

# NARF

## Native American Rights Fund

### **Promises . . .**

spelled out in treaties agreed to by the United States and Indian leaders during the eighteenth and nineteenth centuries.

### **Promises . . .**

through treaties which guaranteed that Indian tribes would maintain their sovereignty within their reservation homelands.

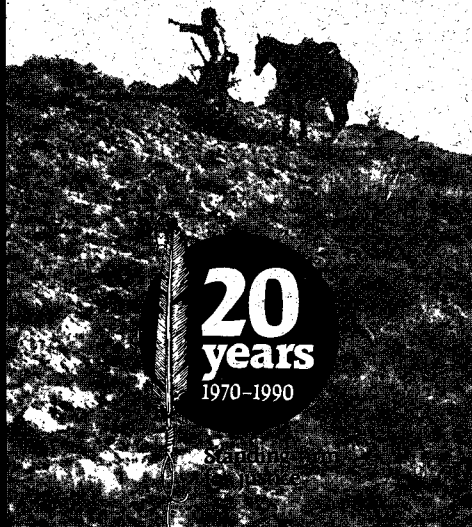
### **Promises . . .**

by the United States government which agreed to maintain a unique trust relationship with Indians protecting land, rights and resources.

### **The Ultimate Promise . . .**

that Indians could create homelands where their people and their cultures would prosper.

The Native American Rights Fund has spent the last twenty years ensuring that the promises are kept.



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## You are invited . . .

to actively be part of the efforts of the Steering Committee, the ILSC Project Advisory Committee, National Support Committee, and staff of the Native American Rights Fund. Please join us with your new and increased financial support to help assure our continued presence on behalf of thousands of Native Americans. Together we can help translate our promise of a brighter future for America's first citizens into a reality.

And from all of us at NARF—we thank the thousands of you who have helped to make the successes of these past 20 years possible.

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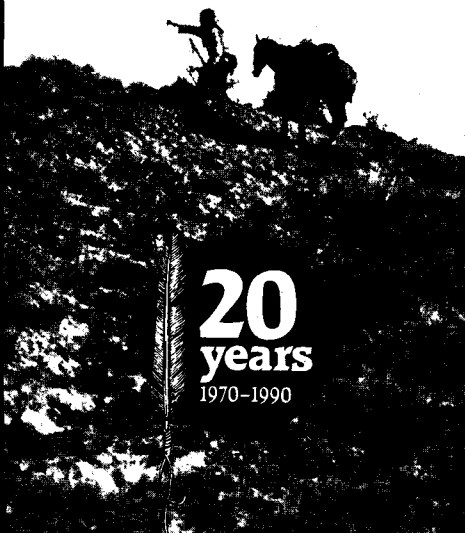
Norma B. Weston

# NARF

Native American Rights Fund

## Our First Twenty Years

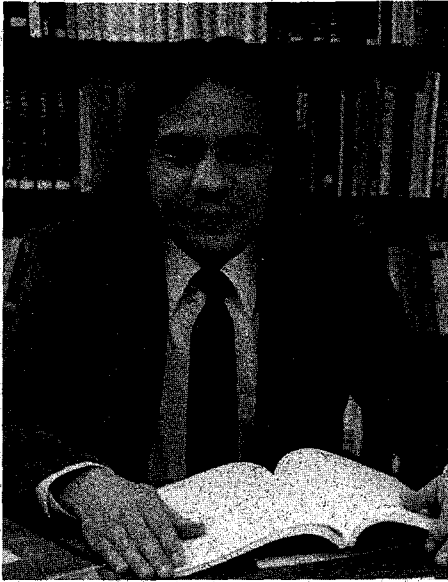
Letter from the Executive Director	2
From Vision to Reality	3
The Preservation of Tribal Existence	6
The Protection of Tribal Natural Resources	15
The Promotion of Human Rights	21
The Accountability of Governments	26
The Development of Indian Law	28
Into the Twenty-First Century	31



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Letter from the Executive Director	2
From Vision to Reality	3
The Preservation of Tribal Existence	6
The Protection of Tribal Natural Resources	15
The Promotion of Human Rights	21
The Accountability of Governments	26
The Development of Indian Law	28
Into the Twenty-First Century	31





## ● Letter from the Executive Director

*When we started the Native American Rights Fund twenty years ago, our objective was to bring competent and ethical legal representation to Native Americans who were unable to afford such representation. We believed that Indians—if given this opportunity—could receive justice from the American legal system.*

*Our mission had always been to secure for Indians the sovereignty, natural resources and human dignity that the laws of the majority society promised. At the heart of these laws lies the goal of all Native people—to maintain their status and traditional ways of life.*

*Treaties forged between the United States and Indian leaders during the last two centuries create the foundation of Indian law. These treaties, which Congress made the law of the land, are unprecedented in the American experience—they recognize the existence of sovereign governments within the boundaries of the United States.*

*The treaties were promises made to the Indian people—ensuring their special rights of sovereignty and self-determination. As part of these agreements, the United States entered into a unique trust relationship with Indian tribes. The United States government agreed to protect the safety and well-being of Native Americans.*

*In case after case, the modern courts have insisted that the federal government honor its historic commitments to Native Americans. The promises have survived the passage of time.*

*Over the years, NARF has achieved hundreds of victories in courtrooms across the country. We have been involved in most of the major litigation brought on behalf of Native Americans during the last two decades. We have experienced many successes. Some of those victories have been major—others less sweeping. In some instances—despite a valiant fight—we have fallen short. These defeats, however, have not deterred us. We are committed to seeking justice for Native Americans. We continue the fight and we expect to prevail.*

*The Native American Rights Fund—Our First Twenty Years tells the story of NARF. It tells how we began and the accomplishments of our first two decades. It is dedicated to those who have contributed to the pursuit of justice for all Native Americans.*

John E. Echohawk  
Executive Director  
The Native American Rights Fund

## ● The Native American Rights Fund— from Vision to Reality

*“NARF has brought most of the landmark cases in Indian law of this era—virtually all of them successful . . . It has established the foundations of Indian sovereignty . . . NARF stands for the ability of the law to serve the most vital needs of people.”*

David Getches  
Founding Director  
The Native American Rights Fund

### THE BEGINNING

In the late 1960's, the national War on Poverty spawned many legal outreach groups—one of these was California Indian Legal Services (CILS). At the time, few attorneys were interested in representing Indians—those who were generally worked on a contingency basis, only handling cases with anticipated monetary claims. Tribes unable to pay or without potentially lucrative cases continued to struggle with legal issues. For the majority of tribes, their only hope for adequate representation—on issues such as sovereignty, resource ownership and human rights—depended on externally-funded legal services' attorneys like those at CILS.

Two young attorneys, David Getches and Bob Pelcyger, were assigned to start a CILS office in Escondido. Once the word spread that there was legal help for Indians, the phone began ringing. Indians from across the country needed legal assistance with the same issues facing California Indians—water rights, land claims, government misconduct.

In the Spring of 1970 Monroe Price, a UCLA law professor and CILS supporter, met Leonard Ryan of the Ford Foundation. After hearing about the legal cases that CILS was pursuing on behalf of California Indians, Ryan agreed to a visit. On that first visit, David Getches took Ryan on a tour of several California Indian reservations in a dilapidated government surplus jeep. They talked about the many legal issues facing the California tribes—the same issues affecting tribes nationally.

