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environmental justice, tribes, Indian country, American Indians, Native Americans, Title VI

**Abstract:**

Modern environmental justice concerns are those facing communities of color and poor communities where the inequality faced by these communities intensifies environmental disadvantages. Title VI of the Civil Rights Act (“Title VI”) is an important tool in the tool belt of environmental justice advocates, who are working to combat the effects of such environmental disadvantages on these communities. Environmental justice concerns extend to the environmental inequity faced by those living in Indian country. Native communities are environmental justice communities. Unlike other environmental justice communities, however, Indian tribes possess inherent sovereignty, and, as a result, have a special government-to-government relationship with the federal government. Therefore, environmental justice claims arising from within Indian country, including claims based on Title VI, include not only racial considerations, but also political considerations. The additional consideration of tribal sovereignty is crucial to any discussion of environmental justice claims arising in Indian country, and the application of Title VI, as explained more fully in this article. Accordingly, this article addresses the following question: given the increasing use of Title VI to address concerns related to environmental justice and the unique contours of Indian country, does Title VI apply to environmental justice claims arising in Indian country? The article concludes that the answer is likely yes and no. In addressing this question, this article considers potential Title VI claims brought against tribal governments. Section I concludes that Title VI claims likely cannot be brought against federally-recognized tribal governments and entities controlled by tribal governments. Section II goes on to consider whether the same claimant would be successful in bringing a Title VI claim against a non-tribal entity operating within Indian country. Under these conditions, Section II concludes that a potential claimant may be able to bring a Title VI claim against a non-tribal governmental entity. The reason for the contrary result can be found in the underlying purpose of exempting tribal governments from the Civil Rights Act, of which Title VI is a part. In exempting tribal governments from the Civil Rights Act, it appears that Congress meant to remove any obstacle to tribal economic stability and success. In other words, the article concludes that the key factor in determining whether the Civil Rights Act, and Title VI in particular, apply is tribal sovereignty.