



NATIVE AMERICAN RIGHTS FUND
2003 - ANNUAL REPORT

NARF - Annual Report 2003

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Cover art:

"Prosecution Rests"

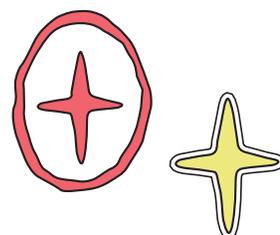
About the artist: *"I believe art should reflect our society and the time in which it exists. I also believe that a society's law system should have the same function. What was art 79 years ago, and what was law 79 years ago, do not reflect our society today. In the same way that the attorneys of NARF and NARF affiliates work to change the representation of Native Americans within the legal system, I am working to change the representation of Native Americans in the art world. A contemporary People deserve no less than contemporary representation."*
- Bunky Echo-Hawk

Bunky Echo-Hawk is an enrolled member of the Yakama Nation of Washington State and a member of the Pawnee Nation of Oklahoma. He is a graduate of the Institute of American Indian Art in Santa Fe, New Mexico. He currently lives and paints in Longmont, Colorado. Bunky is the son of NARF attorney Walter "Bunky" Echo-Hawk.

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Tax Status: The Native American Rights Fund (NARF) is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue code. Contributions to NARF are tax deductible. The Internal Revenue Service has ruled that NARF is not a "private foundation" as defined in Section 509(a) of the Internal Revenue Code. NARF was founded in 1970 and incorporated in 1971 in Washington, D.C.





“Tribal Law”

Introduction

As the Native American Rights Fund (NARF) begins its thirty-fourth year of legal advocacy, it is fueled by the strength of its varied legal accomplishments as well as the active memory of reasons why it was founded in the first place. In 1970, a small but determined group of attorneys and tribal leaders created the Native American Rights Fund to address the need for legal representation in many major issues facing Indian people who could perhaps not afford it otherwise. One of the first institutions of its kind, NARF has been an

to this day and provide a constant, unending need for NARF to continue its fight. To guide it on this purpose, NARF's first Board of Directors created five fundamental priorities:

- Preservation of tribal existence
- Protection of tribal natural resources
- Promotion of Native American human rights
- Accountability of governments to Native Americans
- Development of Indian law and educating the public about Indian rights, laws, and issues

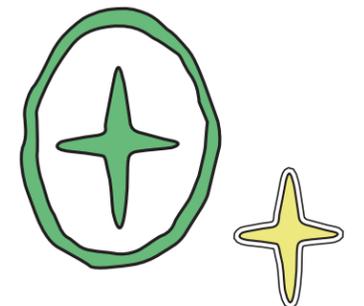
Foundation, the General Service Foundation, the John D. & Catherine T. MacArthur Foundation, the Carnegie Corporation of New York, the W. K. Kellogg Foundation and the Skadden Foundation have also made consistent contributions over the years. Federal funding from the Administration for Native Americans enables NARF to carry on its governance, economic, and social development efforts in Indian country. Finally, the effects of NARF's work are reflective in the financial contributions by a growing number of



unyielding advocate of Native peoples' needs resulting from their unique government-to-government relationship with the federal government and the rights that this sovereign status should confer. NARF's diligence and vision have resulted in a multitude of Native American legal victories in areas ranging from tribal sovereignty to natural resource ownership to human rights. Despite these crucial gains, however, NARF must contend with some of the same challenges that originally propelled its formation. The historic injustices perpetrated against Native peoples continue

As this battle continues, NARF strives to protect the legal and sovereign rights of tribes and Native people within the American legal system. This effort certainly could not exist without the contribution of the thousands of individuals who have offered their knowledge, courage, and vision to help guide NARF on its quest. Of equal importance, NARF's financial contributors have graciously provided the resources to make these efforts possible. Contributors such as the Ford Foundation have been with NARF since its inception. The Rockefeller

tribal governments. United, these financial, moral, and intellectual gifts provide the framework for NARF to fulfill its mission: the securing of sovereignty and right to self-determination to which all Native American peoples are entitled.



Chairwoman's Message

Aloha, Aloha ke Akua, nā
'aumakua a me nā Kūpuna:
Huliau! (Time of Change!)

The Native American Rights Fund (NARF) continues to be a major influence for change. In my four years on the NARF Board of Directors, I have enjoyed a much cherished opportunity to learn from and work with 'ohana (family) from Turtle Island and now, as its Chairwoman, will do my best to embrace the privilege,



challenges and responsibilities that come with this position. With your confidence and trust, I look forward to sharing my knowledge and experience as an advocate for justice from ka pae 'āina o Hawai'i, the land and ocean that feed us in the archipelago of Hawai'i. Mahalo a nui loa for this opportunity to extend our influence and commitment to address Native issues.

As Lili'uokalani, the last ruling monarch and queen of the Nation of Hawai'i, expressed (until illegally dethroned by "evil" descendants of missionaries with the backing of the United States military in 1893):

"I could not turn back time for the political change, but there is still time to save our heritage. You must remember never to cease to act because you fear you may fail. The way to lose any earthly kingdom is to be inflexible, intolerant, and prejudicial. Another way is to be too flexible, tolerant of too many wrongs and without judgment at all. It is a razor's edge. It is the width of a blade of pili grass."

NARF has diligently worked at carrying out its mission to support the integrity and strength of its peoples and cultures, providing help to rebuild nations and tribes, through difficult and often seemingly insurmountable challenges. As an organization, NARF will continue to develop and implement innovative strategies that will effectively deal with harm inflicted on native peoples. In its thirty-four years of service, NARF has provided invaluable legal and moral support to "Indian Country" as its peoples struggle against oppressive laws, practices and governmental systems and has remained responsive and accountable to its constituents. NARF must continue to take bold steps when necessary to ensure that it remains a strong and viable resource for the continuing benefit of those who draw upon its expertise, compassion, and

strength as an organization committed to advocating for peace and justice.

NARF's cases accentuate the burden of "Indian Country" and reveal the amazing spirit and resilience of its peoples to endure and survive severe acts of physical, economic and cultural genocide. I have experienced this same amazing spirit at NARF and have witnessed John Echohawk dynamically lead a brilliant and dedicated team of advocates forge ahead to defend, protect and work to make whole Native America.

Nānā I Ke Kumu!
[Look to the Source!]

A renewed respect for our traditional values helps us to resolve the political, economic, and social problems that impact our community. It is now more than ever crucially important that we rediscover the power of traditional teachings and apply them to contemporary problems. By reinvigorating the principles embedded in our ancient teachings, we honor the memory and wisdom of our ancestors. With the mana (spiritual energy and life force) of our ancestors and our own wisdom, vitality and courage, we will prevail and maintain this interdependency and enforce the integrity of our cultures.

A primary challenge this New Year, Makahiki 2004, will be to strengthen NARF's financial resources. Our Board is streamlining existing financial commitments and implementing more efficient

investment and self-sustaining strategies. With your kōkua and kāko'o, your help and continuing support, we will have the financial strength to continue to focus on issues of concern to the peoples of "Indian Country," and resolve injustices that support the legal rights of Native nations, peoples and communities. We encourage those Nations that are doing well economically to show their support for NARF with financial contributions to help it to continue its important and necessary work to bring justice and peace to Native communities.

Our communities, health and well-being are of utmost importance to preserve our traditional values because it gives us the necessary strength for our nations' survival and growth in this rapidly changing world. We must be extra vigilant not to unconsciously participate in our own exploitation by turning away from the voice of our ancestors in order to pander to mainstream society. In working to achieve economic independence and social justice, we exercise our independence of mind and spirit to defend our lands and rights.

We must continue to take our rightful place in the world and not depend upon others to secure the revitalization of our cultures. Our ancestor, Kapihe, shared this promising prophecy with us:

E iho ana o luna;
That which is above shall be brought down;
E pi'i ana o lalo;
That which is below shall be lifted;
E hui ana nā moku;
The islands shall be united;
E kū ana ka paia.;
The walls shall stand upright.

I would like to share these revealing words from Queen Lili'uokalani of the Nation of Hawai'i: *"Oh, honest Americans, as Christians hear me for my down-trodden people! Their form of government is as dear to them as yours is precious to you. Quite as warmly as you love your country, so they love theirs. ...to hear what is not said, to see what cannot be seen, and to know the unknowable, that is Aloha."*

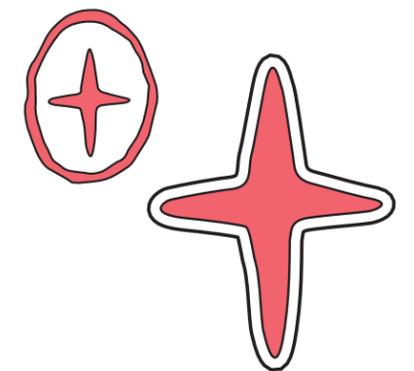
And finally, in the words of our most respected 19th Century Freedom advocate, Joseph Nawahi: *"The cause of Hawaii and*

independence is larger and dearer than the life of any man connected with it. Love of country is deep-seated in the breast of every Hawaiian, whatever his station."

We are at a turning point, Huliau, a moment of truth. Let us holomua kakou (move forward together) in 2004 with the great spirits of Turtle Island, the aloha spirit of Hawai'i, and with the mana of natives throughout the world. May all people on this earth enjoy peace, justice and aloha.

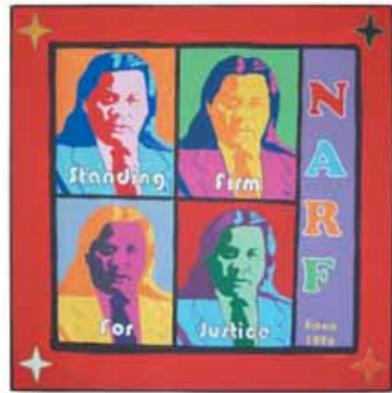
Kū'e! Kū'e! Kū'e!
(Resist! Resist! Resist!)
Holomua! (Move Forward!)
Ea! (Life!)

E. A. Ho'oiipo Kalaena'auao Pa,
Chairwoman



The Native American Rights Fund's program of providing legal advice and assistance to Native Americans across the country on legal issues of national significance continued into its 33rd year in fiscal year 2003. Substantial developments and important victories were achieved in several cases and activities during the year that I want to highlight.

In *United States v. White Mountain Apache Tribe*, the United States Supreme Court held that the United States' breach of fiduciary duty to



maintain and preserve Indian trust property gave rise a claim for money damages under federal law. Through the Tribal Supreme Court Project operated by NARF and the National Congress of American Indians, amicus briefs were coordinated and filed in support of the White Mountain Apache Tribe in this important federal trust responsibility case.

Once again, NARF assisted the Gwich'in Steering Committee in their efforts to protect the Arctic National Wildlife Refuge (ANWR) in Alaska from oil development and successfully worked with a coalition of

environmental groups to stop the U.S. Senate in 2003 from approving oil drilling in ANWR. 7,000 Gwich'in people live on or near the migratory route of the Porcupine caribou herd and rely on the caribou for food, clothing, tools and a source of respect and spiritual guidance. The calving grounds of the caribou lie inside ANWR and will be disturbed by any oil drilling.

Representing several Alaska tribes and tribal members, NARF successfully intervened in a case brought by a sporting club challenging federal regulations implementing the preference contained in federal law for customary and traditional uses of fish and wildlife by rural Alaskans over sports and commercial uses on federal public lands in Alaska. NARF will help defend over 180 customary and traditional use determinations made by the federal government which protect the entitlement of rural areas or communities to take fish and wildlife and limit or prohibit others from taking the resource.

With the support and encouragement of the U.S. Department of Education, NARF helped to establish the Tribal Education Departments National Assembly (TEDNA), a new national organization for tribal education departments. The purpose of the TEDNA is to bring together tribal education directors, staff and policy makers so that they can share information, strategize and problem solve on common issues of education governance, policy and advocacy at the tribal,

regional and national levels.

In a widely publicized case, NARF and private co-counsel won another important decision in *Cobell v. Norton*, the class action on behalf of 300,000 individual Indian trust account holders which was filed in 1996. Federal District Court Judge Royce Lamberth issued a structural injunction requiring the Department of the Interior to conduct a historical accounting of the trust accounts going back to their origin in 1887. In addition, the *Cobell* plaintiffs also agreed to seek a mediated solution to the case as proposed by Congress.