That visit, and other early meetings, led to a six-month grant from the Ford Foundation to plan a national Indian legal organization. The result of that planning—a \$1.2 million Ford grant—financed the start-up of a program dedicated to serving the legal needs of Indians nationwide. The name of the organization was to be the Native American Rights Fund. It was the fall of 1970.

As a special project of CILS, NARF took office space in the CILS central office located in Berkeley. It was here that Getches, NARF's first Director, hired the first attorneys for the new Native American Rights Fund. These young men were NARF's founding fathers and would become the elder statesmen of Indian law. Bob Pelcyger was already on board, working out of the CILS Escondido office. John Echohawk, who had just graduated from law school and gone to work for CILS, also joined the NARF staff. They were joined by Bruce Greene, Joe Brecher and Charles Wilkinson.

“ . . . The tradition of clients as friends was firmly established in 1971 when John Echohawk spent two weeks on the Hopi Reservation in Arizona.

The traditional Hopi leaders wanted to be sure he understood what they felt about the white man's legal system because of what their prophecies said.

When the work was finished, there was feasting and sharing.

The Hopis made a gift of two special prayer feathers to John. They were the first token of appreciation NARF ever received from a client.

It was those Hopi feathers which were the inspiration for NARF's feather logo.”

Excerpt from  
The Native American Rights Fund  
Annual Report 1975



Nicholas Quomahu (Hopi), John Echohawk (Pawnee) and John Lansa (Hopi) - 1971

## A NEW HOME

It was a busy time—NARF's attorneys were not only handling litigation for clients nationwide, but also establishing a law firm. They began the search for permanent headquarters—preferably in a central western location not too closely associated with any specific tribes. Boulder, Colorado, most closely fit their criteria—it was near a national transportation hub and with major law schools nearby.

Once Boulder was selected, the staff began to look for office space. They chose an abandoned three-story fraternity house. The previous tenants had left the house in disrepair—trash and empty beer cans filled the rooms to overflowing. The transformation from rundown fraternity house to efficient office would take several years.

The staff brought one government surplus desk with them from California. They also brought the cases they were handling. Some would evolve into major precedent-setting litigation—such as the preservation of the Paiute's Pyramid Lake in Nevada and the protection of fishing rights for Washington tribes.

One of the first people hired in Boulder was Joan Lieberman (then Carpenter). Joan was to become the organizer at NARF. In those early days, she did everything—from remodeling to book-keeping to writing NARF's first newsletter, Announcements. Also hired were two people who would become mainstays at NARF. Yvonne Knight began as a staff attorney and Walter Echo-Hawk as a law clerk—and later as a staff attorney. The resourcefulness, perseverance and dedication of these three individuals embodies NARF's spirit of commitment.

During this time, NARF also established a small office in Washington, D.C. Proximity to the center of the federal government was crucial to pursuit of litigation in Washington courts and effective interaction with federal administrative agencies involved with Indian policy.

The early years were marked by purposeful enthusiasm. Lights burned around the clock at NARF's Boulder headquarters as attorneys and staff relentlessly pursued justice for Native peoples. That sense of mission and determination continues today.



## MEETING THE CHALLENGE

NARF's early months and years were hectic. Dozens of project proposals were written. These included plans for a national Indian legal support center and national Indian law library. Founding Director Getches crisscrossed the country, carrying a briefcase of proposals to present to potential donors. The cornerstone of the early funding efforts was the Ford Foundation grants—Ford funding lent credibility to the fledgling organization. Other foundation grants soon followed.

Indian law was a new field—most of the legal research had to be done from scratch. One early project was an Indian law training manual and instructional program for Office of Economic Opportunity (OEO) legal services attorneys assisting Indians on reservations throughout the country. The materials assembled for the training manual were later expanded into one of the first Indian law casebooks—co-authored by David Getches, Charles Wilkinson and Dan Rosenfelt.

NARF attorneys established trust with potential clients by spending time on reservations—talking to people individually and in groups. They explained NARF's mission and learned how the Fund might be able to help. And help they did. NARF immediately began winning cases. The process of cultivating relationships in Indian country took time. The NARF attorneys knew it was important to respect and understand each client's unique needs, culture and traditions.

## THE STEERING COMMITTEE

One of NARF's early tasks was assembling a governing board. The board was to be composed of Indian leaders from across the country—wise and distinguished people who were respected by Indians nationwide. David Risling, board chairman for California Indian Legal Services, also chaired NARF's original Advisory Board.

The Advisory Board selected NARF's first governing board—called the Steering Committee—in 1971. The Steering Committee, later called the NARF Board of Directors, has always served an important purpose—the leadership, credibility and vision of its members have been essential to NARF's effectiveness in representing its Native American clients.

## THE FIVE PRIORITIES

The first responsibility of the Steering Committee was helping to establish—out of the multitude of requests—the cases which NARF would handle.

NARF attorneys—traveling from reservation to reservation and from tribe to tribe—soon learned the important concerns in Indian country. In spite of different languages, different cultures and different histories, the people had the same needs. The answer to the attorneys' question, "What should we be doing?" evolved naturally. The major issues focused on sovereignty, natural resources and human rights. Under the leadership of the Steering Committee, the priorities were formalized.

The Five Priorities of the Native American Rights Fund became the guideposts for the work ahead:



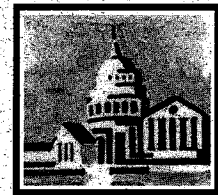
### 1 The Preservation of Tribal Existence



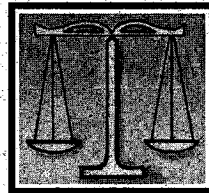
### 2 The Protection of Tribal Natural Resources



### 3 The Promotion of Human Rights



### 4 The Accountability of Governments



### 5 The Development of Indian Law

The Native American Rights Fund has accomplished much in the last two decades. What follows are examples of our achievements on behalf of Native Americans. NARF, working with Indian organizations, tribes and individuals, is proud to have played a part in the struggle for justice.





## The Preservation of Tribal Existence

Preserving the existence of Indian tribes as sovereign governmental entities—and defining and enforcing the authority that status confers—present some of the most critical issues facing Indians today. Much of NARF's work through the years has been devoted to issues pertaining to the status of tribes as self-governing bodies.

### TRIBAL SOVEREIGNTY

As sovereign governments, tribes possess the power to regulate the internal affairs of their members and activities within their reservations. Often conflicts arise with federal and state governments over the nature and scope of these powers. During the past twenty years, the Native American Rights Fund has handled hundreds of cases involving the sovereign powers of Indian tribes:

- In *Solem v. Bartlett*, NARF attorney Arlinda Locklear challenged South Dakota's criminal jurisdiction over Indians on 1.6 million acres opened to non-Indian settlement in 1908. Locklear—the first Indian woman to argue before the Supreme Court—won a unanimous decision from the Court. The Court rejected state jurisdiction in favor of federal and tribal control.
- *Askew v. Seminole Tribe*—in 1985—was another important sovereignty decision. The state court of appeals refused to allow the Florida State Department of Revenue to sue the Seminole Tribe. At issue was collection of state sales taxes from tribally-owned businesses on the Seminole Reservation. The court held that Indian tribes have long been recognized as having the same immunity from suit as other sovereign powers.
- A tribe's right to sue in state court was reaffirmed in *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering*. In the case, an Indian tribe sued a non-Indian contractor in state court for breach of contract—in connection with work done on the reservation. A controversial state decision barred the Tribe from pursuing its suit in state court—unless the Tribe waived its sovereign immunity. The U.S. Supreme Court reversed the state's ruling. The Court held that the state court's jurisdiction decision violated federal law governing the application of state law to Indians. NARF participated by filing an *amicus curiae* (friend of the court) brief on behalf of several interested tribes.
- NARF assisted Nebraska's Winnebago Tribe in obtaining criminal jurisdiction over its reservation. Since 1954, the State of Nebraska (under Public Law 83-280) had exercised criminal and civil jurisdiction over the Winnebago Reservation. In 1968, however, Congress enacted legislation permitting states—with tribal consent—to retro-

cede this jurisdiction back to the United States and the tribes. The 1986 Nebraska retrocession ended an eleven-year struggle by the Winnebago Tribe. In 1987—with NARF's assistance—Nevada's Ely Colony Shoshones also reclaimed criminal and civil jurisdiction over their members.

