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Examination No. _____

AMERICAN INDIAN LAW 584**Semester I, 2001-2002**UNM School of Law
Final Examination
Three CreditsProf. Valencia-Weber
Wednesday, December 12, 2001
9:00 a.m. to 12:15 a.m.**INSTRUCTIONS****Time allowed on this exam: 3 hours, 15 minutes.**

Use the 15 minutes for planning and making a brief outline or checklist.

TOTAL NUMBER OF POINTS: 200**THIS EXAM HAS ONE QUESTION WITH THREE (3) SUBPARTS. YOU MUST ANSWER ALL THREE (3) SUBPARTS. EACH IS WORTH 60 POINTS.****20 POINTS: For a well-organized memo format, grammar, and writing style that increases the overall quality of the answer. Also, for thoughtful approaches that use the law in an insightful or innovative way. Cast your bread upon the waters, your slice may come back as a sandwich.**

- 1. This exam is an open book exam.** You may consult only the casebook and any student prepared materials. No commercial products.
- 2. Writing Instructions.** For blue books, please SKIP A LINE between each written line. If you can remember, write on the page on the right side, leaving the left side for your additions, corrections. If typing, please double space.
- 3. Think and plan before you write. Potential credit for an outline or prepare a checklist for each answer.** If the outline or checklist for the problem is handed in with your answers, it could improve your grade if it shows specific knowledge of the problem's issues that you were unable to draft in your answer.
- 4. Use the law studied in this class.** While you may have knowledge from other courses whose subject matter relates to Indian Law, your primary analysis and discussion should be based on the law studied in this course.
- 5. Use the facts of the problem and analyze, that is, state/identify the law and apply to the facts. Not doing so will cost points.**
- 6. Return this exam to the test monitor.**

End of Instructions**[Exam begins on next page]**

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RUSH 10/14/02 3

The ABC Tribe (Tribe), a federally recognized tribe, had historically rejected gaming as economic activity, but it made an exception one year ago. The Tribe's Council enacted consent for gaming only for one ABC community geographically located away from the ABC's primary lands. This ABC community, called Little Canyon (LC), adjoins a busy interstate and is accessible from the largest city in West Dakota (WD, State). The ABC Council will regulate the LC project, a resort with gaming. The LC community leaders will lead on the design and management planning, but all plans must be approved by the ABC Council.

The new West Dakota governor initiated a policy to work cooperatively with tribes, especially on matters of mutual benefit. Thus the LC enterprise has been planned collaboratively with state agencies and some state resources. The state is reconstructing the interstate near LC to provide a direct exit to the resort. WD had previously planned to rebuild this interstate section to eliminate flaws that made it a leading site of accidents, especially with DWI offenders whose accidents were usually fatal. WD is trying to end its leadership among the states with the highest DWI deaths. For the many jobs expected for ABC members and nonmembers, WD and the ABC/LC agreed to a joint commission to screen and license the casino workers.

The federal government enabled the LC project with a Department of Interior (Interior) grant to pay for a market study to obtain data for planning the resort. Interior in-effect donated 200 acres of public lands: 50 to the state to allow the realignment of the interstate and 150 to the ABCs to restore tribal land previously ceded and to make the resort site fully contiguous or integrated with the ABC/LC trust lands. Each site was conveyed for \$1 to WD and the ABCs. Interior has put the 150 acres in trust. Interior and the Indian Gaming Regulatory Commission (IGRC) have also worked with the ABC Council on its regulations to cover gaming, employment, contracts arising from the enterprise, and revision of the public health and safety codes. Some 60% of these regulations have been approved and the remainder is still in process.

As the resort plans are being completed with construction to start soon, the architect and the planning experts offer two more ways to make the resort profitable and competitive with the luxury class of resorts. One is to stop the timber harvesting for which Interior will have to make new contracts in one year. The forest is the only land-based resource the ABCs have to develop. The advice is to construct some luxury cabins in the wooded areas with flowing streams as a scenic alternative to the hotel rooms. The second suggestion is to serve alcohol in the resort's dining and gaming venues, as do other WD resorts (Indian and non-Indian). The ABC Council is now considering both recommendations. Some Council members have urged the Council to adopt the WD alcohol sales regulations and set DWI standards more stringent than the state's for the tribal police to enforce on the LC roads.

Hearing of the second suggestion, the WD Governor has loudly objected. He said that the state mistakenly relied on the ABC's long standing prohibition against alcohol on any tribal lands. "If ABC attempts to allow alcohol sales only on the LC resort, the State will challenge it in litigation. West Dakota has the power to prohibit alcohol sales on this site."

Interior, upon hearing of the suggestion on the timbering contracts, responded by setting a meeting for the three sovereigns to meet and discuss the two suggestions. The goal of this meeting is to understand each government's viewpoint on the two suggestions. As an enabler

meeting is to understand each government's viewpoint on the two suggestions. As an enabler Interior hopes that litigation can be avoided, but first the positions of the three governments must be clearly delineated.