NARF also assisted in obtaining a \$2 million appropriation to implement the Indian Tribal Justice and Legal Assistance Act, which we helped to pass in Congress in 2000. The Act authorizes the Justice Department to provide supplemental funding to Indian legal services programs for their representation of Indian people and tribes which fall below the federal poverty guidelines.

The Native American Rights Fund thanks all of our contributors and supporters who have helped to make these victories and developments for Native Americans possible. As we face projected funding deficits in the future, your continuing support is more important now than ever before if we are going to maintain our efforts to seek justice for Native Americans through the legal system.

John E. Echohawk,
Executive Director

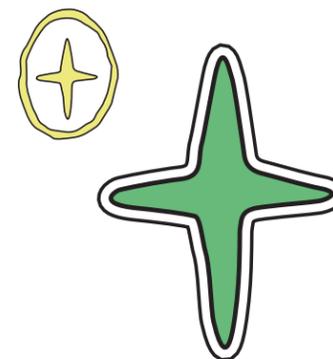
The Native American Rights Fund has a governing board composed of Native American leaders from across the country – wise and distinguished people who are respected by Native Americans nationwide. Individual Board members are chosen based on their involvement and knowledge of Indian issues and affairs, as well as their tribal affiliation, to ensure a comprehensive geographical representation. The NARF Board of Directors, whose members serve a maximum of six years, provide NARF with leadership and credibility, and the vision of its members is essential to NARF's effectiveness in representing its Native American clients.



NARF's Board of Directors:

(Pictured from left clockwise) Vernita Herdman (*Inupiaq - Alaska*); Nora McDowell (*Fort Mojave - California*); John Gonzales (*San Ildefonso Pueblo - New Mexico*); Paul Ninham (*Oneida Nation of Wisconsin*); Jaime Barrientoz, Vice-Chairman (*Grande Traverse Band of Ottawa & Chippewa Indians - Michigan*); James Roan Gray (*Osage Nation - Oklahoma*); E. Ho'oipo Pa, Chairwoman (*Native Hawaiian - Hawaii*). (Not Pictured) Mark Brown (*The Mohegan Tribe - Connecticut*); Elbridge Coochise (*Hopi - Arizona*); Billy Frank (*Nisqually Tribe - Washington*); Karlene Hunter (*Oglala Lakota - South Dakota*); Anthony Pico (*Viejas Band of Kumeeyaay Indians - California*); Woody Widmark (*Sitka Tribe - Alaska*).

The National Support Committee (NSC) assists NARF with its fund raising and public relations efforts nationwide. Some of the individuals on the Committee are prominent in the field of business, entertainment and the arts. Others are known advocates for the rights of the underserved. All of the 48 volunteers on the Committee are committed to upholding the rights of Native Americans.



Owanah Anderson, *Choctaw*
Edward Asner
Katrina McCormick Barnes
David Brubeck
U.S. Senator Ben Nighthorse Campbell,
Northern Cheyenne
Wallace Coffey, *Comanche*
Ada Deer, *Menominee*
Harvey A. Dennenberg
Michael J. Driver
Richard Dysart
Lucille A. Echohawk, *Pawnee*
Louise Erdrich, *Turtle Mountain Chippewa*
James Garner
Sy Gomberg
Carol Hayward, *Fond Du Lac Chippewa*
Richard Hayward, *Mashantucket Pequot*
John Heller
Emilie Heller-Rhys
Alvin M. Josephy, Jr.
Charles R. Klewin
Nancy A. Klewin
Wilma Mankiller, *Cherokee Nation of Oklahoma*
Chris E. McNeil Jr., *Tlingit-Nisga'a*
Billy Mills, *Oglala Sioux*

N. Scott Momaday, *Kiowa*
Clinton Pattea, *Ft. McDowell Yavapai*
Amado Peña Jr., *Yaqui/Chicano*
David Risling Jr., *Hoop*
Pernell Roberts
Walter S. Rosenberry, III
Marc & Pam Rudick
Leslie Marmon Silko, *Laguna Pueblo*
Connie Stevens
Ernie Stevens, Jr., *Wisconsin Oneida*
Anthony L. Strong, *Tlingit-Klukwan*
Maria Tallchief, *Osage*
Andrew Teller, *Isleta Pueblo*
Verna Teller, *Isleta Pueblo*
Studs Terkel
Tenaya Torres, *Chiricahua Apache*
Richard Trudell, *Santee Sioux*
Rebecca Tsosie, *Pascua Yaqui*
Thomas Tureen
Aine Ungar
Rt. Rev. William C. Wantland, *Seminole*
Dennis Weaver
W. Richard West Jr., *Southern Cheyenne*
Mary Wynne, *Rosebud Sioux*

The Preservation of Tribal Existence

NARF works to construct the foundations that are necessary to empower tribes so that they can continue to live according to their Native traditions, to enforce their treaty rights, to insure their independence on reservations and to protect their sovereignty. Specifically, NARF's legal representation centers on sovereignty and jurisdiction issues, federal recognition and restoration of tribal status, and economic development. Thus, the focus of NARF's work involves issues relating to the preservation and enforcement of the status of tribes as sovereign governments. Tribal governments possess the power to regulate the internal affairs of their members as well as other activities within their reservations.

joined forces with the National Congress of American Indians (NCAI) to create the Tribal Supreme Court Project.

The Tribal Supreme Court Project is a project to coordinate and strengthen the advocacy of tribal sovereignty and other Indian issues before the Supreme Court, and ultimately to improve the deplorable win-loss record tribes have suffered before that tribunal. In fact, over the past twenty years, Indian people have lost approximately 80% of their cases before the Supreme Court. As one Indian law scholar has noted, no other group of litigants has done worse. The opinions are departing from longstanding, established principles of Indian law and are constituting a whole-

nation-wide Indian amicus brief writing network. An amicus brief, also known as a 'friend of the Court' brief, allows those not directly involved in litigation, but potentially impacted by the outcome, to raise points before the Court. Through amicus brief writing and coordination, NARF assists Indian country as a whole in most effectively supporting the tribes going before the Court. The Project submits to the Court the fewest number and highest quality briefs in support of the Indian argument. This coordinated approach ensures that the briefs and the Indian voice get the Court's maximum attention. The Project submitted amicus briefs in the three cases decided in 2003, *United States v. White*



"Alpha Scout"

Jurisdictional conflicts often arise with states, the federal government, and others over tribal sovereignty.

TRIBAL SOVEREIGNTY

Securing and developing tribal governmental authority derived from tribal sovereign status is a priority issue for NARF because of its importance in maintaining tribal existence and self-government. As part of this commitment to tribal sovereignty, NARF has

sale re-writing of the very conceptions of tribal sovereignty and jurisdiction by the Court. These cases have diminished the rights of every Indian tribe in the country. The Supreme Court Project is a way for tribes to take action to prevent further erosion.

In recognition of the fact that the tribes generally rise and fall together in front of the Court, NARF coordinates, and substantively contributes to, the Project's

Mountain Apache Tribe, United States v. Navajo Nation, and Inyo County v. Paiute-Shoshone Indians of the Bishop Community, cases raising fundamental issues of tribal sovereignty. Perhaps because of the Project's involvement, only one of these cases was lost. Victory was achieved in one case and the other was remanded to the lower court for further proceedings.

In *United States v. White Mountain Apache Tribe*, the Court

ruled in favor of the Tribe holding that the United States' breach of fiduciary duty to maintain and preserve Indian trust property gave rise to a claim for money damages under federal law. In *United States v. Navajo Nation*, the Court ruled against the Tribe holding that the Tribe's claim for compensation did not derive from any liability-imposing provision of Indian Mineral Leasing Act or its implementing regulations. In *Inyo County v. Paiute-Shoshone Indians of the Bishop Community*, the Court vacated the United States Court of Appeals for the Ninth Circuit favorable opinion on tribal immunity from suit and remanded the case back to the Ninth Circuit on jurisdictional grounds.

In the 1950s, Congressional experiments with terminating the federally recognized status of Native American tribes and forcing their assimilation under state law proved to be a disaster, compelling Congress decades later to restore the tribal status of terminated tribes. In turning the page back to the 1950s, the Alaska Legislature has for several years engaged in litigation against the Department of the Interior and Alaska Tribes to terminate the federally recognized tribal status of Alaska Tribes. The Alaska Legislature's efforts have been actively supported by Alaska Senator Ted Stevens, who has directly urged Interior Secretary Gale Norton to reverse the Department's recognition of Alaska Tribes. Pending the outcome of this litigation, Senator

Stevens has commenced a new campaign to defund Alaska Native Tribes in various spending bills.

The effect of these and similar measures, if enacted, would be to slowly cut off the ability of Alaska Native Tribes to function by denying them the ability to provide for the health, safety and welfare of their communities. Senator Stevens, in remarks to the press made in October 2003, made clear that his opposition to Alaskan tribes is not about funding multiple tribal governments, but about terminating altogether the sovereignty of Alaska tribes. If Senator Stevens' proposals become policy, such action would deteriorate the sovereign rights of all tribes, would denigrate the fundamental importance of federal recognition, and set a dangerous precedent that would reflect a new Congressional policy of acquiescing to the whims of congressional members who favor the termination of federally recognized tribes.

NARF is leading efforts to give voice to tribal governments in Alaska by organizing a national campaign to alert tribal leaders of the pending threat. Efforts are under way to conduct hearings throughout rural Alaska to receive testimony from tribal governments on issues of self-governance and the delivery of government services to tribal members. The testimony and data from these hearing will be compiled into a report that can be delivered to Congress and used as a basis for rebutting Senator Stevens' rhetoric that government and services are best administered by state entities.

In the case of *Runyon v. AVCP*, NARF prepared an amicus brief on behalf of the Alaska Inter-Tribal Council (AI-TC) that was filed with the Alaska Supreme Court in April 2003 in a case that raises the question of whether the Alaska Village Council of Presidents (AVCP), a tribal consortium organized as a non-profit under the laws of Alaska, can raise derivative sovereign immunity as a defense to suit. AI-TC's amici brief does not take a position with regard to whether AVCP possesses derivative sovereign immunity; rather, it rebuts the arguments raised by amici for the plaintiffs, the Alaska Legislative Council, who urged the Court to reconsider its historic holding in *John v. Baker* in 1999 that tribes in Alaska have been federally recognized. Oral argument was heard in September 2003 and a decision is pending.

FEDERAL RECOGNITION OF TRIBAL STATUS

Achieving legal status as an Indian tribe is very important to preserving tribal existence and self-government. Some tribal groups do not have this status because they have never been formally recognized as tribes by the federal government. NARF provides representation to those tribal groups who have a right to become federally recognized tribes.

NARF currently represents five Indian communities who have survived intact as identifiable Indian tribes but who are not federally recognized. These Indian

tribes, for differing reasons, do not have a government-to-government relationship between themselves and the federal government. Traditionally, federal recognition was accorded to a tribe through treaty, land set aside for a tribe, or by legislative means. The majority of these NARF clients are seeking an administrative determination by the Bureau of Indian Affairs (BIA) that they, in fact, have continued to exist as Indian tribes from the time of significant white contact to the present day and have continued to govern themselves and their members. NARF, therefore, prepares the necessary historical, legal, and anthropological documentation to support a petition for acknowledgment. For more than 100 years, these Indian communities have been denied the benefits of a formal relationship with the federal government. Through the process of administrative acknowledgment, NARF is now trying to bridge that gap.

Federal recognition is an arduous process that takes many years to complete. Petitioning tribes must prove that they have been identified by reliable external sources on a substantially continuous basis as an Indian entity; they must prove that they have maintained a continuous community from historical times to the present day; they must show that they have maintained political authority or influence on a substantially continuous basis from historical times until the present day; they must prove that current tribal members, as a whole,

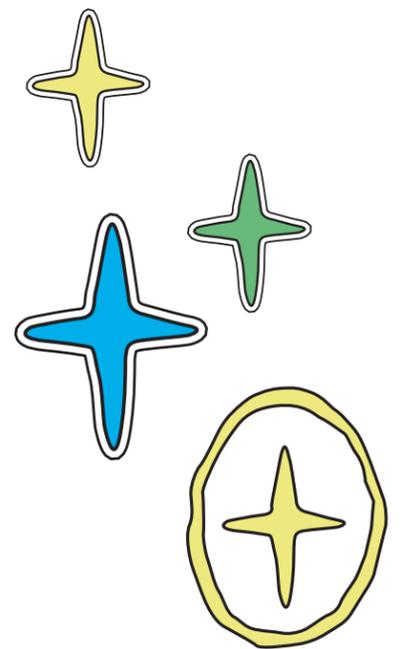
descend from a historic tribe or tribes which amalgamated; they must prove that their members are not mostly members of an already recognized tribe; and, their members cannot be from groups which were terminated by legislation. This process requires the testimony of many experts and thorough documentation of each requirement.