- Under the Indian Reorganization Act of 1934, tribal constitutions, bylaws and amendments require approval by the Secretary of Interior. NARF obtained Congressional legislation amending the IRA and streamlining the process for obtaining federal approval. The legislation evolved out of a case won by NARF and California Indian Legal Services—*Coyote Valley Band of Indians v. United States*. The legislation established procedures and timeframes for securing the Secretary's approval of tribal government documents.

Control over reservation bingo and gaming has caused major conflicts among federal, state and tribal governments. States have, repeatedly, tried to regulate bingo games on reservations. Tribes maintain that states do not have jurisdiction over tribal gaming on reservation land—and that tribal gaming is a legitimate method of generating tribal revenue.

In *Indian Country U.S.A., Inc. and Muscogee (Creek) Nation v. The State of Oklahoma*, a federal district court ruled that the State of Oklahoma has no jurisdiction to regulate—or tax—the Creek Nation's bingo operation. The court ruled the state cannot tax or interfere with the operation of tribal bingo—nor can it prosecute those operating or participating in tribal bingo. NARF filed an *amicus* brief.

In 1987, the issue of gaming came before the U.S. Supreme Court. In *California v. Cabazon Band of Mission Indians*, the Court held that the State of California does not have the authority to enforce state gambling laws within the Tribe's reservation. NARF participated by filing an *amicus* brief in the case.



## The Native American Rights Fund—Our First Twenty Years

*Since 1970, the people who make up the Native American Rights Fund have worked on behalf of their Native American clients. Their mission has been to achieve justice. The work has gone on in places ranging from humble dwellings on dusty reservations to the hallowed halls of the United States Supreme Court. These are the major accomplishments of our first two decades.*

### 1970

Leonard Ryan of Ford Foundation visits California Indian Legal Services (CILS) to review their program for potential funding of national Indian legal program

\$155,000 planning grant from Ford Foundation to CILS to launch national legal services program for Indians—the Native American Rights Fund (NARF)

David Getches becomes first Director of the Native American Rights Fund working with Robert Pelcyger and John Echohawk (the first Indian attorney to graduate from the University of New Mexico School of Law's special program for Indian lawyers)

NARF opens its first office in Berkeley, California

*Pyramid Lake Paiute Tribe of Indians v. Morton* filed seeking judicial review of the federal government's conduct leading to the decline and potential destruction of Pyramid Lake

Passamaquoddy Tribe of Maine requests NARF's assistance in reviewing State of Maine's actions following the Tribe's 1794 treaty with Massachusetts to which Maine succeeded

*U.S. v. Washington* filed regarding the fishing rights of Washington tribes

Native American Rights Fund asked by the Bureau of Indian Affairs (BIA) to participate in review and revision of Johnson-O'Malley regulations controlling distribution of federal Indian education funds

NARF files *Cocopah Tribe v. Morton* challenging a 1955 government decision giving additional acreage created on the Cocopah Reservation along the Colorado River to the Bureau of Reclamation

*continued*

Staff Attorneys **Lare Aschenbrenner** and **Don Miller**



“The best hope for Indian survival and development rests with the maintenance of the tribe as an institution. The inherent sovereign powers of a tribe to hold land, to govern tribal members, and to command the respect of other units of government are essential to an Indian nation concept.”

Excerpt from  
Native American Rights Fund  
Annual Report 1971

## TAXATION

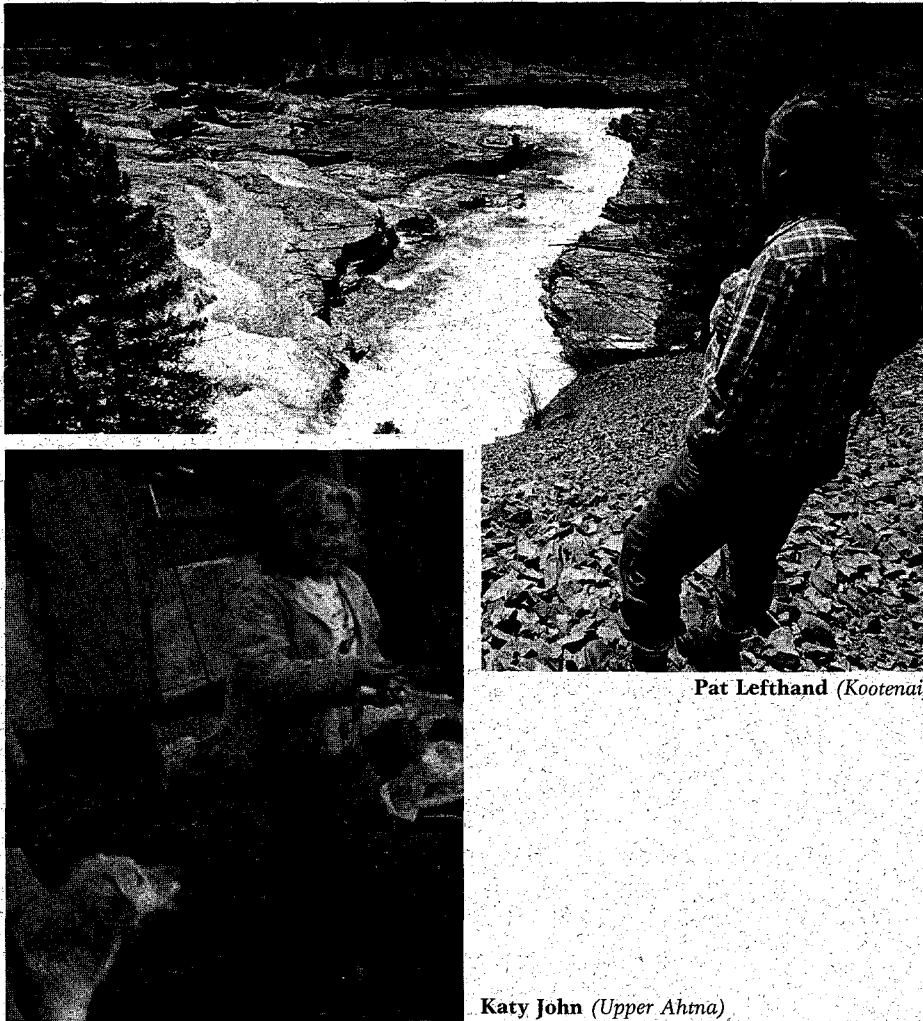
A government's taxing authority is at the very core of its existence—without it there can be no government to supply basic community services. For tribal governments, taxation powers lead to economic self-sufficiency. As with all areas of tribal jurisdiction—there exists a need to clarify the complexities of taxation in Indian country. In many instances, NARF and its clients have used the legal system to achieve that clarity:

