

Supplemental Definitions

Allotted Lands: Lands that were distributed to individual Indians during the allotment era; may be held in trust by the federal Government for the benefit of individual Indians.

Arbitrary and Capricious: A no-no for federal and state administrative decisionmaking under the Due Process requirements in the Constitution, Amendments V and XIV.

Canon of Construction: Principle that a court will use to interpret unclear language in legal documents. In Indian law, a canon has been used to interpret uncertain treaty language to benefit the Tribe.

Characterization: Describing an issue in dispute to benefit one party. For example BAD described the Campo landfill dispute as an environmental case. The Campo Band described the dispute as one concerning tribal sovereignty.

Conflict of Interest: For ES 173, having a job description that includes both natural resource development and protecting that resource.

Congressional Intent: When a statute is unclear, courts look for congressional intent by parsing other language in the statute and occasionally considering the historical context.

Effluent: Flow that enters a body of water from a pollution source.

Environmental Justice: A fair distribution of environmental burdens and benefits to racial minorities or the poor.

Externality: Cost or burden imposed on a third party for which first party does not pay.

Fee Land: A parcel of land that is owned by a private party (who can be an enrolled Indian) that is not subject to federal trust.

"Hood" : The neighboring area, including towns, cities, as well as County (or parish) and state government.

Inherent Sovereignty: The concept that tribes have powers that are pre-constitutional and extra-constitutional.

Leachate: Liquid flowing from municipal waste in a landfill.

Marketing an Exemption from State Law: Used to impugn the motives of a tribe seeking economic development that does not comply with state law.

P.L. 638 or 638 contract. A program for a tribe to administer federal programs on its reservation, with financial support from the federal government.

Paternalism: "behaving in a benevolent and yet intrusive manner towards underlings."

Preemption: The concept that a conflicting federal law trumps state law, either as it is applied or sometimes implicitly. Preemption also applies if the federal regulatory scheme is so pervasive as to "occupy the field" in that area of the law

Regulatory Capture: Development of a close personal relationship between a regulated industry (e.g. landfill operator) and the regulatory agency.

Termination: Ending the federal trust responsibility for a tribe or individual Indian

Tipping Fee: Charge to truck operator for dumping waste into a landfill.

Tragedy of the Commons: Consequence of many self-interested users who deplete a shared limited resource even tho this is contrary to each individual's long-term interest.

Treaty: An agreement between a tribe and the federal government under Article III sec 2 of the Constitution.

Treatment as a State: An EPA determination to accord a tribe equivalent status to states under a specific federal environmental law.

Water Quality Standards: Criteria that are designed to protect designated uses in particular areas of a river or stream.