

Glossary

of Indian Land Tenure Terms



Allotted Land

These are the lands that were distributed to individual Indians by the federal government. Generally, the allotments were 40-, 80-, or 160-acre parcels of reservation land. Allotted land was commonly held ownership that became individually owned.

Checkerboarding

When lands within reservation boundaries are in a variety of types of ownership—tribal, individual Indian, non-Indian, as well as a mix of trust and fee lands. Thus, the pattern of mixed ownership resembles a checkerboard. Checkerboarding seriously impairs the ability of tribes or individual Indians to use land to their own advantage for farming, ranching, as a home site or for development.

Fee Simple

The most basic form of ownership. The owner holds title and control of the property. The owner may make decisions about the most common land use or sale without government oversight. In Indian country, however, whether the owner of fee simple land is Indian or non-Indian is a factor in deciding who has jurisdiction over the land. Due to the checkerboarding of Indian reservations, different governing authorities - such as county, state, federal, and tribal governments - may claim the authority to regulate, tax, or perform various activities within reservation borders based on whether a piece of land is Indian or non-Indian owned.

Fee-to-Trust Conversion

Original allotted trust lands that were transferred to fee status by the allottee or the BIA under the “forced fee” patent era can be returned to trust status in a fee-to-trust conversion if still owned by an Indian. Or, tribes or individual Indians can initiate the process on fee lands they already own or lands they acquire. This process usually takes more than a year and often requires an individual Indian to either declare him or herself legally “incompetent” to manage his or her lands or show other compelling reasons for reestablishing the trust relationship.



Forced Fee Patents

A forced fee patent is a trust-to-fee conversion without the request, consent, or knowledge of the landowner. Since land that was once in trust became taxable after the issuance of the forced fee patent by the Secretary of the Interior, 27,000,000 acres of allotments were lost through tax foreclosure sales. This was particularly the case with Indians who were serving in the military who were unaware that their land status had changed and taxes were due.

Fractionated land

Fractionated land is an allotment owned by more than owner. After an Indian allottee died, the ownership of the lands would be given to his or her heirs but the land parcel would remain intact. As these owners died, the ownership in the land would again be divided among their relatives, thus compounding over and over the number of ownership interests in a parcel of land. These single pieces of land often have hundreds of owners, which makes it difficult for any one of the owners to use the land (i.e. for farming or building a home). By law, a majority of owners must agree to a particular use of land.

Indian Landowner

Any tribe or individual Indian who owns an interest in Indian land in trust or restricted status is a landowner.

Interest

When used with respect to Indian land, an interest is an ownership right to the surface estate of Indian land that is unlimited or uncertain in duration.

Land in Trust or Federal Trust Land

Indian-owned land, the title to which is held in trust and protected by the federal government. Indian people and tribes have use of the land, but ultimate control of the land remains with the federal government.

Land rights

Although we often speak of people “owning land”, in an American legal context it is more correct to say that people have obtained rights to inhabit and use land. Most rights are conveyed by a written instrument which evidences a transaction in which any interest in land is created, alienated, mortgaged, or assigned.



Off-Reservation Trust Land

Off-reservation trust land is land outside the boundaries of reservations that is protected by the federal government for Indian use. For example, these pieces of land could be religious sites or pieces allotted to individuals out of the public domain.

Patents-in-Fee

Describes the title document issued by the U.S. Federal Government to terminate the trust created by the trust patent issued to the allottee. The patent-in-fee operates to vest fee simple ownership in an allottee or their heirs.

Restricted Fee Lands

The ownership of these lands is the same as fee simple land except that there are specific government-imposed restrictions on use and/or disposition. The title of the land is held by the individual Indian or tribe but may only be alienated or encumbered by the owner with the approval of the Secretary of the Interior.

Remainder Interest

If you own a remainder interest in land, your right to the land begins when the person owning the life estate in the land dies. If an Indian has the remainder interest, the land stays in trust. To prevent Indian lands from passing out of trust, non-Indian heirs will only receive a life estate in Indian lands. Because a non-Indian heir owns less than the full interest, a “remainder interest” is

Tribally-Owned Land

Land that is owned by a group of Indians recognized by the federal government as an Indian tribe.

Trust Patents

Individual Indian allottees were issued documents called “trust patents” to verify that their land was held in trust by the government.

Trust-to-Fee Conversion

The conversion of lands held in trust by the U.S. Government to fee simple status. Trust lands can be converted to fee status in 30 days. Only individual Indian landowners can request a trust-to-fee conversion.



