainment Center, Pechanga created a regulatory body to protect the Tribe’s assets and enforce applicable tribal and federal laws of the federal Indian Gaming Regulatory Act (IGRA). IGRA, however, does not mandate that tribes adopt any particular structure for their commissions, (though NIGC bulletins suggest that tribal gaming commissions be formed as independent bodies). Therefore, most tribes have had to determine for themselves how to create a gaming commission that simultaneously fits with their existing governmental structure and fulfills its prescribed functions of regulatory oversight and compliance.

The Pechanga Gaming Commission (PGC) has an organizational structure that complements and supports both the Pechanga Tribal Council and the PDC. According to Anthony Miranda, the three entities “create a triangle and a natural tension between the entities...and I think that’s good because you don’t have one entity running away from the other...there’s no outside people serving in those positions, they’re all from within the Tribe. So essentially, every person is still connected to the community

⁴² Ibid.

itself and each portion of that triangle plays a different role.”⁴³ Pechanga built its own system of checks and balances to control and manage its most important business asset.

The PGC derives its authority and responsibilities from the Temecula Band of Luiseño Mission Indians’ Tribal Gaming Ordinance Act. The PGC is composed of five tribal members elected by their fellow citizens.⁴⁴ Position terms for these gaming commissioners last five years in order to accommodate “a lengthy educational process.” The commissioners’ terms are staggered to “allow for consistency” within the Band’s regulatory institution.⁴⁵ The first PGC election, held in 1994, established Frances Miranda, Norman Pico, Edith Greenheck, Bill Salinas and Albert Flores as founding commissioners.

Under the Tribal Gaming Ordinance Act, it is the duty and responsibility of the Gaming Commission to investigate wrongdoing, inspect and monitor gaming activities, hold hearings, and license and investigate personnel connected with the gaming activities. The Commission not only licenses and investigates employees, but also inspects and licenses the gaming facility. In addition, it investigates and licenses vendors, suppliers, and others who do business with the Pechanga Resort and Casino.⁴⁶ PGC’s vigilance in regulating and licensing gaming activities derives from the fact that all commissioners are tribal members who have a vested interest in protecting tribal assets. They link their sense of responsibility to their connection to the community: “It is of utmost concern to us that our homes and businesses remain free from dishonesty and criminal

⁴³ Anthony Miranda, presentation at Harvard University, Jan. 7, 2003.

⁴⁴ External auditing services are contracted with an experienced firm from Las Vegas and legal support is supplied by a national law firm.

⁴⁵ “Pechanga Gaming Commission.” Materials provided to the National Gambling Impact Study Commission (NGISC). Las Vegas, NV. November, 1998.

⁴⁶ *Ibid.*

activities. After all, our Reservation is the place where we live, work, and raise our families.”⁴⁷

BUILDING RELATIONSHIPS

In its position as the business arm of the Tribe, the PDC takes the lead in the Tribe’s dealings with external entities regarding economic development ventures. This became particularly relevant when it came to the subject of gaming, a controversial topic in southern California by the early 1990s. Temecula, the town bordering the Pechanga Reservation, maintained few meaningful relations with the Tribe prior to gaming. Local residents were accustomed to the Tribe being “very quiet,” especially in the economic development arena.⁴⁸

A number of Temecula residents initially voiced their disapproval of the Tribe’s decision to build its first gaming facility, including many who lived in Red Hawk, a housing development abutting the land upon which the casino was to be constructed. In response, the PDC hosted small community gatherings where its members explained the likely impacts of gaming to those in attendance. The PDC also hired a public relations firm to promote Indian gaming in the surrounding region. In response to community concerns and in support of the PDC’s efforts, the tribal government agreed to build a noise-reduction wall between the local housing development and the casino grounds.

The PDC also serves as the Tribe’s representative in the business community in Temecula, a community that has experienced rapid and remarkable growth in recent years. According to a report by economist John Hsing, taxable sales in Temecula went up 23.8% in 1999, compared to 11.6% in Riverside County as a whole. Between 1990 and 2001, Temecula’s population grew from 27,099 to 62,100, an increase of 129.2%. The median

⁴⁷ Ibid.

