

CDOT Tribal Coordination Plan

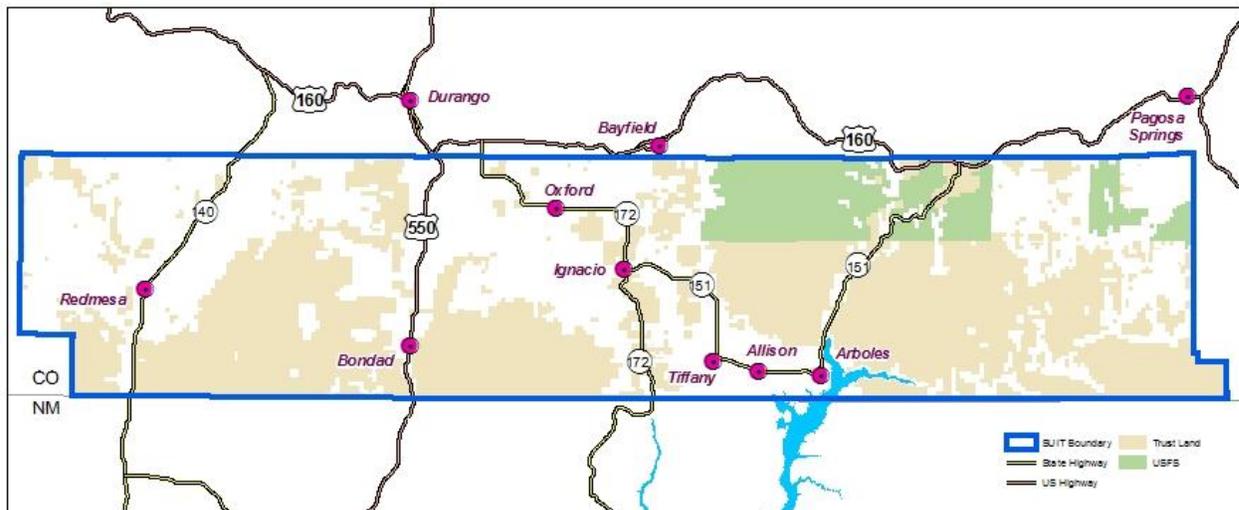
Tribal Governments in Colorado

Colorado is home to two federally recognized sovereign Tribal Nations: the Southern Ute Indian and Ute Mountain Ute.

Southern Ute Tribe

The Southern Ute Indian Tribe is located on the Southern Ute Indian Reservation in Southwest Colorado. The reservation land area covers approximately 1,064 square miles in three counties (La Plata, Archuleta and Montezuma). Tribal Council headquarters are located on the Tribal Campus just north of Ignacio, Colorado. The reservation attractions include the Sky Ute Casino and Resort, Sun Ute Community Center and the new Southern Ute Cultural Center and Museum. The major highways located in the Reservation include: SH 140, which extends from the north to the south in the western side of the reservation; SH 172, which extends from the north exterior boundary at mid reservation near Durango southeast to the Town of Ignacio where it continues south to the Colorado/New Mexico state line; SH 151, which extends from its intersection with SH 172 in the Town of Ignacio and heads southeast/east to Arboles, in Archuleta County, where it turns north to its intersection with US 160 near Chimney Rock Archeological Site and Lake Capote; US 160 which extends west from its intersection with SH 151 west for approximately eight miles; and US 550 that runs north to south just west of mid-reservation. These highways represent a total of over 100 miles of State and Federal roadways. See Figure 1 below.

Figure 1: Location of Southern Ute Indian Reservation in Colorado



Source: Southern Ute Indian Tribe, August 2012

Ute Mountain Ute Tribe

The Ute Mountain Ute Reservation is located in the southwestern corner of Colorado in Montezuma and La Plata Counties, and in San Juan County, New Mexico (See Figure 2). The Reservation is also adjacent to the Southern Ute Indian Tribe Reservation along its eastern border in Colorado. The Tribe's Casino and Resort along with its National Capital is located in Towaoc Colorado. The reservation consists of 553,008 acres in Montezuma County, Colorado, and San Juan County, New Mexico. All of these lands belong to the Tribe but are held in trust by the U.S. Government. Tribal owned ranch lands not held in trust within this area and within La Plata and Gunnison Counties cover 41,112 acres, all totaling nearly 1,000 square miles. The major highway that crosses the reservation in Colorado from the north to south is US 491 and from southwest to northwest is US 160. State Highway 41 trisects the Reservation from the Utah State Line to US 160. The Tribe collects fuel taxes for the Federal and Colorado State governments and is the largest single employer and economic contributor in Montezuma County.