In 1997, the Branch of Acknowledgment and Research (BAR) placed the Little Shell Tribe of Chippewa Indians of Montana's federal recognition petition on active review status. In 2000, after many delays, the Assistant Secretary published a preliminary finding in favor of recognition. Work continues to be done to strengthen the Tribe's petition and the period for supplementing the record has been extended to January 2004, because of a large amount of new data being collected and analyzed. NARF and the Tribe are now exploring legislative options the Tribe may have for recognition.

With NARF's assistance, the Shinnecock Indian Nation located on Long Island, New York, filed a petition for Federal recognition in 1998. In response, the Bureau of Indian Affairs (BIA) sent a letter of technical assistance to the Nation that pointed out alleged omissions or deficiencies in the petition. Pursuant to the Federal acknowledgment regulations, the Nation filed a response to the letter in March 2003. The petition will now be placed on the BIA's ready-for-active-consideration list which is a first-come, first-served list.

The list is a procedural step prior to being placed on Active Consideration when at such time the petition will be actively reviewed by the BIA research staff that conducts such reviews.

On behalf of the United Houma Nation of Louisiana, NARF responded to proposed findings against federal acknowledgment issued by the BIA under their acknowledgment regulations. The Tribe has their petition for federal recognition pending before the BIA's Branch of Acknowledgment and Research and is now waiting for a final decision on its petition. NARF has also filed a petition for federal recognition for the Mashpee Wampanoag Tribe of Massachusetts that is now under active consideration by the BIA. Work on a petition for the Pamunkey Tribe in Virginia continues.



The Protection of Tribal Natural Resources

Through the process of European conquest and colonization, Indian tribes experienced a steady diminishment of their land base to a mere 2.3 percent of its original size. Currently, there are approximately 55 million acres of Indian-controlled land in the continental United States and about 44 million acres in Alaska which are owned by Natives after the 1971 Alaska Native Claims Settlement Act. Central to maintaining economic self-sufficiency as well as genuine self-determination, the possession of an adequate land base and resources are vital to the existence of tribes. Without such fundamental necessities, tribal life is virtually impossible to maintain. NARF's work to ensure tribal control over their land, water, and subsistence rights holds importance beyond material wealth; indeed, it safeguards the very core of tribal existence.

The federal government has in many instances failed to fulfill its trust duty to protect Indian tribes and their property rights. The Native American Rights Fund concentrates much of its legal representation on cases that will ensure a sufficient natural resource base for tribes.

PROTECTION OF INDIAN LANDS

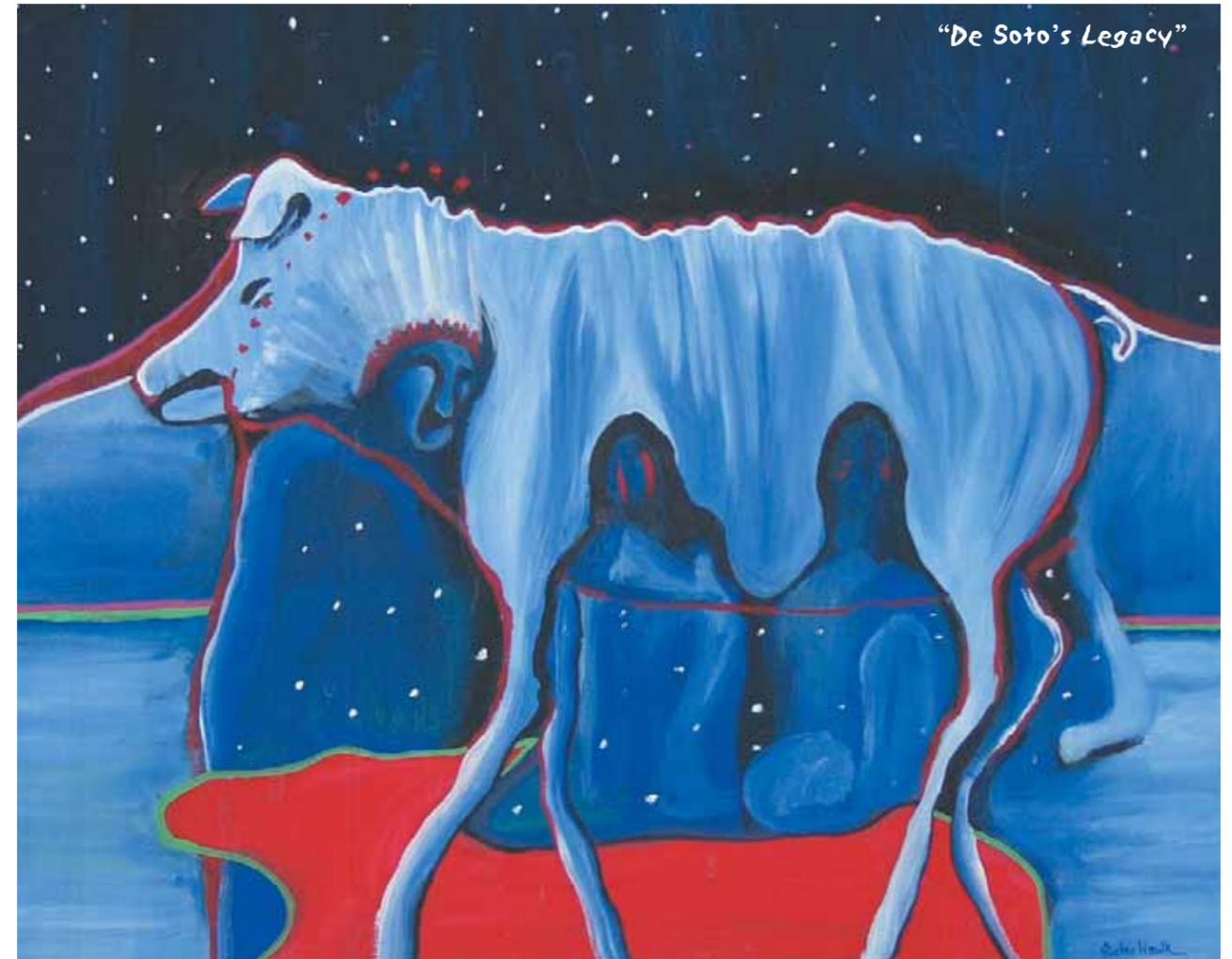
The Alabama-Coushatta Tribe of Texas seeks compensation for the loss of use of millions of acres of fertile forest that they once occupied in southeast Texas. The Tribe has been represented by NARF since 1981 in their quest to prove that their ancestral land

was illegally taken from them by settlers. In 1996, the United States Court of Federal Claims ruled in *Alabama-Coushatta Tribe of Texas v. United States* that the United States should compensate the Alabama-Coushatta Tribe for the loss of use of ancestral land illegally taken without federal approval between 1845 and 1954. In 2000, the United States Court of Federal Claims ruled once again in favor of the Alabama-Coushatta Tribe of Eastern Texas in their breach-of-trust claim against the United States, holding the Government liable for the Tribe's loss of use of over 2.85 million acres of land between 1845 and 1954. The court also ruled that 5.5 million acres of aboriginal title has never been extinguished, so the Tribe also has a possessory land claim against the current occupants of 5.5 million acres. Negotiators for the U.S. and Tribe reached an agreement on the amount of damages, \$270 million, and the Court submitted a favorable recommendation to Congress in 2002 on the Tribe's breach of trust claim against the United States. NARF and the Tribe are now working to garner Congressional approval for the payment of this amount under the Congressional reference procedure.

NARF represents the Keewattinosagaing or Northern Lakes Potawatomi Nation of Canada, a band of Pottawatomies descended from the historic Potawatomi Nation, which from 1795 to 1833 signed a series of

treaties with the United States. These treaties provided, among other things, the payment of certain annuities. The ancestors of the present-day Canadian Potawatomi fled to Canada following the signing of the final treaty, the Treaty of Chicago in 1833, because they did not want to be moved west of the Mississippi. They were never paid their annuities. In 1993, NARF brought suit on behalf of the Tribe in the Court of Federal Claims, by way of Congressional reference, to seek redress of these failed payments. After years of fact-finding, discovery and briefing of this case, the Tribe and the United States agreed in principle to the settlement of this case. Settlement terms were approved by the Court in 2000 and settlement legislation was presented to Congress in 2001, 2002, and 2003 for compensation of \$1.83 million. Congress has yet to approve the settlement legislation.

NARF is working with the Lower Brule Sioux Tribe against the State of South Dakota's challenge to the United States' decision to place approximately 91 acres of land into trust for the Lower Brule Sioux Tribe under Section 465 of the Indian Reorganization Act. The State is alleging, among other things, that the Secretary lacks authority to place land into trust because Section 465 is an unconstitutional delegation of legislative authority. In an earlier proceeding regarding this same 91 acres of land, the Eighth Circuit Court of Appeals did hold that Section 465 was



unconstitutional but the Supreme Court vacated that opinion and remanded to the Secretary for further reconsideration. The State is now challenging the Secretary's reconsidered, and again favorable, decision to place the land in trust. The Tribe filed a motion to intervene in this case, but the federal district court denied the Tribe's motion. The Tribe appealed to the Eighth Circuit on the issue of the Tribe's intervention. The Eighth Circuit upheld the district court's denial of the Tribe's motion for intervention in March

2003. The Tribe will not be allowed to participate in the litigation as a party, but will have its interests represented by the United States.

In 2002, the Secretary of the Interior invited the Klamath Tribes to meet with the Presidentially appointed Klamath River Basin Federal Working Group (Working Group) chaired by Secretary Norton, and including the Secretaries of Agriculture and Commerce, and the Chairman of the Council on Environmental Quality. These appointments

offer an unprecedented opportunity to restore the land, water, hunting, fishing and gathering resources of the Klamath Tribes. Discussions are now taking place between tribal representatives, assisted by NARF, and the Secretary's designated team to seek long term solutions to an entire range of water, land, and wildlife issues facing the people of the Klamath Basin in Oregon and California. This historic and broad invitation expressly included the possible return of lands taken from the Tribes in the 1960s under the

now repudiated “Termination” policy. Discussions also include the restoration of degraded fish and wildlife habitat that currently prevent tribal resources from providing subsistence for tribal members.

NARF represents the Native Village of Tuluksak in Alaska in their quest to have the land owned by the Village corporation transferred over in fee simple to the Village tribal council. The Department of Interior would then be petitioned to place the land into trust on behalf of the Village. The Department of the Interior is in the process of revising regulations governing the process of taking land into federal trust for Native Americans. NARF worked with the NCAI Tribal Leaders’ Task Force on Land Recovery, on behalf of Tuluksak, to develop comments to the proposed regulations and has been waiting for the Secretary of the Interior to issue final regulations. The Department of the Interior has decided to further postpone consideration of a new regulation, after an assessment of ongoing policy work, available personnel and resources. The Native Village of Tuluksak is weighing whether to move forward with litigation at the current time.

NARF has played a key role in the implementation of federal environmental law and policy that recognizes tribal governments as the primary regulators and enforcers of the federal environmental laws on Indian lands. NARF continued to work with tribes, the National Tribal

Environmental Council and other Indian organizations to maintain the progress that has been made with the Environmental Protection Agency (EPA) and other federal agencies. With a representative on the Green Group, a coalition of national environmental leaders, NARF continues to coordinate with and educate the environmental community on the role of tribal governments in environmental law and policy.

NARF assists the Gwich’in Steering Committee in their efforts to protect the Arctic National Wildlife Refuge (ANWR) from oil development. The Gwich’in, which means ‘People of the Caribou’, are the northernmost Indian nation living across northeast Alaska and northwest Canada. There are about 7,000 Gwich’in people who live on or near the migratory route of the Porcupine Caribou Herd. For thousands of years, the Gwich’in have relied on the caribou for food, clothing, tools, and a source of respect and spiritual guidance. The calving grounds of the Porcupine River caribou herd inside ANWR is considered sacred. The Gwich’in call it “Vadzaih googii vi dehk’it gwanlii” (The Sacred Place Where Life Begins). The Gwich’in will not journey into these sacred grounds for hunting, even in times of great need or food shortage. Oil development in ANWR would not only harm the caribou and threaten the future of the Gwich’in people, but would also threaten more than 180 species of

birds, and numerous mammals including polar bears, musk ox, wolves, wolverine, moose, Arctic and red foxes, black bears, brown bears, and the white Dall sheep. NARF successfully worked with a coalition of environmental groups and organizations to stop the U.S. Senate from approving oil drilling in ANWR in 2001 and 2002. Language was again introduced in the 2003 Congress to allow for oil drilling in ANWR and was once again defeated. As the Administration has vowed to continue to press for the passage of this bill, NARF will continue to assist the Gwich’in Steering Committee in their efforts to stop the approval of oil development in ANWR.