⁴⁸ Alice Sullivan, Temecula Chamber of Commerce, personal communication, Nov. 15, 2002.

income in the city of Temecula registered at \$61,755 in 2001, making it one of the highest in southern California's off-coast "Inland Empire." Hsing has concluded that: "Temecula is emerging as one of the most prosperous new communities in the region...The city's average income levels are higher than the surrounding region, the educational performance of its young people is above state averages, and it is one of Southern California's safest cities."⁴⁹

A considerable amount of anecdotal evidence suggests a strong connection between the remarkable growth of gaming at Pechanga and Temecula's rapidly expanding economy and population, although research has yet to conclusively link the two. For example, members of the Temecula Valley Chamber of Commerce (TVCC) noted that the Pechanga Resort and Casino has a "trickle down" effect on other businesses, and is responsible for a marked increase in the number of tourists in the area. The Pechanga Resort's banquet facilities, in particular, are viewed as revenue generators for the entire community, with many other Temecula businesses benefiting from convention spillover.⁵⁰

Tribal attorney and tribal member John Macarro observes that the Tribe and City have "grown up together."⁵¹ Indeed, the Tribe makes a conscious effort to insure that the whole community of Temecula benefits from the prosperity of Pechanga's casino and resort facility. For example, the PDC has pledged to try "whenever possible" to use local vendors. A representative of the Tribe serves as a member of the TVCC's 50-member Tourism Council, which explores ways in which the City and its local businesses can maximize tourism opportunities. Their work has become increasingly relevant with the large numbers of tourists streaming into the area to visit Pechanga's new facility. Through the TVCC's Tourism Council, partnerships involving Pechanga

⁴⁹ Husing, John E. "City of Temecula: Demographic, Economic and Quality of Life Data." Economics & Politics, Inc. 2000.

⁵⁰ Alice Sullivan, personal communication, Nov. 15, 2002.

⁵¹ John Macarro, personal communication, Nov. 15, 2002.

have been formed with local wineries and bus lines, among others.

LOCAL COMMUNITY REINVESTMENT

Pechanga's gaming facility has twice been awarded the "Business of the Year" award by the Temecula Valley Chamber of Commerce, in 1997 and 2000; and was nominated twice for the award prior to 1997. The mission of the TVCC, which has more than 1,375 members,⁵² is to "promote the economic environment of all member businesses and to support the programs that preserve and improve the quality of life."⁵³ In order to win TVCC's "Business of the Year" award, a company must be nominated by another Chamber of Commerce member. Upon being nominated, it must submit information documenting its community involvement and various business practices, including its participation in Temecula Valley community service events; its encouragement or recognition of employees who volunteer within the community; its record of monetary support or in-kind contributions benefiting the community; its staff's memberships in professional organizations and contributions to the business's respective industry; its participation in issues or legislation that impact the Temecula Valley; its efforts to further staff growth through training programs; its employee benefits and incentives; and its commitment to workplace or product safety, equitable employer-employee relationships and a clean and healthful environment. This documentation is reviewed by past award winners, who then vote on the year's winner.⁵⁴

As a two-time winner of the award, the Pechanga Resort and Casino has been active, as well as innovative, in all of the above

⁵² Alice Sullivan, personal communication, Nov. 15, 2002.

⁵³ "Business Resource Guide." Southwest Riverside County, p. 9.

⁵⁴ Alice Sullivan, personal communication, Nov. 15, 2002; and Temecula Valley Chamber of Commerce 2001 Platinum Business of the Year Nominee Form.

areas. With 2,745 employees,⁵⁵ Pechanga is one of the largest employers in the area. It also contributes significantly to the local community. The Tribe sponsors a number of local Little League and soccer teams and donates the use of its conference facility to the Chamber of Commerce at no cost for their annual dinner. When the Boys and Girls Club Auction was held at Pechanga's facility, the Tribe covered half of the cost of the food. The auction raised \$200,000 for the organization.

EXERCISING TRIBAL SOVEREIGNTY: SHARING WEALTH AND POWER

As the Pechanga Band strengthens its governing institutions and economic development endeavors, it is also becoming increasingly active in political issues affecting not just the Tribe but the surrounding local area as well. The most recent and compelling example is the tribal government's involvement in blocking the San Diego Gas & Electric's (SDG&E) plan to run a high-voltage electric power line through the increasingly tourism-oriented Temecula area.

In August 2000, SDG&E announced its plans to build a 500,000-volt electric transmission line, called the Valley Rainbow Interconnect, to link the SDG&E and Southern California Edison power grids. SDG&E's preferred route cut through a section of the Pechanga Indian Reservation. This proved problematic since SDG&E could not exert eminent domain over federal trust land.⁵⁶ The secondary route proposed by SDG&E crossed the Great Oak Ranch, a historic site located on property once owned by Earl Stanley Gardner, author of the Perry Mason novels. The 724-acre Great Oak Ranch was a part of the Pechanga Reservation until 1851, when the State legislature passed a law that vacated property rights from those who could not prove the existence of documented title. It was also the site of the 1847 Temecula Massacre, in which as many as 100 Luiseño Indians

⁵⁵ Lucy Allen, personal communication, Jan. 9, 2003.