Your Exam Questions : 3 at 60 points each, Total of 180 (Plus 20 points possible for writing skills)

You will prepare three Pre-meeting Memos, one for the ABC Tribe, the State of West Dakota, and the Federal Government, represented by Interior. For each you will be an attorney writing for your supervising attorney at the legal counsel's office, respectively, for the Tribe, the State, and Interior.

For purposes of this memo assume that the ABC Tribe decides to adopt the two suggestions, that is, to shift from timber harvesting to using the forest for resort cabins and to permit and regulate the sale of alcohol in the resort. Though the ABCs have not yet decided, your supervising attorney wants to know the law background and this government's viewpoint or possible positions in order to be fully prepared.

Memo 1: The ABC Tribe (60 points)

Memo 2: The State of West Dakota (60 points)

Memo 3: The Federal Government, represented by Interior (60 points)

END OF EXAM

ENJOY THE HOLIDAY BREAK

500 COMPARATIVE AND HISTORICAL LEGAL PERSPECTIVES

Semester I, 2001,

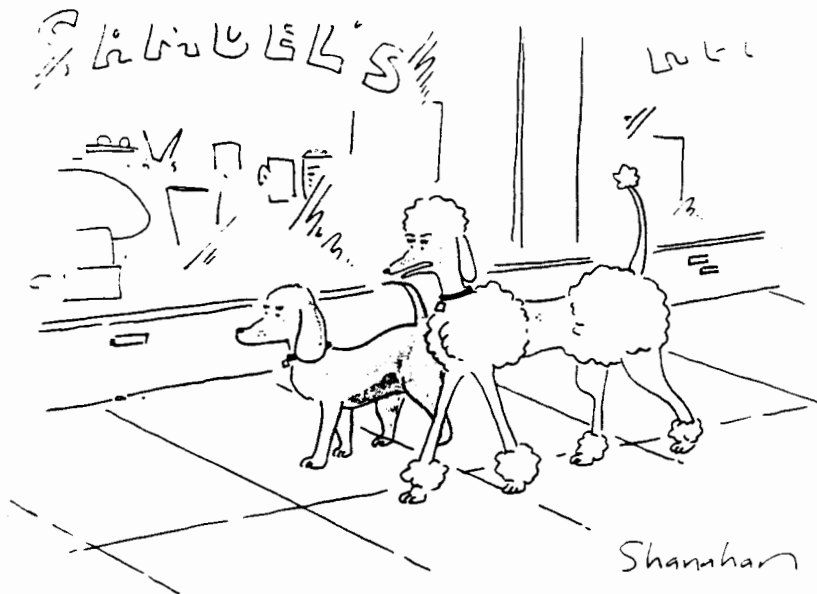
UNM School of Law
Final Examination
Two Credits

Professor Fritz
Friday, December 7, 2001
1:30 p.m. to 3:30 p.m.

Instructions

1. This is a **LIMITED OPEN BOOK EXAMINATION**. You may use the course materials, handouts distributed during the course, or any notes or outlines that you have participated in creating.
2. There are two parts to the exam. Part One consists of two focusing-like questions and Part Two consists of one broader essay question. **Important Tip: Please answer the questions posed in the Exam and *not the focusing questions* to which you think they might refer.**
3. All three questions are equally weighted, so you should allocate approximately forty (40) minutes for each question.
4. On each blue book, write the subject, professor's name, and your exam number. **DO NOT WRITE YOUR NAME ON THE BLUE BOOKS.**
5. For students typing their exams: Type or write the information that would appear on the front of the blue book at the top of the first page of your answer. Put your exam number on each typed page.

Good luck and have a Happy Holiday season!



Beware the "poodle-dog instinct"

Part One (one hour and twenty minutes)

1. You were asked to consider the three judicial opinions on pages 2-22 of the text as “artifacts” reflecting the legal traditions out of which they arose. Since your initial reading of those opinions at the start of the semester, you have acquired a deeper appreciation of both the common law and civil law traditions. **With that understanding in hand, return to a comparison of the three opinions as “artifacts” and identify *specific features* of those opinions that reflect the legal traditions out of which they arise.**
2. **What is your understanding of how the concept of “equity” emerged in the common law, became institutionalized, and what role does it continue to play in the common law today?**

Part Two (forty minutes)

3. One broad theme of this course has been the different ways societies and cultures approach the resolution of disputes. In terms of the Mexican-California system of the 1820s-1840s, Navajo justice concepts, and Japanese attitudes toward law, please address two questions.
First, what similarities and differences in dispute resolution do you see in those three settings? And second, as a “Devil’s Advocate,” identify what features of those approaches might not be appreciated and explain why?

End of Examination