NARF is working with the Oglala Sioux Tribe’s Environmental Health Technical Team (EHTT) in developing water-related environmental codes. NARF is working with the Tribe’s Department of Water Maintenance and Conservation and the EHTT on the revision of the Tribe’s Ordinance for the Protection of the Oglala Sioux Rural Water Supply System and Other Public Water Systems Within the Pine Ridge Indian Reservation [“Tap-in” Ordinance], as well as a Solid Waste Management Code. The “Tap-in” ordinance will provide for the protection of the integrity of the pipeline which delivers drinking water to the public water systems on the reservation. The Solid Waste Management Code will provide enforceable standards and a fee structure for solid waste

collection and disposal of solid and hazardous waste.

WATER RIGHTS

Establishing tribal rights to the use of water in the arid west continues to be a major NARF involvement. The goals of NARF’s Indian water rights work are to secure allocations of western water for present and future needs for three Indian tribes represented by NARF and other western tribes generally. Under the precedent established by the United States Supreme Court in 1908 in the case of *Winters v. United States* and confirmed in 1963 in *Arizona v. California*, Indian tribes are entitled under federal law to sufficient water for present and future needs with a priority date at least as early as the establishment of their reservations. These tribal reserved water rights are superior to all state-recognized water rights created after the tribal priority date, which in most cases will give tribes valuable senior water rights in the water-short west. Unfortunately, many tribes have not utilized their reserved water rights and most of these rights are adjudicated or unquantified. The major need, of course, in each case is to define or quantify the exact amount of water that each tribe is entitled to through litigation or out-of-court settlement negotiations. Tribes are generally able to claim water for present and future use of their practicably irrigable acreage, maintenance of treaty hunting and fishing rights, and municipal and industrial needs.

NARF continues its extensive involvement in the water rights litigation and settlement negotiations on behalf of the Klamath Tribes to adjudicate the Tribes’ reserved water rights to support its 1864 treaty hunting and fishing rights. As confirmed by the federal courts nearly twenty years ago, the Klamath Tribes of Oregon hold reserved water rights in the Klamath River Basin to support their treaty hunting, fishing and gathering rights, as well as to satisfy the agricultural purposes of the Klamath Reservation. These reserved rights are currently being quantified in the context of a state-wide water adjudication in Oregon. NARF is assisting the Klamath Tribes in asserting and defending their treaty-based water rights in the adjudication, and is currently engaged on a number of fronts. First, in order to ensure that the State of Oregon applies the correct federal standards in quantifying Tribal water rights, the Tribes asked the U.S. District Court for the District of Oregon to clarify the nature and scope of the Klamath Tribes’ reserved water rights. In 2002, the Court issued an opinion and order reaffirming the Tribes’ water rights and deciding all disputed issues in favor of the Tribes. This important decision was appealed to the Ninth Circuit Court of Appeals by private water users and the State of Oregon. In July 2003, the Court of Appeals vacated the 2002 decision. NARF has filed a petition for a rehearing en banc from the Ninth Circuit Court of Appeals. Meanwhile, the state

water rights adjudication is moving forward. The Tribes contested numerous unsubstantiated claims in the basin, scores of which are underway and tribal claims are being scheduled for hearing. At the same time, the Tribes continue to explore water settlement efforts.

NARF continues its representation of the Nez Perce Tribe of Idaho in its water rights claim in the Snake River Basin Adjudication (SRBA). The Tribe’s major claim is for sufficient in-stream flows to maintain its treaty rights to fish for salmon and steelhead that migrate down the Snake River to the Columbia River and out to the ocean before returning to spawn. After issuance of a 1999 decision, the Tribe learned that the judge and his brother and sister have claims to both surface irrigation and groundwater irrigation flows in the SRBA, which present direct and actual conflicts of interest with the Tribe’s claims. The Tribe filed motions, in 2000, to disqualify the judge and to set aside all judgments, orders and decisions involving the Tribe’s claims. The Tribe and the United States appealed the decision to the Idaho Supreme Court. In 2002, the Idaho Supreme Court dismissed the appeal as moot. The Tribe’s petition for rehearing was denied by the Idaho Supreme Court. In October 2003, all parties to the negotiations signed on to a comprehensive term sheet agreement, which also calls for the suspension of all litigation regarding Nez Perce claims in the

SRBA. The Idaho Supreme Court and the SRBA Court both agreed to suspend all litigation to permit settlement negotiations to proceed.

NARF continues to assist the Tule River Tribe of California in securing its water rights. NARF's main focus has been on drafting a settlement agreement to present to both the United States and downstream users along the South Fork of the Tule River. The Tribe's goal is to prepare a proposal that will provide the Tribe with sufficient water to create a permanent homeland for its people with minimal impact on the other users. Initially, the Tribe presented the downstream users with a broad conceptual plan for settlement, which included a proposed short-term and long-term water storage facility, and proposed reservoir operation rules which would honor the terms of an important 1922 agreement. A ditch company and certain riparian users tentatively approved the conceptual plan so long as it does not adversely impact their current water uses under the 1922 agreement. However, some downstream users who rely on storage water in a large downstream federal reservoir are wary of the potential impact of new Tribal storage rights on water supply in the federal reservoir. After refining the conceptual settlement plan in light of updated technical, legislative, and legal information, the Tribe, in consultation with the Federal Negotiation Team, presented the refined plan to the downstream users. Negotiations are scheduled

to continue based on the Tribe's revised settlement plan.

NARF also concentrated on addressing a major problem in water rights settlements - the lack of federal funding for settlements. NARF has continued to facilitate Indian water rights settlement policy in the Congress by working with our state and private partners in the Ad Hoc Group on Indian Reserved Water Rights, the Western Governors' Association and the Western Business Roundtable. NARF has also continued to participate in the Joint Federal-Tribal Water Funding Task Force in order to encourage the Administration to support funding for Indian water rights settlements. NARF has also been involved in the creation of the Western Water Alliance, which hopes to bring together organizations and funders involved in western water issues to advance sustainable and equitable water policy in the west.

HUNTING AND FISHING

The subsistence way of life is essential for the physical and cultural survival of Alaska Natives. Most of the two hundred small Native villages in Alaska are located on or near the shores of a river or a lake, or located on the coast of the North Pacific or Arctic Ocean. The proximity to water is no accident and reflects the dependence of Natives on the harvest of fish stocks for sustenance and the basis of their traditional way of life. In many Native villages fresh meat, fish and produce are

unavailable except through the subsistence harvest. Annually, subsistence harvest amounts to less than 10% of the total take of fish and game.

As important as Native hunting and fishing rights are to Alaska Natives' physical, economic, traditional, and cultural existence, the State of Alaska has been and continues to be reluctant to recognize the importance of the subsistence way of life. The State views subsistence as nothing more than a taking of a natural resource, and as something that all citizens of the state should be entitled to engage in on an equal opportunity basis with little distinction between commercial, sport and trophy hunting, and subsistence needs.

NARF represents the Alaska Native Villages of Eyak, Tatitlek, Chenega, Nanwalek, and Port Graham seeking to establish nonexclusive aboriginal hunting and fishing rights to their traditional-use areas on the Outer Continental Shelf (OCS) in the Gulf of Alaska. The issue presented is whether the Tribes may possess non-exclusive aboriginal hunting and fishing rights to waters on the OCS. The lawsuit challenges the Department of Commerce's Individual Fishing Quota (IFQ) regulations for halibut and sable fish on the ground that they prohibit tribal members from fishing within their traditional fishing grounds without IFQ's. In 1998, the Ninth Circuit Court of Appeals ruled that claims for aboriginal title, including exclusive hunting

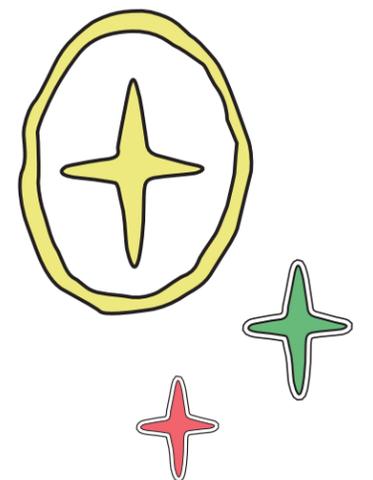
and fishing rights, on the Outer Continental Shelf were barred by the federal paramountcy doctrine. NARF argued that the paramountcy doctrine did not extinguish aboriginal title to the seabed and waters off Alaska because aboriginal title does not interfere with the federal government's ability to protect the nation or to regulate international trade. The Court, however, expressly reserved the question whether Native tribes might hold non-exclusive hunting and fishing rights. The question whether the Villages have nonexclusive aboriginal fishing rights was sent back before the federal district. The federal district court ruled against the Villages in 2002. An appeal was filed by NARF to the Ninth Circuit Court of Appeals and oral argument was held in August 2003. A decision is now pending.

The Kenaitze Indian Tribe of Alaska is a federally recognized tribal government whose members are direct descendants of Tanaina (Dena'ina) Athabaskan Indians. The Tribe has occupied the Kenai Peninsula region for centuries and subsisted by harvesting and gathering the resources offered by the land and the sea with salmon as the primary subsistence resource. Under the Alaska National Interest Lands Conservation Act (ANILCA), residents of rural areas are given a subsistence priority over sport and commercial hunters and fishermen. In 1991, the Federal Subsistence Board declared large portions of the Kenai Peninsula to be non-rural, including the entire Kenai area,

which comprises the primary hunting and fishing grounds for members of the Kenaitze Indian Tribe. The Kenaitze Tribe, with NARF's assistance, drafted and submitted a proposal to the Regional Advisory Council and the Federal Subsistence Board seeking to have the Board reverse its 1991 "non-rural" determination. In 2000, the Federal Subsistence Board reversed itself, holding that the Kenai Peninsula was indeed rural. However, the State and others requested the Board to reconsider this determination and in 2001, the Board reversed itself again, holding that virtually all of the Kenai Peninsula was non-rural. The Tribe decided to challenge this decision in court and NARF filed a complaint in federal court on behalf of the Kenaitze Tribe.

NARF is representing the Native Village of Venetie Tribal Government, the Ninilchik Tribal Government, and individuals as proposed interveners in a case that was initially brought by the Safari Club, a sporting club, to challenge regulations promulgated by the Secretaries of Interior and Agriculture implementing the subsistence preference established by ANILCA. ANILCA establishes a preference for customary and traditional uses of fish and wildlife by according a priority for the taking of fish and wildlife on federal public lands in Alaska for non-wasteful subsistence uses by rural Alaska residents. The Federal Subsistence Board has made determinations as to which areas or communities of Alaska

are rural and which are not, and further made over 180 customary and traditional use determinations. The customary and traditional determinations are critically important because eligibility to take a particular resource may then be limited to those residents of rural areas or communities so designated, and all other individuals may be prohibited, in some manner, from taking that resource based on the limitations. The Safari Club challenged the validity of all 180 customary and traditional determinations under ANILCA. NARF's clients seek to intervene as co-defendants to defend the subsistence use-determinations for their respective communities and to protect their entitlement to take fish and wildlife on federal public lands in Alaska for subsistence uses in Alaska. The court granted the Tribe's motion to intervene in January 2003, and entered an order establishing a new briefing schedule. NARF submitted its brief in April 2003.



The Promotion of Human Rights

Although basic human rights are considered a universal entitlement, Native Americans must struggle against the constant threat of having their rights undermined by the United States government and others who seek to limit these rights. Although the First Amendment of the United States Constitution pledges to uphold guarantees of religious freedom, Native peoples have to continue their fight to ensure that their right to religious expression remains intact. NARF's specialized knowledge works to uphold this essential human right, along other key issues such as education, prison reform, and the welfare of Indian children. NARF, on behalf of its clients, seeks to enforce and strengthen laws which are designed to protect the human rights of Native Americans in these areas.