- The 1974 *Walker River Paiute Tribe v. Sheehan* decision paved the way for economic self-determination—the court removed the obstacle of state sales taxation on tobacco products on the Walker River Paiute Reservation.
- In *Boxer v. Montana*, a Montana District Court ruled that all federally recognized Indians—regardless of tribal membership—have the right to be free of state taxation while living on a federal reservation. NARF was co-counsel with Montana Legal Services on the case.
- An important 1976 taxation decision was rendered by the U.S. Supreme Court in *Bryan v. Itasca County*. In a sweeping decision, the Court ruled that Public Law 83-280—giving selected states civil and criminal court jurisdiction over Indians—did not confer any taxing or regulatory roles on state governments. This decision clarified the limitations of Public Law 83-280—and affirmed that it was not designed to affect tribal affairs and tribal sovereignty. NARF assisted Leech Lake Legal Services on the case.
- Two 1980 Supreme Court decisions related to taxation issues in Indian Country. In *Central Machinery Company v. Arizona*, the Court held that states cannot impose state sales taxes on transactions occurring on Indian reservations. The Court also held—in *White Mountain Apache Tribe v. Bracker*—that the state could not apply motor carrier license fees and fuel taxes to on-reservation operations of a non-Indian owned logging company regulated by the United States. NARF assisted lead counsel in both cases.
- As a result of efforts by NARF and several Indian tribes and organizations, Congress passed the Tribal Governmental Tax Status Act in 1982. The Act provides that tribal governments can be accorded the same tax status as state and local governments.
- A significant tax victory was obtained in 1985's *Montana v. Blackfeet Tribe*. In this case, the Blackfeet Tribe challenged the state's authority to tax the Tribe's oil and gas royalties. The Supreme Court ruled that the State of Montana did not have the authority to tax the Tribe. In addition to strengthening the Tribe's tax immunity, the case represented a significant step toward making oil and gas leases—located on Indian land—more competitive.

## ALASKA

Shortly after its formation, the Native American Rights Fund became involved with Native issues in Alaska. NARF's Alaska office opened its doors in 1984. The opening of this office facilitated more effective legal representation on crucial issues—such as sovereignty and subsistence hunting and fishing rights—facing Alaska Natives:

- In a 1972 case, Eskimos on the North Slope of Alaska—represented by NARF attorneys—established a borough (county) empowering the Eskimos to tax oil companies operating in the area. This move enabled the Eskimos to provide municipal services—such as schools—which did not previously exist in the remote area.
- If the Alaska Native Claims Settlement Act (ANCSA) was not amended before 1991, the Act's protections for Alaska Natives would cease. Without these protections, Native ownership of land and stock was in jeopardy—non-Indian interests could gain control of important resources.



Pat Lefthand (Kootenai)

Katy John (Upper Ahma)

## 1971

Three-year \$1.2 million Ford Foundation Grant awarded to Native American Rights Fund is the Foundation's largest grant dedicated to Native Americans

The Native American Rights Fund officially separates from California Indian Legal Services and is incorporated in the District of Columbia

The eleven member all-Indian Native American Rights Fund Steering Committee conducts their first semi-annual meeting developing priorities for the activities of the Fund

NARF expands staff to ten attorneys and develops aggressive nationwide recruiting program for Indian law school graduates

NARF headquarters relocated from Berkeley, California, to rundown fraternity house in Boulder, Colorado

Small one attorney NARF office established in Washington, D.C., serves as important link with government offices serving Indians

Funded by a start-up grant for Carnegie Corporation, NARF staff begins compiling materials for the establishment of a National Indian Law Library to be located at NARF's Boulder headquarters

Clark Foundation grant to NARF for concentrated attention to unique legal problems of Eastern Indians

NARF files *Jicarilla Apache Tribe of Indians v. Morton* challenging the roles of several federal agencies involved in approving a network of six giant coal-burning electrical power plants in the Southwestern United States

NARF attorneys meet with Menominee Tribe beginning work on federal restoration of the Menominee

## 1972

NARF's Southwest Indian Environmental Project seeks to protect the resources of thirty-nine Indian reservations threatened by construction of a network of power plans

U.S. District Court Judge Gesell issues Pyramid Lake decision finding the Secretary of Interior's diversion of excess water away from Pyramid Lake has been "... an abuse of discretion and not in accordance with law ...". Decision empowers the Pyramid Lake Paiutes to prevent any further deterioration of Pyramid Lake

NARF aids in the development of the Coalition of Indian Controlled School Boards

*continued*



Indian Law Backup Center, funded by the Office of Economic Opportunity and established at NARF headquarters in Boulder, provides support and technical assistance to OEO Legal Services programs with Indian clients

National Indian Law Library (NILL) begins distributing information on development of Indian law and the history of federal-Indian relations to legal services throughout the country

Federal Court in Maine orders the United States Attorney General to file suit on behalf of the Passamaquoddy Indians against the State of Maine for past acts by the state detrimental to the Passamaquoddy

Eskimos on the North Slope of Alaska, represented by NARF, establish a borough (county) enabling them to tax oil companies operating in the area

Indian students at Colorado's Fort Lewis College assert their rights to free tuition under an old agreement between the United States and the State of Colorado

NARF begins publishing a newsletter, *Announcements*, featuring Fund activities and developments in Indian law

NARF attorneys are instrumental in forming the American Indian Bar Association

Largely due to efforts of NARF, the United States files an original action in the United States Supreme Court on behalf of the Pyramid Lake Paiute Tribe to protect their water rights

NARF hosts Eastern Indian Conference attended by over 120 Eastern Indian groups who join together to form the Coalition of Eastern Native Americans (CENA)

NARF files suit on behalf of the Walker River Paiute Tribe seeking to invalidate the Southern Pacific's right-of-way across the Walker River Reservation because the 1882 right-of-way agreement was never ratified by Congress as required by federal law

## 1973

The Interior Department reverses its position of seventeen years which deprived Arizona's Cocopah Tribe of 1000 acres which accreted to its reservation

Twelve years after their termination, President Nixon signs the Menominee Restoration Act restoring the Menominee Tribe of Wisconsin to federal trust status

By administrative determination, the Coushatta Tribe of Louisiana achieves federal recognition

In *U.S. v. Michigan*, the United States, on behalf of Bay Mills Chippewa Indian Community, brings suit against the State of Michigan asserting Indian treaty fishing rights in the Great Lakes and limiting state powers to regulate treaty fishing

- When passed in 1971, ANCSA guaranteed Native ownership of 44 million acres of Alaska land—sale of Native-owned corporate stock was prohibited for twenty years. Also during this period, all undeveloped land was exempt from taxation. But time was running out. Many feared that non-Native corporations would assume control—and that Native land would be lost through taxation as well.
- On February 3, 1988, President Reagan signed into law the "1991 Amendments" to the Alaska Native Claims Settlement Act. The new amendments extend the restriction on the sale of Native stock for an indefinite period of time—individual corporations, however, may choose to lift the restrictions. The legislation provides automatic "land bank" protections to land owned by Native corporations—as long as the land is not developed, leased or sold to third parties.
- Unfortunately, these land protections do not cover developed lands—and do not provide the level of protection extended to tribal trust lands in the lower 48 states. NARF and the Alaska Native Coalition (ANC) fought for transfer of the lands from the corporations to tribes—where they would have iron-clad protections from involuntary loss. The Alaska Congressional delegation, however, would not allow that section of the bill to pass—unless the tribes agreed to provisions severely restricting their sovereignty. Their demand was unacceptable to Alaska Natives.
- In 1989, a federal court of appeals rejected the notion that Alaska Native Villages are fundamentally different from tribes elsewhere in the United States. In *State of Alaska v. Native Village of Venetie*, the court held that the tribal status of Alaska Native Villages must be determined according to the recognized rules of Federal Indian Law—the rules applicable to tribes in the lower forty-eight states.