⁵⁶ Stokes, Sandy. "From Grass-Roots to Political Beast," in *The Press Enterprise*, Dec 22, 2002. A01.

were killed by Californian and Agua Caliente soldiers.⁵⁷ Notwithstanding the underhanded way the property was taken from the Tribe, the Tribe bought the land back in May of 2001 – to the presumed dissatisfaction of SDG&E.

Non-Indian members of the Temecula Valley community, too, were deeply concerned about SDG&E's plans. In September 2000, they formed Save Southwest Riverside County (SSRC) to try to counter the energy company's plans. The Tribe and SSRC suddenly found themselves working together for the same cause.

The Tribe applied to the U.S. Department of Interior to put the Great Oak Ranch into trust, which would have effectively prevented SDG&E from using eminent domain to locate the power line there. SDG&E's parent company, Sempra, took up the fight against the Tribe in Washington, D.C., declaring that the company was not against the land being taken into trust, but that it simply wanted an easement allowing the power line to cross the land. However, the Tribe found an ally in SSRC, which organized a letter-writing campaign on the Tribe's behalf. This resulted in the sending of more than 5,000 letters and e-mails to the U.S. Department of the Interior's Bureau of Indian Affairs (BIA) in support of the Tribe's trust application for the land in question. The SSRC also raised \$300,000 in donations, which joined with the \$190,000 contributed by neighboring towns and community associations.⁵⁸ SDG&E was defeated in December of 2002, when a bill was signed into law making the Great Oak Ranch "untouchable" to the company and, just days later, the California Public Utilities Commission denied permission for the power line. For the towns, the law and subsequent decision represented a victory they may not have achieved without the Tribe. For the Tribe, the result was reacquisition of land with great meaning to the community, new learning about how it

⁵⁷ Temecula Valley historian Horace Parker classifies the Temecula Massacre as the "bloodiest battle of the Mexican War in California." Estimates of those killed range from thirty-eight to over a hundred. See Parker, Horace. *The Temecula Massacre*. Paisano Press, 1971.

⁵⁸ Stokes, A01.

could relate to and work with neighboring governments that had long been alien, and experience in the state and federal arenas. The outcome for the Tribe was not only a victory over a powerful utility company, but a lesson in how the exercise of tribal sovereignty has the potential to benefit both tribal interests and the interests of the larger community.

Pechanga legal analyst Karl Fuller emphasizes that the Tribe is now more aggressive when it comes to participating in the political process, actively defending its rights rather than sitting idly by as companies like SDG&E attempt to infringe upon them. According to Fuller, “It was good to know that the Tribe was no longer invisible.”⁵⁹ The triumph over SDG&E also validated Pechanga’s decision to create institutions that complement one another. The prior educational campaigns related to gaming that the PDC had undertaken helped to forge relationships that Pechanga could later call upon to promote the Tribe’s land-into-trust application. Taken as a whole, Pechanga’s multiple points of engagement with other governments and the local community have facilitated the Tribe’s emergence as a major political actor in the region and beyond.

In her study of California gaming, Eve Darian-Smith emphasized that, through gaming, tribes are beginning to see themselves—and act—as political and legal actors in their own right:

The economic opportunities granted by tribal gaming is [sic] opening up new forms of legal imagination for Native Americans that challenge long-standing precedents which have spatially and temporally fixed Native Americans in Anglo-American understandings of their culture ...By channeling their long endured historical grievances into a formal political/legal challenge...Indians are to a certain degree successfully

⁵⁹ John Macarro, personal communication, Nov. 15, 2002.

participating in what we officially recognize as ‘the’ legal arena.⁶⁰

Darian-Smith’s observations capture the trend in which tribes like Pechanga are increasingly able to equitably participate—and even prevail—in legal, regulatory and political disputes with outside interests. She notes, “The wealthier and more powerful tribes are demanding a role in California’s governmental procedures.”⁶¹ At Pechanga, economic success has translated directly into political power, but money alone does not itself guarantee political participation. Rather, it is the Tribe’s investment in institution-building and relationship-building, and its insistence on tribal control that together provide the critical underpinnings for the creation of sustained political, and legal momentum.

INSTITUTION BUILDING: THE PECHANGA LEGAL DEPARTMENT

In keeping with its desire to maintain effective tribal control over both government and business, Pechanga has developed an in-house legal department, becoming one of only a handful of tribes in California to do so. While the Tribe still regularly works with outside counsel, there is a commitment to include Pechanga’s legal department in all decisions that impact the Tribe. Its role is more than symbolic; even veteran attorneys from national law firms are questioned regularly by the Tribe’s legal staff. According to Fuller, “When one of the attorneys from [our outside counsel] sends a finished product to us, now we can say ‘no.’ We want to be involved in the process. We are cultivating our own talent and developing our own expertise.” Developing in-house expertise also has instilled confidence in the Tribe’s ability to exercise its sovereign rights more often and more forcefully.