RELIGIOUS FREEDOM

Because religion is the foundation that holds Native communities and cultures together, religious freedom is a NARF priority issue. As a result, NARF has utilized its resources to protect First Amendment rights of Native American religious leaders, prisoners, and members of the Native American Church, and to assert tribal rights to repatriate burial remains. Since Native American religious freedom affects basic cultural survival of Indian tribes, NARF believes that American law and social policy must provide adequate legal protection.

NARF was a leading proponent of the Native American Graves Protection and Repatriation Act (NAGPRA) which was signed into law in 1990. The Act requires federal agencies and private museums that receive federal funding to inventory their collections of Native American human remains and funerary objects, notify the tribe of origin, and return the ancestral remains and funerary objects upon request to the tribe. It makes clear that Indian tribes have ownership of human remains and cultural items which are excavated or discovered on federal or tribal land and that they alone have the right to determine disposition of Indian human remains and cultural remains discovered in these areas. The Act prohibits the trafficking of Native American human remains and cultural items where the items are obtained in violation of the Act and requires federal agencies and private museums that receive federal funds to create a summary of sacred objects in their possession. If a tribe can prove a right of possession to these objects then they must be returned upon request of the tribe. NARF continues to provide guidance to tribes that are asserting NAGPRA claims.

The Native American Rights Fund represented the National Congress of American Indians (NCAI) as an amicus in the case of *Bonnichsen v. United States*, sometimes referred to as the "Kennewick Man case." The case arose from the discovery of 9000 year old human remains along the Columbia River. Several north-



west tribes collectively filed a claim for possession of the remains with the Department of Interior (DOI) under the Native American Graves Protection and Repatriation Act. The Tribes wish to repatriate the remains in accordance with tribal religious traditions.

Several scientists, *i.e.*, anthropologists, archeologists, and museumologists petitioned DOI for permission to conduct extensive studies of the remains before reburial by the tribes. DOI denied the scientists' petition and granted the tribes' petition. At that point, the scientists sought

review and reversal of DOI's decision in the federal district court of Oregon. The court heard arguments and issued an opinion requiring DOI to reconsider its decision in light of analysis of a number of questions posed in the Court's opinion. DOI reconsidered and adhered to its original decision. The scientists again filed suit in Oregon court seeking review and reversal of DOI's decision.

In 2002, the U.S. District Court for the District of Oregon issued a ruling that requires the DOI to transfer the remains to the plaintiffs (scientists) to study

the remains of "Kennewick Man." The tribes charge that this far reaching decision removes any barriers that would prevent scientists from demanding access to all Native American human remains for their research and study, regardless of whether the remains were 20 or 20,000 years old. The District Court granted a request by four Pacific Northwest tribes to intervene in the law suit.

The Ninth Circuit Court of Appeals issued an order staying the District Court's order allowing non-Indian scientists access to the remains for study pending the resolution of the appeal. NARF

and the Association on American Indian Affairs filed an *amicus* brief on behalf of the Association on American Indian Affairs and the Morning Star Institute in March 2003. The brief supports the tribal position that the District Court's interpretation of NAGPRA is legally erroneous. Oral argument was held in September 2003 and a decision is now pending in the Ninth Circuit.

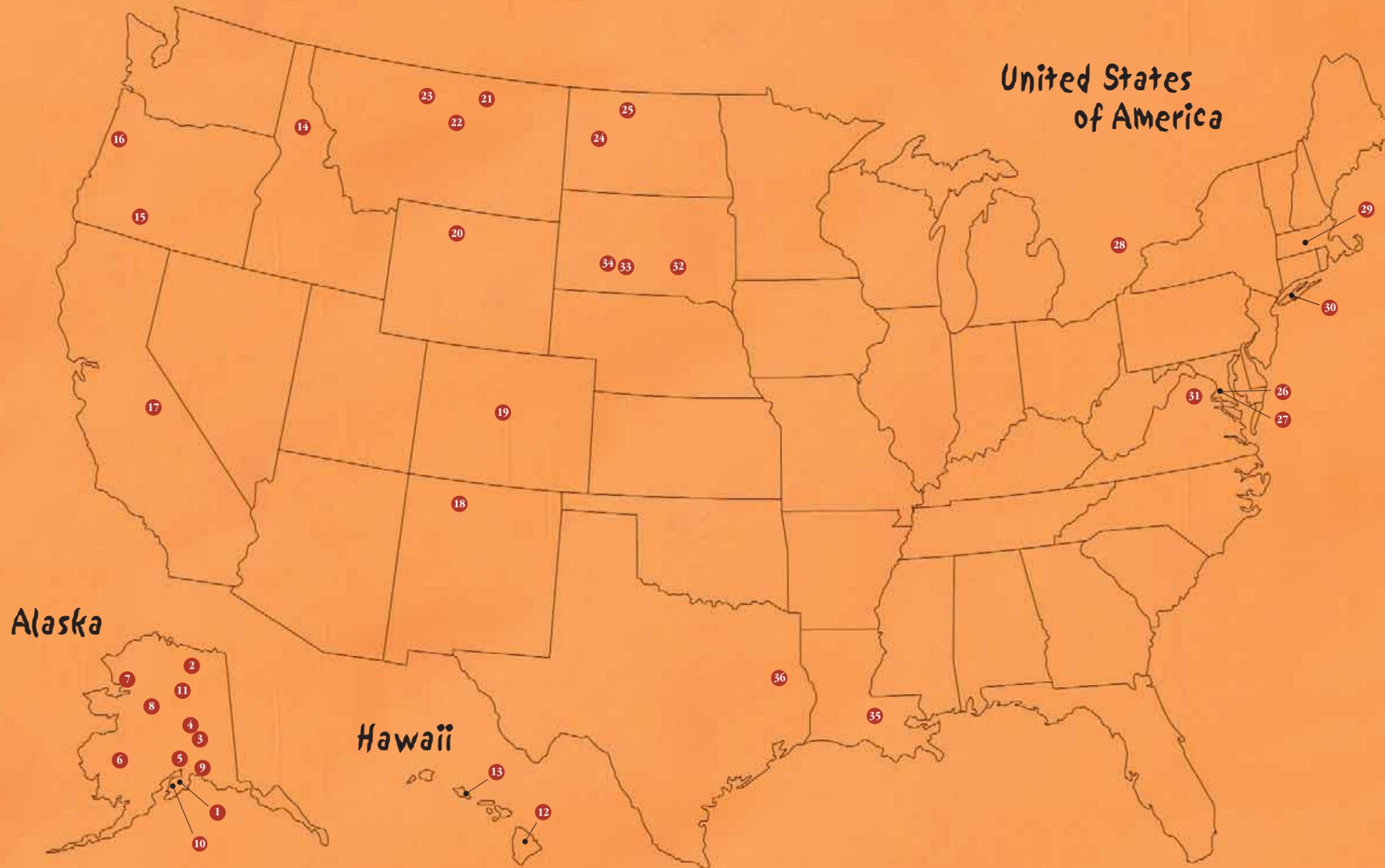
In late 1994, Public Law 103-344, which exempts the religious use of peyote by Indians in bona fide traditional ceremonies from controlled substance laws of the

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NARF Major Activities 2003 - Case Map



United States of America



- | | |
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| 1 Kenaitze Indian Tribe - Subsistence (Alaska) | 19 NARF HEADQUARTERS BOULDER, COLORADO |
| 2 Gwich'in Steering Committee - Environmental/Subsistence (Alaska) | 20 Medicine Wheel National Historic Landmark - Sacred Site (Wyoming) |
| 3 Alaska Inter-Tribal Council/Native Village of Akiak - Equal Protection (Alaska) | 21 Fort Peck Tribes - Education (Montana) |
| 4 Native Village of Alakayak - Language Initiative (Alaska) | 22 Chippewa-Cree Tribe - Water & Trust Claim (Montana) |
| 5 NARF ANCHORAGE OFFICE | 23 Little Shell Tribe - Recognition & Trust Claim (Montana) |
| 6 Native Village of Tuluksak - Trust Lands (Alaska) | 24 Fort Berthold Reservation - Education (North Dakota) |
| 7 Native Village of Kiana - Education (Alaska) | 25 Turtle Mountain Reservation - Trust Claim (North Dakota) |
| 8 Native Village of Nulato - Education (Alaska) | 26 NARF WASHINGTON, D.C. OFFICE |
| 9 Native Village of Eyak, Tatitlek, Chenega, Nanwalek, and Port Graham - Subsistence & Aboriginal Title (Alaska) | 27 IIM Case & Tribal Supreme Court Project (Washington, D.C.) |
| 10 Ninilchik Tribe - Subsistence (Alaska) | 28 Northern Lakes Pottawatomi Nation - Land Claim (Canada) |
| 11 Native Village of Venetie - Subsistence (Alaska) | 29 Mashpee Wampanoag Tribe - Recognition (Massachusetts) |
| 12 Pele Defense Fund - Aboriginal Rights (Hawaii) | 30 Shinnecock Tribe - Recognition (New York) |
| 13 Rice v. Cayetano - Voting Rights (Hawaii) | 31 Pamunkey Tribe - Recognition (Virginia) |
| 14 Nez Perce Tribe - Water Rights (Idaho) | 32 Lower Brule Sioux Tribe - Trust Land (South Dakota) |
| 15 Klamath Tribes - Water Rights & Self-Sufficiency (Oregon) | 33 Rosebud Sioux Tribe - Education & Cultural Property Rights (South Dakota) |
| 16 Bonnichsen v. United States ("Kennewick Man case") - Repatriation (Oregon) | 34 Oglala Sioux Tribe - Environmental (South Dakota) |
| 17 Tule River Tribe - Water (California) | 35 United Houma Nation - Recognition (Louisiana) |
| 17 San Juan Southern Paiute Tribe - Land Claim (Arizona) | 36 Alabama-Coushatta Tribe - Land Claim (Texas) |
| 18 Jicarilla Apache Tribe - Education (New Mexico) | |

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federal and state governments, was passed. NARF represented the Native American Church of North America (NACNA) and played a key role in the passage of the legislation. It also prohibits discrimination against Indians for such religious use of peyote, including the denial of otherwise applicable benefits under public assistance programs. The bill closed the door to governmental prohibition of sacramental use of peyote by Indians and effectively reversed a 1990 United States Supreme Court decision in *Smith v. Oregon* that denied First Amendment protection to the Native American Church.

NARF is representing the Native American Church in the case *O Centro Espírita Beneficente União Do Vegetal (UDV-USA) v. Ashcroft*. The UDV is a Christian religious organization duly formed under the laws of Brazil, with its headquarters in Brasília, Brazil. The UDV-USA is the United States branch of the UDV whose principal offices are in New Mexico. The UDV claims that the federal government is violating its constitutional right of equal protection by permitting Native American Church members to possess and use peyote for religious purposes while denying them the religious possession and use of ayahuasca by UDV members. Ayahuasca is a hallucinogenic tea decoction made from the stems or bark of the vine *banisteriopsis* (also known as “mariri”) together with the leaves of *psychotria*

viridis (also known as “chacrana”). Ayahuasca has been used for centuries in healing rituals in Columbia, Ecuador, Brazil, and Peru.

The government bases its protection of the religious use of peyote on the trust relationship between the United States and Indians and the political relationship between the United States and tribes. Numerous courts over the past 20 years have recognized and upheld this special relationship as a basis for the unique treatment of the Native American Church. NARF and the Church assisted the United States Department of Justice in defending current federal law which protects the religious use of peyote by Indian Church members. In 2002, the Federal District Court in New Mexico rejected the UDV’s equal protection argument, but accepted its argument that it was protected under the Religious Freedom and Restoration Act (RFRA). The NAC took no position on the UDV’s RFRA claims against the United States. The government appealed to the Tenth Circuit Court of Appeals and the Tenth Circuit affirmed in 2003 in favor of UDV’s RFRA claim, but also rejected the UDV’s equal protection claims that threatened the NAC’s special status under federal law. The government has now filed a petition for reconsideration.

In *Wyoming Sawmills v. United States and Medicine Wheel Coalition*, a private timber company in Wyoming has challenged the legality of the United States Forest Service’s Historic Preservation

Plan (HPP) for managing the Sacred Medicine Wheel on constitutional (establishment of religion) and other grounds. NARF filed an amicus curiae brief on behalf of the National Congress of American Indians urging the United States District Court for the District of Wyoming to uphold the Plan on statutory and constitutional grounds, which it did in a decision in 2002. The District Court did not address the constitutionality of the HPP because it found that Wyoming Sawmills lacked standing to raise an Establishment Clause claim. Wyoming Sawmills has appealed this decision to the federal appeals court. Oral argument was held in the spring of 2003, and a decision is forthcoming.