Present Attorney Staff (L-R 1st row — **Don Wharton**, **Yvonne T. Knight** (*Ponca/Creek*), **Melody McCoy** (*Cherokee*), **Faith Roessel** (*Navajo*), **Jerilyn DeCoteau** (*Turtle Mountain Chippewa*), **Bart Garber** (*Dena'ina*), 2nd row — **John Echohawk** (*Pawnee*), **Rick Dauphinais** (*Turtle Mountain Chippewa*), **Robert M. Peregov** (*Flathead*), **Kim Gottschalk**, **Lare Aschenbrenner**, **Walter Echo-Hawk** (*Pawnee*), **Tom LeClaire** (*Mohawk*). Not pictured is **Ethel Abeita** (*Laguna Pueblo*), **Bob Anderson** (*Nett Lake Chippewa*), **Henry J. Sockbeson** (*Penobscot*), and **Don Miller**.

John Echohawk becomes first Indian Director of NARF

Pyramid Lake Paiute Tribe receives \$600,000 from Office of Economic Opportunity to establish their own fish hatchery on the shores of Pyramid Lake.

Over \$22 million in Indian health and education funds are ordered released after being impounded by the administration in Washington

A United States District Court finds that the State of Nevada is without jurisdiction to impose state sales taxes on tobacco products sold on the Walker River Indian Reservation

In conjunction with the Harvard Center on Law and Education and DNA, the Navajo legal services program, NARF wins *Natonabah v. Board of Education* against the Gallup-McKinley County School District establishing misexpenditures of federal Indian education funds and discrimination

*continued*

*"... our work in Alaska is really on the cutting edge of Indian Law. We are establishing, for essentially two hundred tribes, that they are recognized on the same level as those in the lower forty-eight (states) and that they have all the same powers and authority."*

Robert Anderson  
(Nett Lake Chippewa)  
Native American Rights Fund  
Staff Attorney



Legal Secretary **Rita Pitka** (*Turtle Mountain Chippewa*) and Legal Technician **Martina Mancil** (*Tlingit*)

## 1974

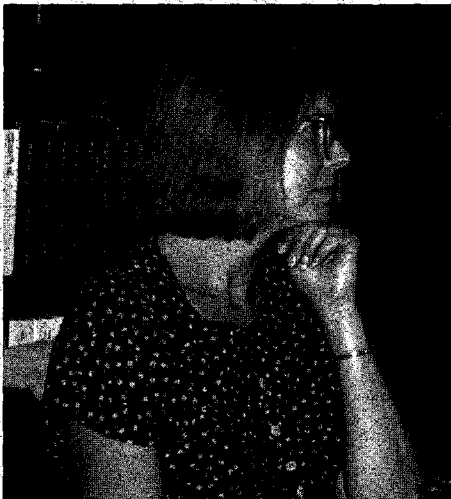
In *Kimball v. Callahan*, the Ninth Circuit Court of Appeals holds that the treaty hunting and fishing rights of the Klamath Indians of Oregon survived termination

The *United States v. Washington* decision holds that western Washington Indians are entitled to 50 percent of the harvestable fish and empowered to regulate off-reservation treaty fishing

NARF initiates the Indian Corrections Project, funded by the Irwin-Sweeney-Miller Foundation to address issues of Indian inmates including rehabilitation, freedom of worship and special cultural programs

A Montana District Court rules, in *Boxer v. Montana*, that all federal-recognized Indians are exempt from state taxation as long as they live on a federal reservation regardless of whether they have membership in the tribe of that reservation

New Johnson-O'Malley regulations drafted by NARF incorporating Indian control of Indian education funds adopted by the Bureau of Indian Affairs

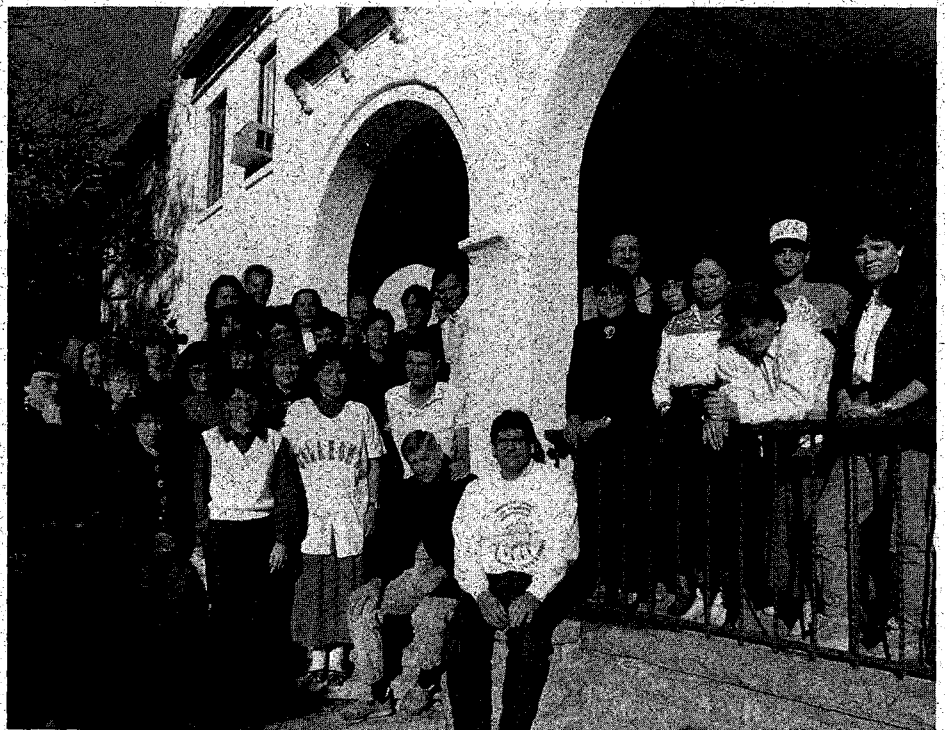


*"NARF, as a business, has grown more sophisticated over the years. However, we have maintained our core identity and mission—to provide legal services to Indian tribes who could not otherwise afford representation."*

Susan Rosseter Hart  
Native American Rights Fund  
Secretary/Treasurer

- In another 1989 decision, the Alaska Supreme Court held that the Nome Eskimo Community—a Native group organized under the Indian Reorganization Act (IRA) of 1934—constitutes a "tribe" within the meaning of the IRA. As a result, the Community's property is protected against tax foreclosure proceedings. Essentially, the Nome decision provides land protection for all 70 IRA tribes in Alaska—protecting both developed and undeveloped lands. It does not, however, address the existence of other tribal powers. This leaves in effect an earlier Alaska Supreme Court decision holding that other tribal powers do not exist.
- Also in 1989, an appeals court upheld in *Native Village of Tyonek v. Puckett* dismissal of claims against the Native Village of Tyonek—an Indian Reorganization Act tribal government—on the grounds of sovereign immunity. This decision is the first in the modern era expressly upholding the tribal status, power and immunities of an Alaska Native Village. NARF filed an *amicus* brief in the case.