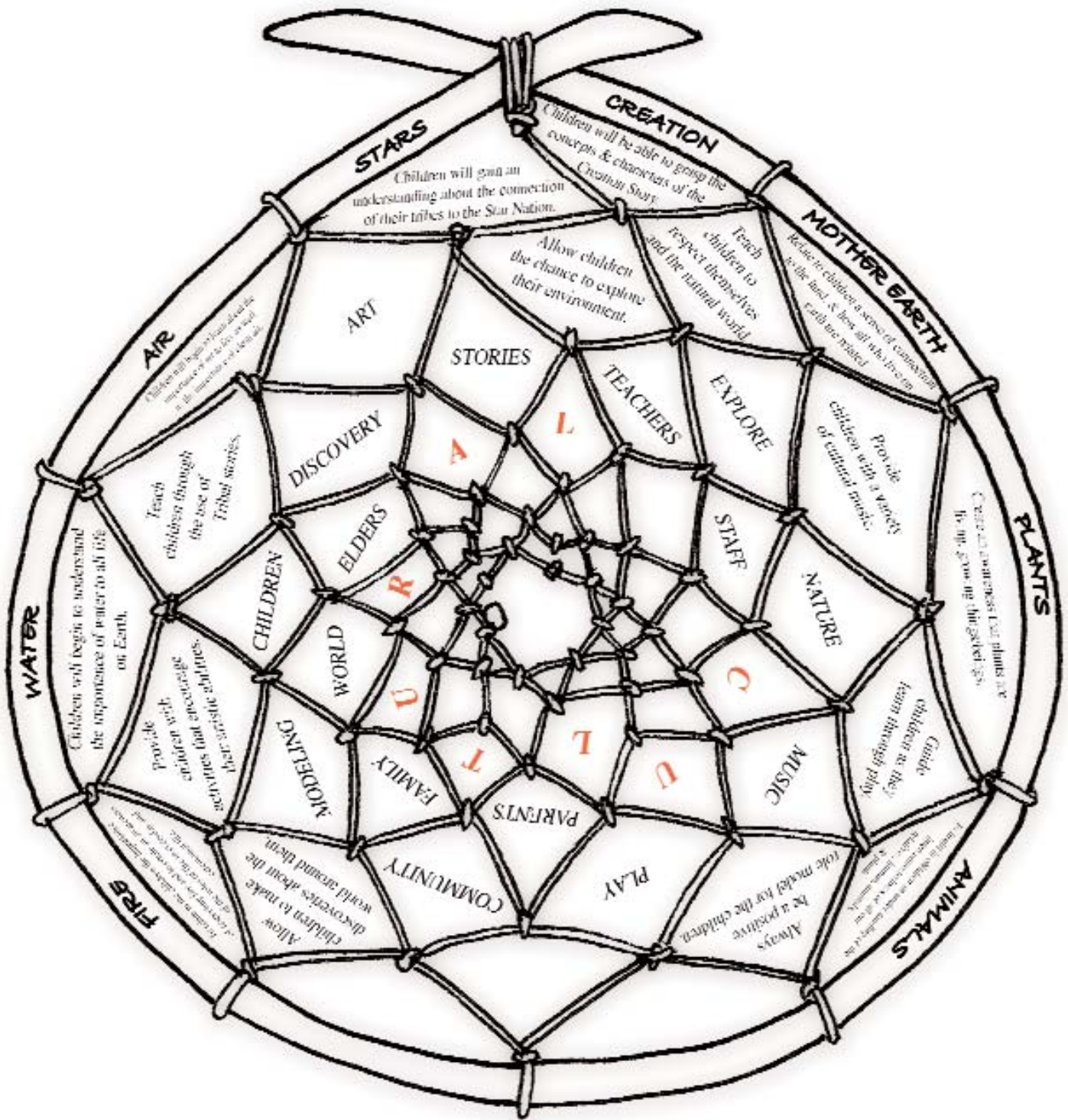
Undivided Interest

A share of the ownership interest in a parcel of trust land is referred to as an undivided interest. The number of interests grows with the division among heirs of these interests according to state or tribal probate laws. The income derived from the parcel is divided according to the percentage of the total interest held by an individual.

Resource:

www.indianlandtenure.org

<http://www.indianlandtenure.org/ILTFallotment/introduction/introI.htm>



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