CULTURAL RIGHTS

In 1998, an “English Only” initiative was passed in the State of Alaska. The initiative was written in very broad terms and will have a major impact upon Alaska Natives. Unlike other official English measures that are primarily symbolic, this measure prohibits the use of any language except English in all governmental functions and actions. The measure applies to “the legislative and executive branches of the State of Alaska and all political subdivisions, including all departments, agencies, divisions and instrumentalities of the State, the University of Alaska, all public authorities and corporations, all local governments and departments, agencies, divisions, and instrumentalities of local governments, and all govern-

ment officers and employees.” In response to the initiative, NARF filed suit on behalf of twenty-seven Native individuals and organizations that have asked NARF to represent them. In 1999, the Alaska Superior Court granted a preliminary injunction that enjoined the State of Alaska from the operation and enforcement of Alaska’s Official English Initiative. Alaskans for a Common Language moved to intervene and were granted intervention in 2000. In 2002 the Alaska Superior Court struck down the English-only law as a violation of the free speech clause of the Alaska Constitution. The State of Alaska chose not to appeal, but Alaskans for a Common language has appealed. Oral argument was heard in June 2003. NARF is now waiting for a decision.

NARF conducted an extensive analysis of federal and international intellectual property laws and policies and their current impact on Native American intellectual property and cultural property issues. The analysis will form the basis of an action plan that will be presented to the National Congress of American Indians. This review constitutes phase I of a proposed two phase project to initiate concrete efforts to improve the legal protection of indigenous intellectual and cultural property rights.

NARF is also helping the Rosebud Sioux Tribe of South Dakota develop a Cultural Resources Management Code by which the Tribe can regulate its

cultural and intellectual property on its reservation. The Tribe is particularly interested in regulating the harvest and use of sage, its Sun Dances, and various arts and crafts.

In 1978, the United States Congress enacted the Indian Child Welfare Act (ICWA). The Act states as its purpose: “The Congress hereby declares that it is the policy of this Nation to protect the best interest of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family programs.”

The Act established substantive, procedural and jurisdictional protections for tribes and Indian families in cases of adoption, pre-adoptive placement, foster care placement, and termination of parental rights proceedings involving Indian children. Because these protections are challenged or may conflict with state law, policy or practice, there have been several hundred state and federal court decisions interpreting the Act. Congress has also attempted to amend the Act to resolve concerns related to the enforcement of the Act. NARF continued to monitor Congressional legislation and continued its participation in national conferences and meetings related

to Indian child welfare to address tribal concerns.

EDUCATION

In 2002, NARF received a generous grant of \$1.6 million from the Kellogg Foundation. The grant became effective September 2002 and extends over a three-year period. The ultimate goal of the grant is for NARF to help tribes in improving the learning outcomes for Native American children in schools by utilizing a collaborative approach in which tribes work closely with school officials to identify obstacles to improvement in education, to identify and implement potential solutions, and to establish and implement a tribal system of gathering and updating basic data measuring achievement of tribal students.

Under the Kellogg grant, NARF is currently working closely with six tribes - the Assiniboine and Sioux Tribe of the Fort Peck Reservation in Montana, the Jicarilla Apache Nation in New Mexico, the Native Villages of Kiana and Nulato in Alaska, the Rosebud Sioux Tribe in South Dakota, and the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota. NARF is providing legal and technical assistance to help these tribes establish or reorganize tribal departments of education. These efforts to improve tribal involvement in the education of their children would enable the tribes to collaborate with the schools providing education programs to tribal children. An important part

of this effort involves the development and implementation of legal devices such as tribal education codes and intergovernmental agreements that will operate to formalize tribal/school collaborative activities that increase the role of tribal governments in the schools that serve their people. Another important part of the project is to assist tribes in developing a system and process by which basic data concerning the education status of tribal children will be collected, tracked on a regular basis, and

the project more expeditiously in the second year.

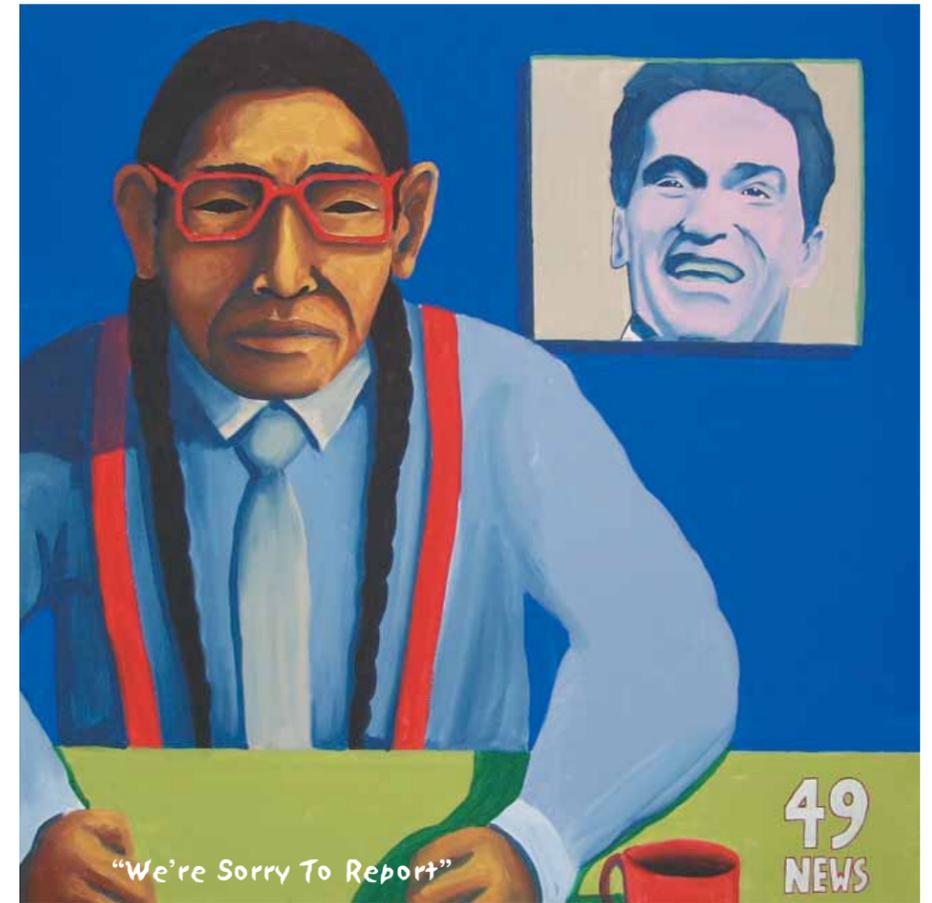
The U.S. Department of Education Office of Indian Education awarded a one-time grant of \$20,000 to NARF for the purpose of establishing a new national organization for Tribal Education Departments and to develop the new organization's web site. With the help of Education Directors of the Suquamish Tribe, the Cheyenne-Arapaho Tribes, and the Confederated Salish and Kootenai

To date, this work has focused on the Draft Declaration on the Rights of Indigenous Peoples being considered by the Organization of American States (OAS). This document will be invaluable in establishing baseline rights for indigenous peoples in the Western Hemisphere. In addition, a strong document in this hemisphere will bolster the process in the United Nations (U.N.) where a Draft Declaration on the Rights of Indigenous Peoples is also being considered.

any right of self-determination for tribes or other indigenous peoples within the international arena. For decades, tribes have urged the United States to abandon its anachronistic and discredited international policy against self-determination.

The new policy, while far from perfect, is a step in the right direction and will set the necessary foundation to begin a more constructive dialogue with the United States and other states on the Rights of Indigenous Peoples during negotiations surrounding the Declarations on the Rights of Indigenous Peoples in the U.N. and the OAS. The new policy does three things that indicates considerable movement by the United States: (1) it acknowledges a right to "self-determination" (albeit only an 'internal' right), (2) it accepts that certain rights of "indigenous peoples" are "group rights", and (3) it accepts the use of the term "Peoples." The use of the term Peoples has important legal significance, since two widely accepted international covenants both expressly provide that "All Peoples have the right to self-determination..." as opposed to "people" which does not convey the same legal rights.

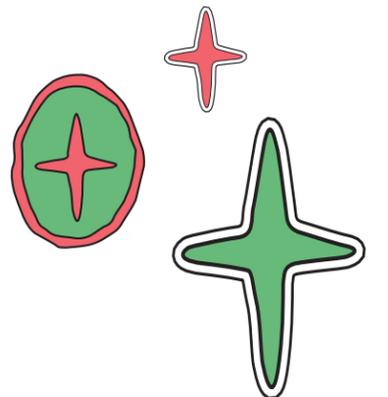
The new policy also impacts the United States' official position on the collective nature of the rights of indigenous peoples. Prior to this change in policy, one of the major stumbling blocks in the discussions at both the U.N. and the OAS regarding the respective Declarations has been that the United States had taken



the position that it would only recognize rights belonging to individuals. But, of course, Indian tribes by definition have always had rights that are exercised by the group. The new United States policy acknowledges this reality.

NARF continued its participation on drafting sessions with the U.N. Working Group On Indigenous Populations and at the OAS on behalf of our client, NCAI. NARF has been granted special consultative status in the U.N. and can now appear on its own credentials at all U.N. activities dealing with Indigenous peoples. A U.N. drafting session was held in September 2003 and the OAS held drafting sessions in

February and November of 2003, and has scheduled additional sessions for January and February of 2004. The drafting sessions addressed core paragraphs of the Draft dealing with self-determination, treaty rights and land rights.



used to measure the progress of the tribe/schools' collaborative activities. In addition, under the project, NARF will assist tribes in acting as catalysts to bring together tribal, state, and federal agencies and resources to work in concert to improve the learning experience of Indian students.

In September 2003, following the first full year of the three-year project, NARF education attorneys worked with an evaluation consultant to prepare the first annual evaluation of the Project's progress. The Project evaluation concluded that all six tribes had made progress over the first year sufficient to put them in a position of moving forward with

Tribes, the Tribal Education Departments National Assembly (TEDNA) was formed and incorporated in 2003. The purpose of the TEDNA is to bring together tribal education directors, staff and policy makers so that they can share information, strategize and problem solve on common issues of education governance, policy and advocacy at the tribal, regional and national levels.

INTERNATIONAL LAW

NARF and the National Congress of American Indians (NCAI) entered into a attorney-client relationship for the purpose of working in the international arena to protect indigenous rights.

Conversely, if the OAS document is adopted in weakened form, it may be used to dilute the United Nations draft declaration, which has widespread indigenous approval.

Through a relentless campaign by a coalition of tribes and Indian rights organizations including NCAI, NARF and the Indian Law Resource Center, the United States announced that it was adopting a more forward-looking policy on rights for "Indigenous Peoples" in 2001. While the United States has promoted a measure of self-determination for Indian tribes domestically since the 1970s, the government had steadfastly refused to recognize



The Accountability of Governments

Contained within the unique trust relationship between the United States and Indian nations is the inherent duty for all levels of government to recognize and responsibly enforce the many laws and regulations applicable to Indian peoples. Because such laws impact virtually every aspect of tribal life, NARF maintains its involvement in the legal matters pertaining to government accountability to Native Americans. In a time when federal government accountability is increasingly dubious, it is crucial that NARF continues its fight to assure that

involving the United States government. NARF represents all present and past individual Indian trust beneficiaries. Commonly referred to as the “IIM Case,” this litigation is intended to force the United States as trustee to: (1) perform a complete, accurate and reliable accounting of all trust assets held to the benefit of individual Indian trust beneficiaries; (2) properly restate the trust fund accounts in conformity with that accounting; and (3) create an accounting and trust management system that is reliable and will safely and soundly manage the trust

appointed a court monitor, Joseph S. Kieffer III, to independently assess the United States’ failing effort to reform the Indian trust management system. His first Report found that despite Judge Lamberth’s 1999 order to account, the federal government failed to perform a full and fair accounting of trust funds. He also found that the Interior Secretary and her predecessor were orchestrating an elaborate charade to trick the Court into believing that they were taking action, when they were not. Mr. Kieffer’s second and third Reports found that the gov-



Native Americans do not succumb to government negligence.