Figure 2: Location of Ute Mountain Ute Indian Reservation in Colorado



Source: http://en.wikipedia.org/wiki/File:Southern_Ute_reservation_map.png

Federal and State Regulations

Tribal coordination for statewide transportation planning is addressed in both federal and state regulations.

Federal

A new U.S. Transportation Authorization Bill, Making Progress in the 21st Century (MAP-21), as passed on July 6, 2012 and was effective on October 1, 2012. MAP-21 contains the following references regarding tribal coordination:

Sec. 1201, 23 United States Code (USC) 134. Metropolitan Transportation Planning (i)(2)(D)(ii) states that for consultation regarding mitigation activities *“The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.”*

Sec. 1202, 23 USC 135. Statewide and Nonmetropolitan Transportation Planning (e)(2) stipulates that *“in carrying out planning under this section, each State shall, at a minimum— consider the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State.”* In addition, Sec. 1202, 23 USC 135. (f)(2)(C) stipulates for Indian Tribal Areas that *“With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.”* Also under (D)(i) and (D)(ii) it stipulates that *“The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use; and that management, natural resources, environmental protection, conservation, and historic preservation consultation shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.* Under Sec. 1202, 23 USC 135 (f)(4)(B) for mitigation activities it is stated that *“The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.”* and Sec. 1202, 23 USC 135. (g)(2)(C) states that for Indian Tribal Areas *“With respect to each area of the State under the jurisdiction of an Indian tribal government, the program [the Statewide Transportation Improvement Program – the STIP] shall be developed in consultation with the tribal government and the Secretary of the Interior.”*

Current federal regulations stipulate under the Code of Federal Regulations (CFR) - 23 CFR § 450.210 (c), *“For each area of the State under the jurisdiction of an Indian Tribal government, the State shall develop the long-range statewide transportation plan and STIP in consultation with the Tribal government and the Secretary of Interior. States shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with Indian Tribal governments and Federal land management agencies in the development of the long-range statewide transportation plan and the STIP.”* This Tribal Coordination Plan is the “documented process” in response to this citation.

State

At the state-level, the Statewide Planning Rules, 2 Code of Colorado Regulations (CCR) 604-2, addresses tribal coordination. The Indian Tribes have the opportunity to review the Statewide Planning Rules and provide comment for consideration by the Transportation Commission at specified intervals before a Statewide Long-Range Transportation Plan update.