In spite of several positive decisions, one crucial issue remains unresolved. Do Alaska Native Villages have tribal status—with the same rights and powers as tribes in the lower forty-eight states? The federal appeals court rejected the idea that Villages are somehow "different" from tribes—while the Alaska Supreme Court ruled that tribal powers for Alaska Villages are non-existent. Only the United States Supreme Court can resolve the conflicting positions of the federal and state courts on this question.



General Staff - 1989

## RECOGNITION AND RESTORATION

The existence of tribes as governments is fundamental to Native Americans. For some tribes, this means persuading the federal government to formally acknowledge their sovereign status. In other instances, tribal sovereignty can resume when Congress restores the trust relationship between the tribe and the federal government that was previously terminated.

During the 1950's, Congress adopted a drastic federal Indian policy—termination. During the years known as the Termination Era, over one hundred Indian tribes had their trust relationship with the federal government severed—their reservations dissolved—and their federal benefits and services discontinued. The goal was for Indians to disappear into the mainstream of American society.

National Indian policy shifted again in the 1960s and early 1970's. Congress passed a number of statutes to foster Indian self-determination. This atmosphere—encouraging the strengthening of tribal governments—paved the way for the first legislative restoration of a terminated tribe—the Menominee.

- Two NARF attorneys first visited the Menominee Tribe of Wisconsin in December 1971. During the next two years, they would work—almost fulltime—with the Menominee Indians. The goal—to restore the Menominee's trust relationship with the United States government. Massive statistical information was compiled—detailing termination's devastating social, cultural and economic impact. Educational meetings were held in Menominee communities. NARF attorneys drafted restoration bills and developed strategies for seeking Congressional sponsorship and passage of the bills. The effort was successful. In December 1973—nearly twenty years after the Menominee termination—the Menominee Restoration Act became law.
- After the passage of the Menominee Restoration Act, NARF continued working with the Menominee. They had to decide what type of government they would establish through their constitution and bylaws. Significant NARF research and education resources supported the Menominee in making informed decisions. This information was compiled into a handbook for the Tribe—the handbook continues to serve as a resource for other tribes revising their constitutions. When the Menominee adopted their constitution, they took the final major step under the Menominee Restoration Act. It was 1976—five years after NARF's first visit to the Menominee.
- The second Indian restoration act enacted by Congress restored federal status to the terminated Siletz Tribe of Oregon. In 1855 (when it was created), the Siletz Reservation covered over 1 million acres along the Oregon coast. By 1954—when the Siletz Tribe was terminated—their reservation consisted of a 36-acre tribal cemetery. The Tribe's homeland and traditional way of life had been chipped away by changing federal Indian policies and the white settlers' lust for land.

## 1975

A Court of Appeals affirms the District Court's decision in *Teterud v. Gillman*, establishing for the first time that Native American prisoners have unique constitutional rights. The case involved the right of Indian inmates at the Iowa State Penitentiary to wear traditional braids

As a result of the *Teterud* decision and other pressures from NARF, the Bureau of Prisons reverses itself on long hair for Indian inmates in all federal prisons

The Carnegie Corporation funds a three-year Indian Lawyer Intern Project providing two-year internships at NARF for three Indian law graduates

*“I was twenty years old in 1954 when the federal government terminated the Klamath Tribe . . . Once they took our reservation and resources, disaster was inevitable. It was heartbreaking to see a once-proud, self-sufficient people—many my personal friends—reduced to poverty, ill-health and despair.”*

Charles E. Kimbol, Sr.  
Chairman, Klamath Tribe

NARF brings suit in *Papago Tribe of Indians v. Pima Mining Company et. al.* to adjudicate the water rights of the Papago Tribe of Arizona

Tom Fredericks is appointed Executive Director of NARF. John Echohawk remains with NARF to litigate on behalf of Native American clients

Consent decree obtained in *Sinajini v. Board of Education* against San Juan County School District in Utah requiring construction of schools in Navajo portion of District and bilingual/bicultural programs

*continued*



## 1976

In *Fisher v. State of Montana*, United States Supreme Court holds that the jurisdiction over adoption proceedings, in which all parties are tribal members and residents of the reservation, rests exclusively in tribal court. NARF files *amicus* brief

Temporary NARF office opened in Calais, Maine, to address land claims filed by the Passamaquoddy and Penobscot Indians of Maine

U.S. Supreme Court rules in *Bryan v. Itasca County* that Public Law 83-280 (which gave several states criminal and civil court jurisdiction over Indians) did not give the states any power to tax, regulate or decide the ownership of federally-protected Indian property. NARF assists Leech Lake Legal Services in the case

NARF's National Indian Law Library (NILL) develops and publishes a comprehensive index of Indian legal materials and resources

*“At restoration this tribe didn't have anything, didn't hand land, money—nothing. Ten years later we are one of the largest employers in Lincoln County . . . Probably without the Native American Rights Fund, we would not have been restored and we wouldn't be where we are today.”*

Phil Rilatos  
General Manager  
Siletz Tribe of Oregon

## 1977

NARF receives grant from Law Enforcement Assistance Administration to assist the Swift Bird Corrections Project, operated by the Cheyenne River Sioux Tribe, in providing incarceration alternatives for Indian inmates

President Carter signs a congressional bill restoring the Tribal status of the terminated Siletz Tribe of Western Oregon

Eastern Oregon's Umatilla Confederated Tribes receive U.S. District Court ruling agreeing that the Corps of Engineers lacks authority to violate their treaty hunting and fishing rights by construction of a dam

*continued*

- Termination was disastrous for the Siletz in another way. For the first time, allotted Indian lands were subject to property taxes. Few had the means to pay. By 1960, most Indian-owned land—land belonging to the Siletz for centuries—had passed out of Indian ownership. With no homeland, the Siletz scattered.
- In the late 60s, Siletz leaders mobilized to regain their federal relationship and to reverse the disastrous effects of termination. They called on the Native American Rights Fund for assistance.
- Congress and the President approved the Siletz Restoration Act in 1977—the Tribe was restored its status as a sovereign Indian tribe eligible for federal services. The establishment of the 3600-acre Siletz Reservation in 1980 secured the landbase and resources necessary for the Tribe's survival.
- The Kickapoo Indians of Texas are among the most traditional Indians in the country. For many years, they existed in some of the poorest conditions imaginable. They managed to survive in primitive camps under the International Bridge at Eagle Pass. They had no land—and suffered from disease and malnutrition. Periodically, the Kickapoo cross the Mexican border to celebrate traditional religious rituals. With NARF's assistance, the Kickapoo gained federal recognition in 1983. Congress provided the Kickapoo with 100 acres of land (with an option to purchase more), a voluntary citizenship process and vital social services.
- Many other tribes are now federally-recognized through the efforts of NARF: Massachusetts' Gay Head Wampanoag, the Pascua Yaqui Tribe of Arizona, Louisiana's Tunica-Biloxi Tribe, the Narragansett Tribe of Rhode Island, The Poarch Creek Tribe of Alabama, to name only a few.
- In each instance, NARF assisted the tribes in preparing the necessary historical, legal and anthropological documentation to support their petitions for acknowledgement. NARF is currently working with over a dozen Indian communities to establish government-to-government relationships with the federal government.

During the past year, NARF has been working with Congress to improve the administrative acknowledgment process for Indian tribes. The current process subjects tribes to a variety of frustrations—non-standardized criteria, unequal treatment and evaluation of petitions, bureaucratic delays and the lack of an independent appellate procedure. Without procedural changes, tribes will be waiting into the next century to gain federal acknowledgment.