NARF, along with other attorneys, filed a class action lawsuit in 1996 against the federal government. The lawsuit was filed on behalf of 300,000 Individual Indian Money (IIM) account holders to seek redress for government mismanagement of trust accounts through which billions of dollars of Indian money has flowed over the years. The suit charges the federal government with illegal conduct in what is viewed as the largest and most shameful financial scandal ever

funds of individual Indians in the future.

In 2001, the Court of Appeals for the District of Columbia upheld the 1999 Federal District Court decision holding the United States in breach of trust and requiring the government to provide an accounting to the IIM beneficiaries. These two decisions constitute two of the most important opinions ever issued on the trust responsibilities of the government to Native Americans.

Following the Court of Appeals decision, District Court Judge Royce C. Lamberth

ernment lied at trial regarding the progress of trust reform and the likelihood that their trust reform plan would result in success. In addition, the Reports demonstrated that although federal officials were under an obligation to report truthfully on trust reform after the 1999 decision in Quarterly Reports to the Court, they failed to do so. Instead, time and time again they falsely told the Court that the reform effort was generally going as planned. They never revealed that both the Bureau of Indian Affairs (BIA) Trust Asset and Accounting Management

System (TAAMS) data cleanup effort and the installation of the TAAMS system, the purported centerpiece of trust reform, was running into serious problems. Finally, Mr. Kieffer issued a fourth report, this one finding essentially that the Secretary had knowingly verified an “inaccurate and incomplete” Quarterly Report to the Court.

Beginning late in 2001, contempt proceedings against the Secretary of the Interior and the Assistant Secretary for Indian Affairs were held. In 2002, Judge Lamberth held the Secretary of Interior and the Assistant Secretary for Indian Affairs in contempt of Court on the following four counts: 1) committing fraud on the court by concealing the true actions of the department regarding the historical accounting; 2) committing a fraud on the Court for misrepresentations regarding IT security failures at the Department of Interior; 3) committing fraud on the Court for failing to disclose the true status of the TAAMS project and; 4) committing fraud on the Court by filing false and misleading status reports regarding BIA Data Clean-up. In addition, defendants were held to have engaged in litigation misconduct for failing to comply with the Court’s 1999 Order to initiate a Historical Accounting Project. The government appealed Judge Lamberth’s decision.

The Court ordered that Interior must, and plaintiffs may, each submit two separate plans by January 2003 that would set forth a means to conduct the accounting



“Downwind From Hanford”

required by law and set forth a means to bring Interior into compliance with its trust duties (i.e. a trust reform plan). In conformity with the Order, NARF filed an accounting plan which demonstrated that more than \$13 billion in proceeds from individual land has been produced by Indian allotted land (not counting interest accrued). NARF argued in their plan that, pursuant to trust law

where all presumptions are against the trustee, this amount is owed. If Defendants show with competent evidence that they made disbursements to the correct beneficiary, the \$13 billion will be reduced accordingly. To the extent defendants cannot make such a showing, then the trust account balances must be corrected (plus interest accrued since production).

In January 2003, the

Department of the Interior filed three motions for summary judgment. After both parties briefed the issues in April 2003, the Court denied all three motions *in toto*. One of the motions is particularly noteworthy since defendants sought to limit the accounting to 1984 forward by application of the statute of limitations. The Court held, consistent with NARF’s position, that no limitations are

applicable because defendants have not “repudiated” the trust and until repudiation, limitations cannot begin to run.

In April 2003, Senate Indian Affairs Committee Chairman Ben Nighthorse Campbell and Vice Chairman Daniel Inouye wrote letters to the parties urging a mediated settlement of the case. On behalf of the plaintiffs, NARF responded favorably to the

suggestion in a letter in May 2003 calling on Senator Campbell, Senator Inouye and other key Congressional leaders to become directly involved in settlement discussions themselves. NARF repeated its support for a mediated settlement process at a Senate Indian Affairs Committee hearing in July 2003.

In July 2003, a decision was rendered on the government’s appeal of Judge Lamberth’s 2002 ruling on contempt. A three-judge panel of the U.S. Court of Appeals for the District of Columbia ruled that the District Court ruling holding the Secretary’s in civil contempt had to be reversed because the sanction was a criminal proceeding, not a civil sanction, and the burden of proof was not met. In September 2003, NARF attorneys asked the nine active judges who sit on the U.S. Court of Appeals for the District of Columbia to reinstate the civil contempt citations arguing that the three-judge panel misconstrued the true nature and purpose of the civil contempt proceeding in declaring it to be something it was not – a criminal contempt proceeding. NARF’s petition for rehearing was denied in October 2003.

In May 2003, as scheduled, Trial 1.5 on the accounting and trust reform plans commenced. The trial lasted 44-trial-days with closing arguments in July 2003. In September 2003, in ruling on Trial 1.5, the Court issued a two-part opinion and an order imposing a structural injunction which requires the Interior defendants to

conduct a historical accounting of the IIM Trust and to provide plaintiffs with an accurate accounting. Judge Lamberth's opinion consists of two-parts: Historical Accounting and Fixing the System. In Historical Accounting, the government must account for all funds since the passage of the General Allotment Act of 1887 by 2007. In Fixing the System, the Court held that "Congress intended to impose upon Interior the traditional fiduciary duties of a trustee, and that the scope and nature of those duties are coextensive with the duties imposed upon trustees at common law." An appeal by the government is expected.

In a Court of Federal Claims related action, NARF represents the Turtle Mountain Band of Chippewa in North Dakota, the Chippewa-Cree of the Rocky Boys Reservation in Montana and the Little Shell Tribe of Chippewa in Montana against the Bureau of Indian Affairs for mismanagement of the Pembina Judgment Fund. The tribes allege misaccounting, misinvestment, and mismanagement by the federal government of their \$50 million tribal trust fund since the inception of the fund in 1964. The parties in this case continue to explore a negotiated settlement of the Tribes' claims. At the same time, the parties have asked the court to clarify the threshold issue of who are the proper plaintiffs in this action involving a trust fund with multiple beneficiaries. In July 2003, the White Earth Band of Minnesota Chippewa moved to

be named a party plaintiff in this action. If that motion is granted, NARF will represent White Earth along with the other three Pembina Chippewa Tribes.

In another related matter, NARF filed suit in the Court of Federal Claims against the government seeking damages for breach of trust on behalf of the Chippewa Cree Tribe of the Rocky Boy's Reservation in Montana. The Tribe alleges misaccounting and misinvestment of the Tribe's trust funds based on oil and gas, timber, and grazing resources. NARF is seeking an accounting of certain Tribal accounts and has asked the Court to assign the case to the judge in the IIM case. At this time, the litigation is on hold to allow the parties to explore a negotiated settlement of the Tribe's claims.

The Native American Rights Fund, on behalf of the Alaska Inter-Tribal Council, ten Native villages and seven Native individuals, filed a civil lawsuit in 1999 in the Superior Court for the State of Alaska seeking declaratory and injunctive relief against the State of Alaska for failure to provide minimally adequate police protection to off-road Native villages and for discriminating against them in the provision of State law enforcement services. In *Alaska Inter-Tribal Council v. Alaska*, the complaint alleges that the actions of the State in unlawfully prohibiting Native villages from keeping the peace in their traditional ways, which rendered them defenseless to lawbreakers, while failing to provide them even minimally-adequate police protection

under the State law enforcement system, violated the Villages' rights to Due Process of law and basic law enforcement protection guaranteed by the Fourteenth Amendment to the United States Constitution and Article I of the Alaska Constitution.

The complaint also alleges that the State's discriminatory treatment of Native villages in the provision of police protection is based on race and therefore violates the Villages' rights to Equal Protection of the law under the Fourteenth Amendment to the United States Constitution and Article I of the Alaska Constitution. The complaint sets forth in sad detail the history of discrimination against Native Villages in the provision of law enforcement by both the Territorial and State governments. A decision was rendered by the Superior Court in 2002 in favor of the State of Alaska. NARF appealed this decision to the Alaska Supreme Court and argument was heard in September 2003. NARF is now waiting for a decision.

In 1993, the United States Congress enacted the Hawaiian Apology Joint Resolution, Public Law 103-150, 107 Stat. 1510 (1993), admitting that the role of the United States military in removing the Hawaiian monarch, Queen Lili'u'okalani, from power and installing the provisional government was illegal under American and international law. Prior to the overthrow, Hawaii was regarded internationally as one of the family of nations, which had

concluded numerous treaties of trade, commerce and friendship with several countries including the United States. The Apology was a watershed event in American history, seen by many Hawaiian people as the first step in making reparations for the illegal overthrow. The overthrow has, for over a century, been viewed by Hawaiians as the ultimate atrocity committed against their sovereign nation, the culmination of the enormous political, social, cultural, economic and spiritual changes wrought on the Hawaiian people since the 1778 arrival of Captain Cook.

The Apology has fueled the passions of the Hawaiian people involved in the sovereignty movement. The United States' admission that the overthrow was illegal, immoral, and unjust is seen as but a first step in the long process of establishing "ho'opono'ono" – the Hawaiian traditional system for "making things right."

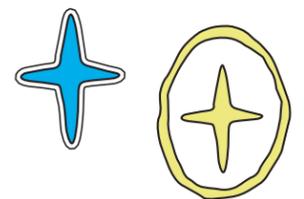
For many years, the Native American Rights Fund has been involved in the Hawaiian rights movement, commencing with our assistance in the founding of the Native Hawaiian Legal Corporation ("NHLC") nearly 30 years ago. Also, since the mid-1980s, NARF has co-counseled with NHLC and private counsel in representing the Pele Defense Fund ("PDF") in efforts to prevent large-scale geothermal development in the Wao Kele'O Puna rainforest on the Big Island, 27,000 acres of which are owned by the Campbell Estate, one of the largest land-holding estates in Hawaii. PDF

and others were ultimately successful in turning away large-scale geothermal development on the Big Island, in part because such a venture has never made any sense environmentally or economically, not to mention culturally and spiritually. The Wao Kele rainforest is irreplaceable to those Hawaiians who worship the Goddess Pele, and who hunt and gather there. The efforts of PDF culminated in the 2002 entry of a stipulated judgment and order by the state court in Hilo, Hawaii recognizing the PDF members' rights to access, hunting, gathering, and worship on the Wao Kele lands - part of the bundle of "traditional and customary rights" protected, preserved and enforced under Article XII, § 7 of the Hawaii Constitution. Efforts are now underway for the acquisition of the Wao Kele Ofuna rainforest lands.

Rice v. Cayetano involved a challenge by a non-Native to the voting restriction in the state constitution allowing only Native Hawaiians to vote for trustees of the Office of Hawaiian Affairs (OHA). The OHA administers income received from certain trust lands for the benefit of Native Hawaiians. Rice argued that the restriction violates the Fourteenth and Fifteenth Amendments to the U.S. Constitution. The Ninth Circuit Court of Appeals upheld the voting restriction, but the United States Supreme Court reviewed that decision. One of Rice's arguments is that since there are no tribes in Hawaii, the voting restriction is purely race-

based and subject to strict scrutiny. The Supreme Court case of *Morton v. Mancari* held that legislation as to Indian tribes is based on the political relationship between tribes and the United States and need only be rationally related to Congress' unique obligation toward Indian tribes. The question was whether the same standard applies to legislation passed for the benefit of Native Hawaiians. NARF filed an *amicus curiae* brief in support of Native Hawaiians on behalf of the National Congress of American Indians in the Supreme Court. However, in 2000, the Supreme Court ruled against the Native Hawaiians declaring that the state restriction on voting for OHA trustees to Hawaiians was based on race and, therefore, violated the Fifteenth Amendment which prohibits denying anyone the right to vote based on race.

The aftermath of the *Rice* decision, while not technically deciding the equal protection issue, sent signals to opponents of state Hawaiian programs that it was open season on what some see as "race-based special benefits." Over the past three years a flurry of litigation has ensued. NARF continues to monitor numerous challenges by non-Native Hawaiians to programs and legislation that have been enacted to benefit to Native Hawaiians.



The Development of Indian Law

The systematic development of Indian law is essential for the continued protection of Indian rights. This process involves distributing Indian law materials to, and communicating with, those groups and individuals working on behalf of Indian people. NARF has two ongoing projects which are aimed at achieving this goal.

serves a wide variety of public patrons including attorneys, tribal governments, tribal organizations, researchers, students, prisoners, the media, and the general public.