⁶⁰ Darian-Smith, Eve. “Indian Gaming and Sovereignty.” American Anthropological Association, 2000.

⁶¹ Ibid.

Increased contact with other governments precipitated by Indian gaming has provided ample opportunities for the Pechanga Tribe to exercise its sovereignty. On October 28, 2002, for example, Pechanga filed a joint lawsuit with the neighboring San Manuel Band of Serrano Mission Indians against the State of California for breach of the tribal-state gaming compact. According to the tribes' brief, certain actions and threatened actions by the State violated the tribes' reserved rights as sovereigns, while also contradicting the bilateral and mutual consent provisions of the compact. The suit alleged multiple compact violations by the State, including a major infraction involving the State's distribution of the Revenue Sharing Trust Fund (RSTF) fees to tribes that have limited or no gaming.⁶² According to the plaintiff bands, the State has failed to manage and distribute the millions of dollars set aside by successful gaming tribes, including Pechanga and San Manuel, to the poorest tribes as required by the compact.⁶³ In the view of Pechanga Tribal Chairman Mark Macarro,

What the State has continued to do regardless of what we say is unilaterally redefine its role under the compacts. Our tribes have faithfully followed all negotiating mechanisms prior to pursuing litigation. In some instances the State has simply and flatly refused to meet with us as required by the compact; therefore we have no choice but to seek relief from the courts.⁶⁴

Prior to the filing of the lawsuit, the Pechanga Band tried to work with the State to address their concerns. Multiple requests for meetings with the Governor were denied, prompting the

⁶² *Pechanga Band of Luiseño Mission Indians and San Manuel Band of Serrano Mission Indians vs. State of California*, California Gambling Control Commission.

⁶³ "Tribes File Suit Against State for Breach of Gaming Compacts." Press Release, Highland, California. October 28, 2002.

⁶⁴ James P. Sweeney, "Two Tribes Sue State over Casino Gaming Compact." *San Diego Union Tribune*. October 29, 2002. Edward Sifuentes, "Two Tribes File Suit Against the State Over Gambling Regulation." *North County Times*. October 29, 2002.

Tribe to comment publicly on their treatment by the State. “The State has put a lot of bureaucrats in between the tribes and the Governor who act as if Indians are still wards of the State,” said Butch Murphy, Communications Director for Pechanga. Murphy continued, “instead of giving us a chance to continue to show how we regulate gaming on our reservations, a major responsibility the Compact gives to the tribes, the State frustrates our every effort.”⁶⁵

The lawsuit also addresses the always contentious subject of jurisdiction and the role of each government in deciding where the lines will be drawn. Pechanga and San Manuel have asserted generally that the State was not following the compact’s terms and in so doing was overstepping its authority. Unlike in the past, however, the tribes now have the resources to fight to maintain their jurisdiction and hold the State to its word. Fuller credited the combination of tribal education and economic development for the Tribe’s commitment to political activism and self-determination: “It is great having the savvy to deal with issues like Section 9 [of the tribal-state gaming compact] now. We didn’t have the resources to protect the Tribe before.”⁶⁶

STRENGTHENING INTERGOVERNMENTAL RELATIONSHIPS

Just as Pechanga partnered with its neighbors to stop SDG&E and with San Manuel to sue the State, it also has formed partnerships to facilitate infrastructural improvements closer to home. The Tribe provided \$4.4 million to the City of Temecula for the widening of Pechanga Parkway, the main thoroughfare between Highway 79 and the Pechanga Resort and Casino.⁶⁷ It also was “instrumental” in securing federal funding for the construction of a much-needed bridge on that same road,

⁶⁵California Tribes Compel States to the Table, Press Release, July 2, 2001.

⁶⁶ John Macarro, personal communication, Nov. 17, 2002.

⁶⁷ Pechanga Parkway was formerly called Pala Road; the town agreed to change the name after the tribe contributed to the widening project. John Macarro, personal communication, Nov. 15, 2002.

according to former Temecula mayor, Ron Parks.⁶⁸ And in addition to constructing a noise-reduction wall around the Red Hawk housing development near the casino in response to complaints by the community, the Pechanga Band also fully funded traffic signals along Pechanga Parkway. The Tribe “tries to be a good neighbor,” said John Macarro, an attorney for the Pechanga Band.⁶⁹

Keeping the local community apprised of tribal developments has resulted in tangible political payoffs for the Pechanga Band. During the Proposition 5 and Proposition 1A campaigns, the TVCC organized a letter-writing movement in support of the Tribe. After the passage of Proposition 1A, the Tribe hosted an event for the entire community as a way of acknowledging that support.