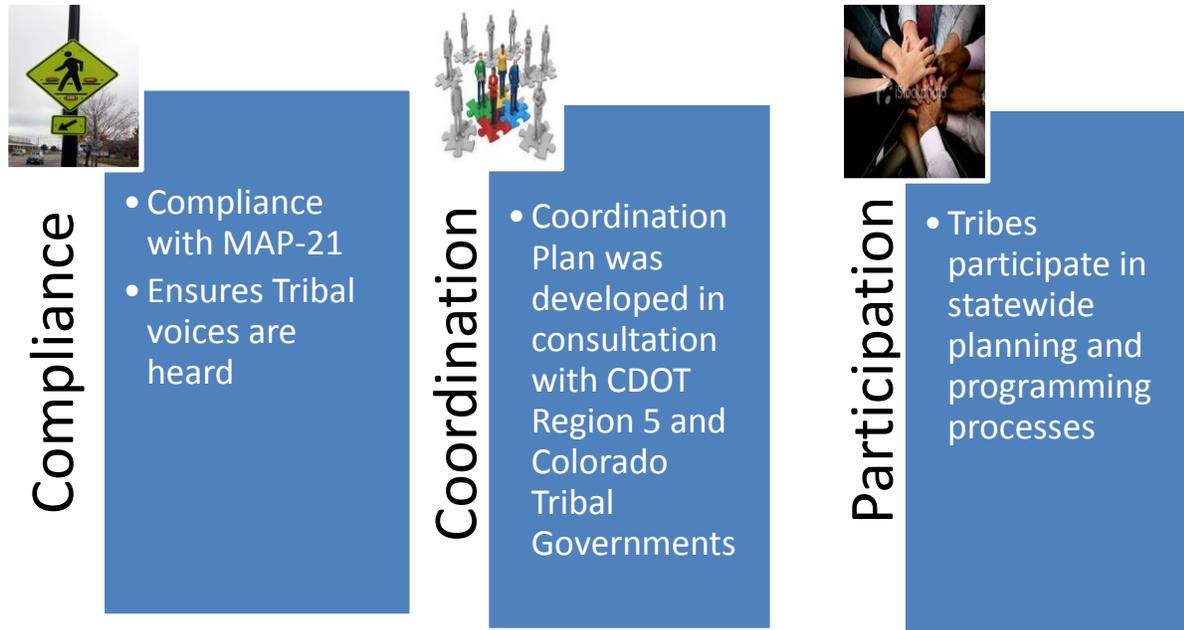
Tribal Coordination Process

The Colorado Department of Transportation (CDOT) Division of Transportation Development and CDOT Region 5 worked in consultation to develop this plan. Additionally, both tribes had the opportunity to review this plan.

This chapter of the public involvement guide establishes a consultation protocol with tribes through the statewide planning and programming processes. Figure 3 below depicts the purpose of this plan (MAP-21 compliance to ensure Tribal coordination), developers of the Tribal Coordination Plan, and the opportunities for participation of tribes in the CDOT statewide

transportation planning process. CDOT is committed to strengthening the government-to-government relationship between the State of Colorado and the Indian Tribal Governments.

Figure 3: Tribal Coordination Plan Purpose, Development and Participation Opportunities



Source: CDOT 2012

Tribal Coordination Activities

Colorado Commission on Indian Affairs

The Colorado Commission of Indian Affairs was created within the Office of the Lieutenant Governor in 1976 to address issues between the tribes and the state. The Lieutenant Governor serves in the statutory role as chair of the Colorado Commission of Indian Affairs. The Commission was designed to be the official liaison between the two Ute Tribes and the State of Colorado. The Commission consists of 11 members, and ex-officio members from state, federal agencies, and counties, which provide advice and guidance on the agencies' obligations affecting American Indians, specifically the two Ute tribes. CDOT is an ex-officio member of this committee and is represented by Region 5 Transportation Director, Kerrie Neet. The commission meets four times a year.

Annual Tribal Meeting

Joint cooperative meetings are held among Colorado Tribal Governments, CDOT, the Federal Highway Administration, the Bureau of Indian Affairs, and the New Mexico, Utah, and Arizona departments of transportation every six months to a year to discuss transportation issues specific to the Tribal Governments.

The last Tribal Cooperation meeting was held in April 2012. Attendees included:

- Southern Ute Indian Tribe
- Ute Mountain Ute Tribe
- CDOT

- Utah Department of Transportation
- The Federal Highway Administration
- Bureau of Indian Affairs

Formal Agreements

CDOT has several formalized agreements with the Southern Ute Indian Tribe which pertain to issues such as: construction, operation, improvement and maintenance of state and federal highways crossing Tribal land, inclusion of State Highways into the Indian Reservation roads inventory, and to formalize partnerships on specific projects. See attachment A that is a copy of the Ute Mountain Ute Tribe's resolution.

Statewide Transportation Planning Process

CDOT encourages and provides opportunities for tribal governments to participate in the statewide transportation planning process, the development of the statewide transportation improvement program (STIP) and the statewide long-range transportation plan.

Southwest Transportation Planning Region

CDOT has identified 15 transportation planning regions across Colorado, five of which are metropolitan planning organizations (MPOs). The Southwest Transportation Planning Region (TPR) is composed of Archuleta, La Plata, Montezuma, San Juan and Dolores counties and includes the Southern Ute Indian and the Ute Mountain Ute Indian Tribes. The TPRs all have their own Regional Planning Commissions (RPCs) that represent the interests of the TPRs. Both Tribes have seated membership on the Southwest TPR RPC.