## The Protection of Tribal Natural Resources

For tribes to cultivate self-sufficient communities requires protecting and managing their natural resources. It would be difficult—if not impossible—for a tribe to sustain itself without establishing and maintaining control over resources such as land, water, and hunting and fishing.

### PROTECTION OF INDIAN LANDS

Home. It's a place where many of us long to return. For Indian people, home is the place where their traditions live. It is the place where their ancestors lived and died. And it is the place where their futures lie.

But without land, there is no place called home. For only with adequate land—and control over resources—can Indians build viable communities to sustain their families and their way of life.

NARF has addressed the issue of securing and protecting tribal lands in numerous cases:

- The original Cocopah Reservation, created in 1917, bordered the Colorado River. As time passed, the course of the river shifted. Nearly 1000 acres of additional land ended up on the Reservation's side of the river—but, a 1955 government decision gave those 1,000 acres to the Bureau of Reclamation. NARF's challenge to that decision returned the land to its rightful owners—the Cocopah Indians.
- In 1970, NARF undertook representation of the Winnebago Tribe of Nebraska to save a portion of its tribal lands. At that time, the Army Corps of Engineers was attempting to condemn Winnebago Reservation land which bordered a proposed recreation and flood control project on the Missouri River. Six years later, an appellate court ruled that the Corps had no authority to violate the Tribe's treaty—one which guaranteed the Winnebago ownership of the land forever. The project was stopped.
- A federal statute of limitations deadline was rapidly approaching in 1982. The deadline threatened to extinguish over 17,000 Indian land claims cases. As a result of *Covelo Indian Community v. Watt*, the Interior Department was ordered to either litigate the cases or propose legislation to resolve them. This case, brought by NARF, led directly to congressional reform of the method used to process Indian claims.
- A railroad had cut through a Paiute Reservation in Nevada since 1882. But the United States and the Walker River Paiute Tribe had never approved the railroad's right-of-way. Working on behalf of the Tribe, NARF established that the railroad was in trespass and that



Charles Hanson (Alakanuk, Alaska)

*“It is difficult to overestimate the significance of the Menominee Restoration Act. For the Menominee it was the only realistic method of preserving their tribal existence. Restoration . . . provides the evidence needed to show that the American political system . . . can be used as a tool to preserve Indian culture.”*

Excerpt from  
Native American Rights Fund  
Announcements  
December 1973

NARF Director Tom Fredericks appointed Associate Solicitor for Indian Affairs in the Department of Interior. John Echohawk assumes NARF Directorship

*Crowe v. Erickson* ends with consent decree protecting Indian religion and culture, ending employment discrimination, and providing for improved rehabilitation and medical programs in South Dakota state prison.

## 1978

U.S. Supreme Court unanimously reverses two lower court decisions and holds that the Mississippi Choctaw Reservation is lawfully established and constitutes Indian Country in *Smith John v. State of Mississippi*

Pascua Yaqui Tribe of Arizona is recognized by the federal government as an Indian tribe through congressional passage of the Pascua Yaqui Recognition Act

U.S. District Court approves consent decree between Ute Mountain Tribe and State of Colorado protecting off-reservation hunting by members of the Tribe pursuant to an 1874 agreement

Rhode Island Indian claims Settlement Act (Narragansett Settlement) becomes law providing 1,800 acres to the Tribe to be held by an Indian-controlled corporation

NARF receives grant from Administration of Native Americans and Community Services Administration to develop Tribal Energy and Social Development offices on Indian reservations to assist tribes in the regulation and control of reservation energy development

The American Indian Religious Freedom Act, guaranteeing Native people the right to express and practice their traditional religions, is signed by President Carter. NARF is asked to coordinate implementation of the Act including development of comprehensive and consistent federal policies to protect and preserve Native religious practices.

## 1979

NARF files suit on behalf of Wisconsin Oneida and Thames Band of Ontario for over five million acres in central New York

In *U.S. v. Michigan*, U.S. District Court of Michigan rules that Michigan tribes, including the Bay Mills Chippewa Indian Community, the Sault Ste. Marie Tribe and Grand Traverse Chippewa Bands, retain treaty rights to fish in traditional acres of the Great Lakes

*continued*

tribal consent was necessary before the Secretary of Interior could grant right-of-way across Indian reservations. The railroad agreed to negotiate and was required to pay trespass damages and future rentals to the Tribe.

- It took years of administrative proceedings and negotiations. Finally, however, Wisconsin's Lac Courte Oreilles Chippewa settled their case against a power company. The company's dam had flooded tribal lands, destroying the Tribe's treaty-protected wild rice fields. The settlement gave the Tribe 4500 acres of exchange land and \$250,000—along with the right to operate a hydroelectric facility on the reservoir behind the dam.

## EASTERN LAND CLAIMS

Many tribes in the Eastern part of the country are involved in unique land claims. Why? Because the majority of these tribes never entered into formal treaties with the United States. The reasons are simple. First, the initial negotiations of these Indians with the European newcomers occurred before the formation of the United States. Second, after the United States became a nation, many states ignored a crucial federal law: the Nonintercourse Act. Passed in 1790, the law required the consent of the federal government before title of any Indian lands could be transferred. That was the law—but the reality was that states did, indeed, negotiate directly with the Indians for tribal lands. Many of these transactions—which transferred land from the Indians to the states—were never approved by the federal government.

The Nonintercourse Act has stood the test of time—and, in the long run, it has provided the basis for much of NARF's work on behalf of Eastern tribes in fighting legal battles over their lost lands:

- In *Joint Tribal Council of the Passamaquoddy Tribe v. Rogers C.B. Morton, Secretary of Interior*, NARF and Maine's Passamaquoddy Tribe challenged the primary obstacle to Eastern Indian land claims. The argument was that the Nonintercourse Act—which prohibited the taking of Indian lands without federal approval—applied only to those Indians who had been officially recognized by the federal government. The Passamaquoddy had not entered into a treaty with the United States and, consequently, were not federally recognized. The U.S. District Court's decision, upheld on appeal in 1975, established that a trust relationship does exist between the federal government and the Passamaquoddy Tribe. The Passamaquoddy decision set the stage for the return of thousands of acres of land to the Passamaquoddy and other Eastern tribes.

The Rhode Island Indian Claim Settlement Act, known as the Narragansett Settlement, was signed by President Carter on October 2, 1978. It was negotiated by NARF and was the first of the Eastern Indian land claims cases to be settled. The Act provided the Tribe with 1800 acres of land—to be held by an Indian-controlled corporation.



The largest return of land to Indian people in U.S. history—300,000 acres—occurred in 1980. The claims of the Passamaquoddy Tribe, the Penobscot Nation and Houlton Band of Maliseet Indians were resolved in the Maine Land Claim Settlement. The Tribes' initial claim, litigated by NARF, involved nearly 12.5 million acres—an area equivalent to 60 percent of the State of Maine. In the end, the Tribes were awarded \$27 million—and another \$54 million for purchase of the 300,000 acres of land.

In a 1985 landmark Supreme Court decision, the Court confirmed the right of the Oneida Indians to sue to protect their property lost in 1795. In *County of Oneida v. Oneida Indian Nation* (also litigated by NARF), the Court found that tribal property rights could not be lost because of state statutes of limitations. The Court's decision invalidated the attempted 1795 purchase of Oneida aboriginal land by the State of New York and established, in effect, the ownership of 250,000 acres of upstate New York by three Oneida bands.