During the construction of the Tribe’s current gaming facility, the PDC took members of the business community on tours of the construction site. Keeping a constant flow of information between the PDC and the local community has been a key factor in maintaining a good relationship between the two. “They’ve done a lot of things right,” said Alice Sullivan, President and CEO of the Temecula Valley Chamber of Commerce. “We really have a lot of respect for them.” After centuries of little interaction, the communities in the Valley now appreciate one another, creating shared objectives and an environment of interdependence. From the Tribe’s perspective, the collaborative efforts and the Tribe’s increasing presence in local affairs have led more and more people to understand that the Tribe is a sovereign. According to Parks, “People in the area have learned that tribes govern themselves and you’re visitors on their property.”⁷⁰

⁶⁸ Ron Parks, personal communication, Nov. 15, 2002.

⁶⁹ John Macarro, personal communication, Nov. 15, 2002.

⁷⁰ Ron Parks, personal communication, Nov. 16, 2002.

STRENGTHENING TRIBAL CULTURE

Gaming's economic benefits could not have been contemplated when the Pechanga Reservation originally was established. It is impossible to miss the profound local impacts of the Tribe's economic development ventures. However, the value of gaming to the Tribe and the neighboring City of Temecula is more than financial. According to local residents, the casino has become an invaluable addition to the social and entertainment options of the once-rural Inland Empire community, and it has greatly expanded the number of tourists coming into the region.⁷¹ The facility also vividly reflects Luiseño culture, making it as much a source of pride for the 1,468 members of the Pechanga Band as it is an economic development tool.⁷²

In order to foster the community's feeling of ownership in the Pechanga Resort and Casino, there were two grand openings of the new facility in 2002—one for the general public and another, held the night before, exclusively for tribal members. Pechanga tribal elder Patricia Winbury described a proud “sense of ownership” and pride in the Pechanga Resort and Casino among tribal members. She has witnessed this firsthand, stating that when Pechanga tribal members travel to other hotels, “there are now frequent comments about ‘our’ hotel being better.”⁷³

THE TAKIC LANGUAGE REVITALIZATION PROJECT

But the connection between the Pechanga community and the gaming facility runs deeper than a sense of pride. The Pechanga Resort and Casino was developed by the Tribe's institutions and continues to be operated in ways reflective of cultural principles rooted in family relationships. Using the revenues the casino has

⁷¹ Alice Sullivan, Personal Communication, Nov. 15, 2002.

⁷² Pechanga promotional materials. Figure represents 2001 enrolled membership.

⁷³ Personal Communication, Nov. 12, 2002.

generated, the Tribe has been able to facilitate the preservation and study of the Pechanga Band's traditional culture. The Band has instituted a language program called The Takic Language Revitalization Project.⁷⁴ The program is the result of a unique partnership between the Tribe and nearby University of California-Riverside (UCR). According to researchers at UCR, about half of the 100 surviving California Indian languages are close to extinction, and few children are learning their tribal languages in their own homes. Pechanga leaders estimate that only about 25 of the Tribe's members are fluent in Luiseño.⁷⁵ In order to reverse this disturbing language loss among their people, the Pechanga Tribe hired a full-time linguist, Eric Elliott, to teach the Luiseño language on the Reservation. Under a five-year agreement with UCR, the Tribe pays the University, the official employer of Elliott.

Those involved with the language program at Pechanga understand that investing tribal gaming revenues into a language program may not receive universal support from tribal members, who may be more interested in projects with a more concrete and immediate payoff. Gary DuBois, Director of Pechanga Cultural Resources Department, acknowledged that this project is a long-term investment: "We have to keep the motivation going if the kids don't speak Luiseño fluently within a year. It is impressive that Pechanga is investing in something that doesn't have a tangible value."

While the value of language fluency or building a language community is not easily quantifiable, most Pechanga tribal members understand its importance to maintaining their cultural integrity. As Elliott noted, "Learning the language makes the community that much more vibrant. It is powerful to have a

⁷⁴ Takic languages are Luiseño, Cupeño, Cahuilla, Serrano, and Gabrielino.