Southwest TPR Regional Transportation Plan Development

Colorado's transportation planning process is a coordinated effort of the regional and statewide transportation planning processes, required by state and federal regulations, resulting in multimodal long-range transportation plans (regional transportation plans [RTPs]) that look at transportation needs in TPRs for a minimum of 20 years. CDOT carries out a continuing, cooperative and comprehensive statewide multimodal planning process with the 15 TPRs. Additionally, information from the RTPs feeds into the statewide long-range multimodal transportation plan. This statewide transportation plan sets the vision for transportation throughout the state integrating all modal plans, including passenger and freight rail, bicycle and pedestrian, transit and aviation.

Statewide Transportation Advisory Committee (STAC)

Representatives of each of the 15 TPRs form the STAC, which serves to advise the CDOT and the Transportation Commission on transportation planning related issues and reviews the regional and statewide transportation plans prior to their adoption. Colorado's two Native American tribes, also have representation on the STAC as non-voting members. The STAC meets monthly prior to each Transportation Commission meeting. The Chair of the STAC provides regular updates on STAC activities, issues and recommendations to the Transportation Commission.

Statewide Transportation Improvement Program (STIP) Development

The statewide transportation planning process also includes the development of a STIP that identifies short-term project needs and priorities and is the first step in identification of transportation projects eligible for funding.

Projects located within Tribal lands are included in the STIP. The Southern Ute Indian Tribe develops a Tribal Transportation Improvement Program (TTIP) every seven to 10 years, which is included, without modification, in the STIP.

Statewide Long Range Transportation Plan Development

In developing the statewide transportation plan, tribal officials with responsibility for transportation will be involved on a consultation basis for the portions of the plans in tribal areas of Colorado (the Southwest TPR). As members of the STAC, Tribal representatives are provided an opportunity to review and comment on all TPR Regional Transportation Plans (RTPs) and the Statewide Transportation Plan. Additionally, the Tribes' Long Range Transportation Plans were included, for the first time, in the 2035 Statewide Transportation Plan.

For the next Statewide Long-Range Transportation Plan the tribal consultation process shall include:

- CDOT will review available tribal long-range transportation plan documents provided by the tribes during updates of the Southwest TPR long-range transportation plan.
- In developing the statewide transportation plan, CDOT will provide for:
 - Early engagement and coordination with Tribes and ongoing conversations during the plan development to discuss the transportation issues and needs and ample opportunities for participation during key points in developing the SWLRTP and RTPs; and
 - Any additional meeting as requested by individual tribes and/or CDOT.

Figure 4 below indicates where opportunities exist for tribal participation in the statewide planning process.

Figure 4: Opportunities for Tribal Participation in Statewide Transportation Planning and Programming

Statewide Transportation Planning Process	Statewide Long Range Plan	Statewide Transportation Improvement Program
<ul style="list-style-type: none"> • Represented by the Southwest TPR • Voting member of the Southwest TPR • Nonvoting membership to STAC • Invited to review and comment on all TPR and Statewide Plans 	<ul style="list-style-type: none"> • State highways located on Tribal lands are included in the 350 corridors with visions, goals and strategies • Invited to participate in the development of the Statewide Long-range Transportation Plan 	<ul style="list-style-type: none"> • Projects located within Tribal lands are included in the STIP • Tribal Transportation Improvement Program(s) included without modification in the STIP • Invited to review and comment on STIP

Source: CDOT 2012.

Other Opportunities for Tribal Consultation

Native American Consultation under Section 106 & NEPA

CDOT has a Native American Consultation process for National Environmental Policy Act (NEPA) projects, which informs the Tribes of transportation improvements being studied by CDOT, and seeks participation from the tribes with interest in the study area.

For additional information about the CDOT Section 106 compliance process, refer to the CDOT NEPA Guidance Manual (Chapter 9.10):

<http://www.coloradodot.info/programs/environmental/nepa-program/nepa-manual>

Informal Consultation

CDOT encourages tribal governments to contact Kerrie Neet, Regional 5 Transportation Director at (970) 385-1404 or kerry.neet@state.co.us with any transportation issues they may have.