For the past thirty years, NILL has been collecting a wealth of materials relating to federal Indian law and tribal law that include such tribal self-governance materials as constitutions, codes

copies of tribal codes and constitutions, and the Indian Law Bulletin current awareness service. Access these resources by directing your Internet browser to the Native American Rights Fund (NARF) website at www.narf.org and click on the National Indian Law Library link.



THE NATIONAL INDIAN LAW LIBRARY

The National Indian Law Library (NILL) is a national public law library devoted to American Indian law which serves both the Native American Rights Fund (NARF) and the public. The mission of NILL is to develop and make accessible a unique and valuable collection of Indian law resources and to assist people with their research needs. Special emphasis is placed on helping individuals and organizations working on behalf of Native Americans who have the greatest potential to positively influence their lives. NILL fills the needs of the often-forgotten areas of the nation known as Indian country. NILL handles close to 1,800 information requests per year and

and ordinances, legal pleadings from major Native American law cases, law review articles, handbooks, conference materials, and other information. Now the general public can access bibliographic descriptions of these materials from the electronic library catalog on the NILL website. (See: <http://nillcat.narf.org/>) This searchable catalog provides free access to current descriptions of more than 10,000 holdings in the library collection. Once relevant documents are located, patrons can review materials at the Boulder, Colorado library, request copies to be mailed (faxed or E-mailed for a nominal fee), or borrow materials through interlibrary loan. In addition, the library web pages provide research links, full-text

INDIAN LAW SUPPORT CENTER

Since 1972, the Indian Law Support Center (ILSC) of the Native American Rights Fund had received funding from the Legal Services Corporation to serve as a national support center on Indian law and policy for the national Indian legal services community and the 32 basic field programs serving Native American clients. Literally hundreds of requests for assistance in all areas of Indian law were answered annually. Because of the unique and complex nature of Indian law and the geographic remoteness of Indian legal services programs, complicated by the difficulty of attracting and maintaining experienced staff, ILSC performed a vital and cost-effective support

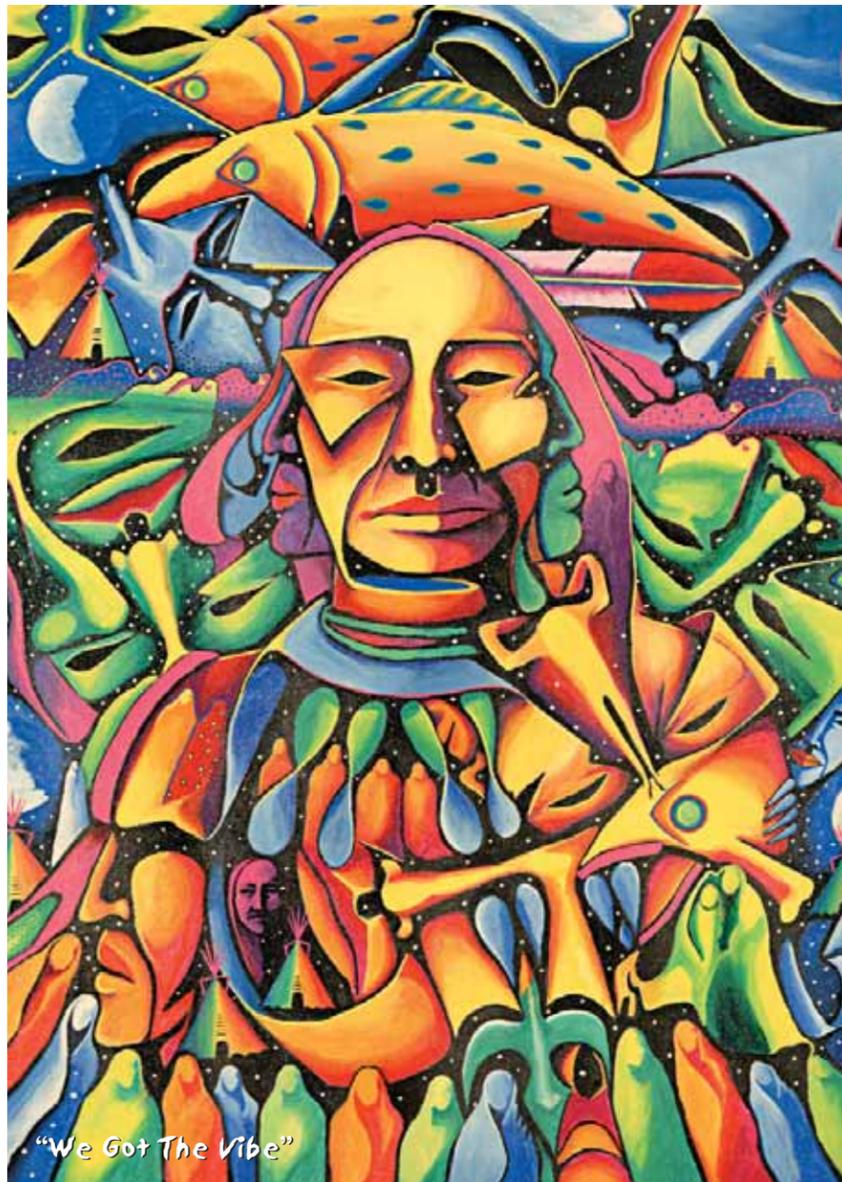
"A Mother's Love"

function to Indian programs and other legal services providers across the country.

Due to the loss of Legal Services Corporation funding in 1995, ILSC has been unable to carry on at traditional levels its program of working with Indian legal services lawyers nationwide through advice, research, recent Indian legal information, litigation and training. However, ILSC has been able to continue some assistance to Indian legal services programs throughout the year. ILSC continued to send out regular mail-outs to Indian legal services programs, handling requests for assistance, and working with the National Association of Indian Legal Services (NAILS) to secure a more stable funding base from the Congress. ILSC was involved in the passage of the Indian Tribal Justice and Legal Assistance Act of 2000 which President Clinton signed into law. The Act authorizes the Department of Justice to provide supplemental funding to Indian legal services programs for their representation of Indian people and tribes which fall below federal poverty guidelines. In 2003, ILSC worked with NAILS to secure the first appropriation for the Act, \$2 million, and continues to sponsor an annual training conference on tribal courts.

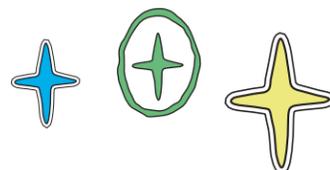
OTHER ACTIVITIES

In addition to its major projects, NARF continued its participation in numerous conferences and meetings of Indian and non-Indian organizations in order



to share its knowledge and expertise in Indian law. During the past fiscal year, NARF attorneys and staff served in formal or informal speaking and leadership capacities at numerous Indian and Indian-related conferences and meetings such as the National Congress of American Indians Executive Council, Midyear and Annual Conventions and the Federal Bar Association's Indian Law

Conference. NARF remains firmly committed to continuing its effort to share the legal expertise which it possesses with these groups and individuals working in support of Indian rights and to foster the recognition of Indian rights in mainstream society.



Based on our *audited* financial statements for the fiscal year ending September 30, 2003, the Native American Rights Fund reports total unrestricted revenues of \$7,895,814 against total expenditures of \$7,942,204. Net assets at the end of the year came to \$7,522,282. Due to presentation

requirements of the audited financial statements in terms of recognizing the *timing* of certain revenues, they do not reflect the fact that, based on NARF's internal reporting, revenue actually exceeded operating expenses and other cash outlays by \$163,239, allowing for an increase to

NARF's reserve fund. This increase is largely attributed to settlements in attorney fees and gains on investments.

Revenue and Expense comparisons between fiscal year 2003 and fiscal year 2002 are shown below.

SUPPORT AND REVENUE COMPARISON				
	2003		2002	
	dollars	percents	dollars	percents
Contributions	\$ 3,780,856	47.9%	\$ 4,350,174	73.3%
Federal Grants	1,147,310	14.5%	1,478,699	24.9%
Foundation Grants	1,342,339	17.0%	759,118	12.7%
Legal Fees	752,989	9.5%	64,031	1.1%
Other	15,293	0.2%	27,136	0.5%
Return on Investments	857,027	10.9%	<742,026>	<12.5%>
TOTALS	\$ 7,895,814	100%	\$ 5,937,132	100%

EXPENSE COMPARISON				
	2003		2002	
	dollars	percents	dollars	percents
Litigation and Client Services	\$ 4,734,537	59.6%	\$ 4,537,074	63.4%
National Indian Law Library	477,087	6.0%	356,223	5.0%
Total Program Services	5,211,624	65.6%	4,893,297	68.4%
Management and General	993,953	12.5%	989,625	13.8%
Fund Raising	1,736,627	21.9%	1,275,653	17.8%
Total Support Services	2,730,580	34.4%	2,265,278	31.6%
TOTALS	\$ 7,942,204	100%	\$ 7,158,575	100%

Note: This summary of financial information has been extracted from NARF's audited financial statements on which the accounting firm of JDS Professional Group expressed an unqualified opinion. Complete audited financials are available, upon request, through our Boulder office or at www.narf.org.

We thank each and every one of our supporters for their commitment to the goals of NARF. NARF's success could not have been achieved without the generosity of our many donors throughout the nation. We gratefully acknowledge these gifts received for fiscal year 2003.

Living Waters Endowment

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Elk Valley Rancheria
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Gila River Indian Community
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Chickasaw Nation
Chitimacha Indian Tribe
Colusa Community Development Program
Coeur d'Alene Tribe
Jicarilla Apache Nation
The Klamath Tribes
Lac du Flambeau Band of Lake Superior
Chippewa Indians of Wisconsin
Mazatzal Casino
Micosaukee Tribe of Indians

Mille Lacs Band of Ojibwe Indians and Grand
Casino Mille Lacs
The Mohegan Tribe
Oneida Tribe of Indians of Wisconsin
Paiute Palace Casino
The Pueblo of Laguna
Robinson Rancheria Bingo & Casino
Rumsey Band of Wintun Indians
Rumsey Community Fund
St. Regis Mohawk Tribe
Tanana Chiefs Conference, Inc.
Angela Babby
Bonderenko Direct, Inc.
Mystie Brackett
Mary Annibal Brook
Jackson Browne
Dakota Emporium
Dawn Dark Mountain
The Denver Singers
Eagle Plume's Gallery, Allenspark, CO
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The Native Voice
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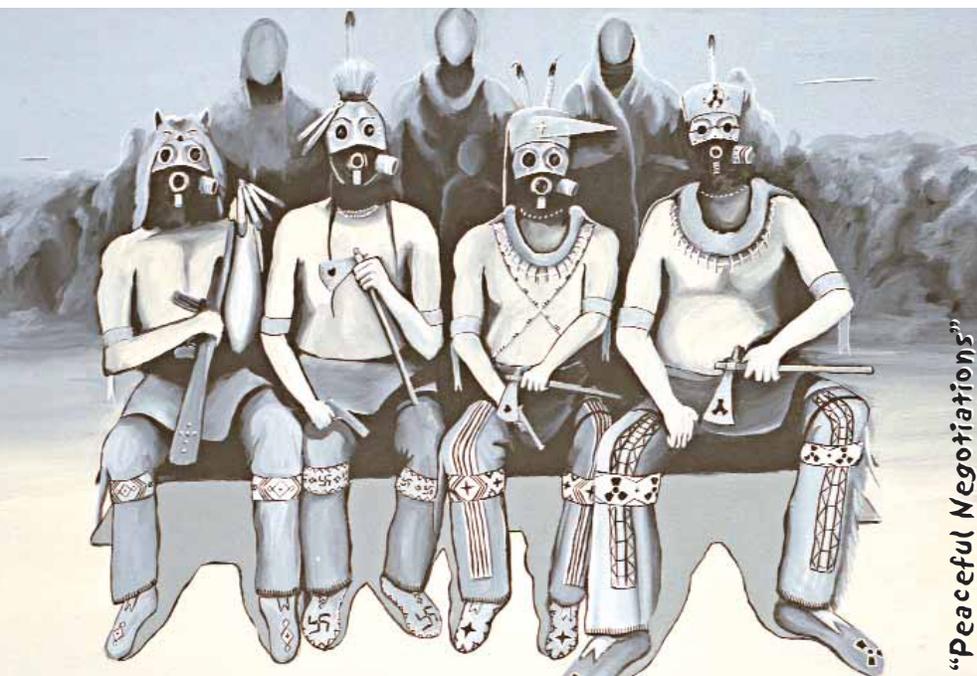
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