⁷⁵ Michelle Dearmond and Tim O'Leary. "Tribe moves to save tongue: UCR agrees to assist the Pechanga effort to rescue their vanishing language." *The Press Enterprise*, June 12, 2002.

speech community that can instill a sense of identity back into the indigenous community.”⁷⁶

The Tadic Language Revitalization Project is an important program of the larger Pechanga Cultural Center. The Cultural Center began as a site-monitoring program intended to protect sacred and other historically significant sites from destruction or damage by area development. One of the few providers of tribal jobs prior to gaming, the program operated through a team of monitors who visited planned construction sites to make certain that construction projects would not damage or disturb artifacts, human remains, or sites deemed sacred by the Tribe. According to Gary DuBois, the program’s director, gaming revenue has brought a new respect to the Tribe and, hence, to the program. That respect, says DuBois, emanates from the Tribe’s ability to file suit against potential transgressors, which is directly linked to the pool of gaming revenues made available for the Tribe’s creation of an in-house legal department and for the paying of outside counsel fees.⁷⁷ Within the site-monitoring program is a unique accredited training program for monitors that awards participants six university-level credits. According to DuBois, approximately two hundred people, many from other tribes in the region, have completed the training, which is held on-site at the Pechanga Cultural Center.⁷⁸

A related project involves the translation and use of wax cylinder recordings made in the Luiseño language nearly a century ago. In these recordings, translated by Elliott, a man named José Macarro ironically states that he is recording his thoughts because “his people are going to want to know this some day.” While currently one of the only people who can understand and translate these recordings, Elliott is keenly aware that achieving success means eventually putting himself out of business. According to Elliott,

⁷⁶ Eric Elliott, personal communication, Nov. 13, 2002.

⁷⁷ Gary DuBois, personal communication, Nov. 13, 2002.

⁷⁸ Gary DuBois and Amy Minniear, personal communication, Nov. 13, 2002.

If I do my job right, I'll talk my way out of a job. That would be ideal. If we can produce a generation of kids that can understand the depth of the songs—and there are hundreds still intact—if they can get the full sense of the songs in these reels, we will have developed a new generation of speakers.⁷⁹

Ultimately, the Pechanga Band hopes to produce a working model of their language program that can be adopted by other tribes. UCR is working on a grant proposal to develop materials to facilitate that process. According to Elliott, Pechanga is an ideal role model for the ways they have balanced its economic development and growth with a commitment to and intensification of cultural integrity. “The Pechanga people have brought themselves into the middle class but haven’t lost that sense of community. We need to copy this on a bigger scale,” he said.

To this end, the Pechanga Band has instituted a bilingual preschool in which students from three to five years old are taught both the English and Luiseño languages. In the classroom, Elliot speaks only Luiseño, using songs and stories as primary teaching tools. The stories are often European fairy tales like “Hansel and Gretel” translated into Luiseño. “It’s a way of meeting the kids halfway,” said Elliot of using stories already familiar to the children to teach them their tribal language.⁸⁰ The songs, however, are a mixture of traditional and contemporary. The staff of the Tribe’s cultural program is deeply committed to preserving and protecting those songs that have survived. According to Gary DuBois,

After all, these songs are our life lessons. They teach us how to interact with the environment and the elders, how to hunt and then to give it away. They represent a

⁷⁹ Eric Elliott, personal communication, Nov. 13, 2002.

⁸⁰ Eric Elliott, personal communication, Nov. 13, 2002.

paradigm shift where we can't go back but we can instill and adopt some of these values in our preschoolers.⁸¹

The preschool program is designed to expand as its first class grows older. A kindergarten will be next, followed by a primary school program. Eventually, the goal of DuBois, Elliot and the other program organizers is to use Luiseño as the only language of instruction in the tribal school. According to Elliot, the program reflects the philosophy that, “the language of instruction becomes the de facto mother tongue.”⁸² Until that goal can be achieved, the Tribe has hired Bridgett Barcello Maxwell to teach the English portion of the preschool. Maxwell is a tribal member and a unique example of some of the other ways in which gaming revenue has impacted the Pechanga Band. Not only does she now participate in the preschool language program as a full-time teacher, she graduated from college with support from the Tribe’s scholarship program.

SCHOLARSHIPS

In addition to its investment in preschool and language programs, the Pechanga tribal government also provides full college scholarships for tribal members. The full scholarships cover all expenses, including tuition, books, room, board and transportation. Students attend a range of institutions, from law school to vocational-technical colleges to culinary school. There are typically at least 80 students in college at any given time.⁸³ According to the scholarship program director, Joann Lucker, nearly all students complete their program.

It’s working because students must re-pay the Tribe the money they were given if they fail to achieve or maintain a 2.0 GPA. If they go to school for a year and

⁸¹ Gary DuBois, personal communication, Nov. 13, 2002.

⁸² Eric Elliot, personal communication, Nov. 13, 2002.

⁸³ Joann Lucker, Director of Education/Programs, Pechanga Tribe, personal communication, Nov. 12, 2002.

didn't pass their classes, they must pay the Tribe back for that year.⁸⁴

This requirement acts as a filter to screen out students who may not be serious about pursuing an education, she said. The education covered by the scholarship program is not limited to the United States. Students who are interested in study-abroad programs may maintain their level of funding and pay only the difference between domestic and international study. The level of need for any student is individually calculated, but relies upon the federal standards outlined in the Free Application for Student Aid (FAFSA).

The Tribal Council is responsible for making decisions regarding requirements and funding. Each scholarship recipient must be a tribal member, must graduate from an accredited institution within either two years (Associate's degree) or four years (Bachelor's degree), and must maintain a 2.0 grade-point average. According to Lucker,

A student cannot jump around from school to school or program to program. They are funded one time, straight through. Of course, this means they can go all the way from pre-school through a Ph.D. and we will support them.⁸⁵

EMPLOYEE SCHOLARSHIPS

In addition to working with local governments and committing to buy from local vendors, the casino also encourages its employees, many of whom are non-Indian community residents, to pursue professional development opportunities. Bill Salinas, the Pechanga Resort and Casino's Human Resources Director, stated that the Tribe will pay the tuition of any employee who wishes to pursue further education and training related to their job. This scholarship program has an open budget; students must

⁸⁴ Joann Lucker, personal communication. Nov. 12, 2002.

⁸⁵ Joann Lucker, personal communication, Nov. 15, 2002.

simply pass with a 'B' to maintain their scholarship. Books and conferences are also covered.⁸⁶

The casino also provides in-house training in casino management, tribal culture, and sexual harassment to all new employees and is in the process of developing an English-as-a-second-language program for employees who are not yet proficient in English. The Human Resources Department also has established several award programs for outstanding service, including the "Caught You Caring" award. Under this program, managers enter the names of five employees for recognition and five names are drawn every month for prizes. Names also are drawn for a bigger annual award. Other benefits offered to employees include full medical and dental coverage, annual bonuses of up to \$1,500, and \$50 gift certificates and turkey certificates at Christmas.

SILVER FEATHERS ELDERS PROGRAM

The casino revenues also support the elder members of the Pechanga Band, providing the entire budget for the Silver Feathers Elders Program. This program has changed dramatically as a result of gaming. In the 1960s and 1970s, the program and its elders raised money through bake sales and other projects to fund elder activities. Today, they receive funding from the Tribal Council, which receives the funds from the casino. By the end of 2002, Silver Feathers had 161 members.⁸⁷ Approximately 30-50 elders attend the monthly meetings on the reservation. Some events, such as a group excursion to Alaska, attract upwards of 80 members.

According to Silver Feathers board members, one of the advantages of an active elders' group is that elders who have moved off of the Reservation are beginning to move home or at least attend functions with reservation residents, thereby

⁸⁶ Bill Salinas, personal communication, Nov. 15, 2002.

⁸⁷ Patricia Winbury, Board member, Silver Feathers, personal communication. Nov. 12, 2002.

expanding the geographic reach of tribal elder community. For example, one tribal member living in Texas and another living in Massachusetts join all of the group's field trips, strengthening their ties with their Tribe. Additionally, many elders who had left the area for other parts of California are moving back to the Reservation to be closer to the elders' group as well as their families, allowing them access to language classes and the opportunity to interact with tribal youth.

Youth are invited to participate in certain events with the elders and are invited to decorate the elders' center for the holidays or serve meals at elder social functions. Some of the functions of the elders' center are practical, but nonetheless they all are integrated within the tribal community. For example, firefighters from Pechanga's new fire department recently presented each Silver Feather member with a fire extinguisher and taught them how to use it. The department has also offered CPR classes.

Silver Feathers has cultivated increasing political participation among elders living on the reservation. They played a critical role in lobbying the Tribal Council for health insurance for all tribal members. The growing strength of the Silver Feathers program is due in large part to gaming revenues. "Having a budget has really brought [the elders] together as a group," said Anthony Miranda.⁸⁸

The casino has played an important direct role in improving the quality of life and expanding the range of services and activities for Silver Feathers members. The casino provides a shuttle bus for the elders to get around the Reservation and for travel to and from the casino, where they are entitled to two free meals every day at any of the casino's seven restaurants. The Pechanga Development Corporation sponsors cookouts and parties for the elders in the park on the Reservation. Elders receive free tickets for every performance at the casino's theater.

⁸⁸ Anthony Miranda, personal communication, Nov. 13, 2002.

CONCLUSION: NATION BUILDING AT PECHANGA

The Pechanga Band has proven extremely successful on a number of fronts: its enterprises have prospered financially; its cultural institutions are thriving; and it has reclaimed its place in the political structure of the region, the state, and the country, forming government-to-government alliances as a sovereign nation. As is the case with many success stories, it is difficult if not impossible to pinpoint a single cause. The Pechanga Resort and Casino clearly benefits from the location of the Pechanga Reservation, which is situated near a major thoroughfare within a two-hour drive of both San Diego and Los Angeles. The Tribe's ability to participate effectively in the political process at both the state and national levels and to form partnerships with other governments is clearly aided by casino revenues. However, explaining the fact that a tribe that was once considered "invisible" by the local community is now a prominent member and partner and the fact that what was an empty field a handful of years ago is now a four-diamond resort facility is far more complex than just location, chance and money.

Research on nation building in Indian Country points to a number of strategies that help explain Pechanga's success. The Pechanga Band has for many years exhibited a fierce desire for independence and self-determination, illustrated in one instance by its refusal to allow the government to build a highway across the reservation. The Band has also refused to pave the roads on the Reservation in spite of access to federal transportation funds to do so. According to one tribal member, "the Tribe was afraid that accepting federal money would lead to accepting federal jurisdiction."⁸⁹ That same desire for self-rule has influenced the Pechanga membership's decision to create a strong PDC in order to own and operate its own casino from the start.

But the PDC is only one piece of the overall governing structure at Pechanga. The Pechanga Band's relatively small size, along with the participatory nature of the tribal government, allows

⁸⁹ John Macarro, personal communication, Nov. 17, 2002.

tribal members to exert considerable influence over the course of the community. While the PDC develops the Tribe's economic foundations through business investments and partnerships, the revenues generated by their activities are transferred to the Tribal Council, which invests in tribal social programs and intergovernmental partnerships. Taken together, the activities of the PDC and Tribal Council are mutually reinforcing, allowing for flexibility and efficiency in government and business while retaining accountability to the tribal membership.

The dynamic structure of the Pechanga Band's society and government adds an additional layer of accountability to the PDC, making it not only responsible to the membership financially, but personally as well. Pechanga has tailored its economic development institutions to the community governance structures and familial relationships already in place. According to Miranda, "we can do that at Pechanga because we're all, in a sense, still a family running the operations no matter if we're on the council, on the development corporation or on the commission. We're not outside people, so we can still argue with each other."⁹⁰

At Pechanga, this sense of family is cultivated among non-Pechanga employees as well. The casino has deliberately created a familial atmosphere in its work environment, adapting standard business practices to incorporate Pechanga culture rather than adapting the culture to accommodate the business. "That's our focus, that's our culture and outsiders are incorporated into our structure, not the other way around," said Human Resources Director Bill Salinas. In the early days, managers hired from outside the Tribe, particularly casino general managers hired from Las Vegas, arrived with a business plan that was unworkable for the Tribe. Rather than accepting the business practices from outsiders, Salinas emphasizes that new employees, even managers, are taught to work in a way that the Tribe finds suitable. When non-Indians first arrive, it can be challenging for them to internalize the Tribe's model of a

⁹⁰ Ibid.

familial enterprise. According to Salinas, “It’s hard to change that corporate mentality.”⁹¹

One of the many common criticisms of Indian gaming centers on the possible harmful effects of the mainstream corporate world on tribal cultural life. However, the Pechanga Band is an example of a tribe that has altered the patterns of corporate governance to fit its existing culture, ultimately strengthening that culture. The Tribe has an ability to adapt without losing the strong sense of identity that the Luiseño people and the Pechanga Tribe have maintained for centuries. Circumstances may have changed, but at Pechanga there is an understanding that adapting is not the same as surrendering cultural beliefs. Rather, adaptation is a feature of a healthy culture that responds to shifting conditions and embraces new opportunities.

Rather than undermining the cultural patterns of the Pechanga Band, elaborate economic and governmental endeavors have been altered to fit cultural priorities, and the revenues have been used to strengthen and revitalize cultural practices that have endured despite centuries of outside pressure. Far from diminishing tribal culture and identity, gaming at Pechanga has allowed a more full exercise of the characteristics that define Pechanga identity. Ultimately, Indian gaming at Pechanga has allowed the Tribe to successfully blend the traditions of the past with both the opportunities of the present and the dreams of the future.

⁹¹ Bill Salinas, personal communication, Nov. 15, 2002.

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The information for this case study was compiled during 2002 and 2003. Every attempt has been made to ensure the accuracy of facts, figures, and accounts as of April 9, 2004. Any remaining errors or omissions are the responsibility of the author.