*For the Supreme Court of the United States to issue a ruling that Indians are entitled to get their land back after two hundred years was phenomenal . . .*

Don B. Miller  
Native American Rights Fund  
Staff Attorney



Supreme Court rules that Washington tribes with adjudicated fishing rights are entitled to up to 50 percent of the harvestable catch passing through their traditional fishing sites. NARF served as lead counsel at trial

NARF establishes annual "Visions of the Earth" national Indian art show and benefit

Indian Law Support Center begins publishing newsletter, *The Reporter*, providing information on Indian law developments and a forum for Indian legal services attorneys to exchange ideas and information

U.S. Supreme Court orders supplemental decree to 1963 *Arizona v. California* decree ordering a subordination provision that five lower Colorado River Tribes are first in allocation of water during times of shortage

Federal District Court in Oregon rules, in *U.S. v. Adair*, that tribes with adjudicated fishing rights also have a right to sufficient water to protect the fisheries' resource

NARF completes its American Indian Religious Freedom Implementation Project submitting a comprehensive report to the Department of Interior

Denver Art Museum returns sacred Zuni statue which was illegally taken from the reservation and donated to the museum years ago

In *Bear Ribs v. Taylor*, a federal court in California issues a consent decree requiring federal prison authorities to allow construction of sweat lodges used by Indian inmates for traditional religious ceremonies

NARF advocacy results in modified busing policies in Los Angeles leaving concentrations of Indian students intact to qualify for federal Indian education programs

## 1980

President Carter signs the Maine Land Claim Settlement Bill (the largest return of land to Indians in U.S. history) culminating eight years of litigation. The settlement for the Passamaquoddy and Penobscot Tribes includes a payment of \$27 million and another \$54 million for purchase of 300,000 acres of land

In *Topash v. Commissioner of Revenue*, Minnesota Supreme Court holds that the state cannot tax the income earned on one of the Minnesota Chippewa reservations by a member of another tribe

The U.S. Supreme Court rules, in *Central Machinery v. Arizona*, that states cannot impose sales taxes on sales transaction concluded on Indian reservations regulated by federal trader laws

Federal appeals court holds that tribal law and tribal sovereignty prevent the imposition of New Mexico garnishment laws to Indian wages earned on the Navajo Reservation (*Joe v. Marcum*)

## WATER

Without water, human beings cannot survive. Nor can the communities in which they live—including the communities that make up Indian country.

Reservation water rights were first formally recognized in a 1908 U.S. Supreme Court decision—one which came to be known as the Winters Doctrine. The Court ruled that when reservations were established, sufficient water to make the reservation liveable was also reserved. This provision for water is implied in all treaties.

Although the Winters Doctrine seemingly established the existence of Indian water rights, the struggle over this resource continues today. Water is scarce, particularly in the west where most tribes are located. The water is in demand by many powerful interests. It can be diverted or depleted before it ever reaches the reservation. Not even Indians are sure how much is rightfully theirs. Protecting Indian water interests is at the very core of the unique trust relationship between the federal government and Indians.



Rep. Ben Nighthorse Campbell (Northern Cheyenne), John E. Echohawk (Pawnee) and LeRoy Holubar



Mary Hanewell, Marilyn Pourier (Oglala Sioux), and Mary Lu Prosser (Cheyenne River Sioux)

Water law, then, is among the most complex in our justice system. Litigation often takes years—and typically does not secure the facilities to deliver water where it is needed. To simplify and expedite the settlement of claims, negotiation is used by NARF attorneys and their clients—whenever possible—to resolve water issues. With negotiation, issues can often be resolved more quickly and with all sides achieving their objectives. In many cases, negotiated settlements between interested parties gain cooperation and funding for construction of water facilities.

The Native American Rights Fund is a leader in the battle to secure water rights for current and future Indian needs:

- *Pyramid Lake Paiute Tribe v. Morton* was filed by NARF in 1970. A November 1972 ruling found that the Secretary of Interior—in diverting water away from Pyramid Lake—had not acted consistently with his trust responsibility to the Pyramid Lake Paiute Tribe. For years, the Pyramid Lake Paiute Indians had been robbed of water needed to preserve Pyramid Lake in Nevada—the Tribe's only resource—as a fishery and viable body of water. That ruling led to the filing of another case in 1973 by the United States seeking to claim sufficient water rights for the Tribe to maintain Pyramid Lake. A favorable federal court of appeals decision upholding the claim was reversed by the Supreme Court in 1983. The Tribe, however, continues to pursue other strategies to maintain the lake.
- During 1987, NARF successfully helped the Muckleshoot Tribe of Washington reach an out-of-court settlement with Puget Sound Power and Light. The power company had diverted the White River away from the Reservation since 1910 and in 1985, a federal district court upheld the Tribe's water rights to sustain a fishery. The power company agreed to construct and maintain a large fish hatchery on the White River and to provide additional water from its upstream dam—enough to facilitate migration of adult fish through the reservation. This agreement achieved a fourfold increase of White River water through the Reservation.
- In *U.S. v. Adair*, NARF won a favorable judgment for the Klamath Tribe of Oregon. The Court upheld the Tribe's right to water from the Williamson River—water which maintains its hunting and fishing rights on former reservation lands. The Court ruled that tribes with fishing rights also have a right to sufficient water to protect the fisheries resource.
- For years, NARF worked with five bands of Mission Indians in Southern California. The goal was to assert and secure water rights which were being ignored by other users in the area. In 1984 the Supreme Court held that the Federal Energy Regulatory Commission must accept conditions imposed by the Secretary of Interior, as trustee for the Indians, which protect tribal water rights in the licensing of hydroelectric power projects in the area.

A federal court finds, in *Cheyenne-Arapahoe Tribes v. Oklahoma*, that tribes, not the State of Oklahoma, have jurisdiction over hunting and fishing by Indians on Indian lands

In *U.S. v. Clarke*, the U.S. Supreme Court reverses lower court decision and rules that condemnation of allotted Indian lands requires the filing of formal condemnation proceedings in federal court

A congressional act creates a 3600-acre reservation for Oregon's Siletz Tribe

NARF completes a year-long study focusing on the Great Lakes and Northwest areas developing resolution strategies for the legal and cultural needs of Indian inmates in corrections institutions

## 1981

Tunica-Biloxi Tribe of Louisiana gains federal recognition entitling tribal members to federal services and protection

In *U.S. v. Truckee-Carson Irrigation District*, a federal appeals court upholds the Pyramid Lake Paiute Tribe's claim to sufficient water to maintain its fisheries

In a major treaty rights victory, the Bay Mills Chippewa Tribe and other Great Lakes tribes have their treaty fishing rights in the Great Lakes upheld by a federal appeals court. The U.S. Supreme Court declines review of the decision

In the culmination of a case begun in 1973, NARF negotiates a settlement for the Klamath Tribe with the State of Oregon recognizing tribal authority to regulate tribal members exercising their surviving treaty hunting and fishing rights on former reservation lands

Department of Education rules that an Oklahoma school district was not in compliance with regulations requiring Indian parental participation in planning for expenditure of federal impact aid funds

NARF adopts a limited fee policy for new clients based on ability to pay all or part of the costs of representation

The NARF National Support Committee is established as a nationwide citizen advisory group to help publicize NARF's work and assist in fundraising

In Oklahoma, a settlement is reached recognizing the Pawnee Tribal Reserve as Indian Country and barring state sales taxes on tribally-licensed businesses

The Federal District Court for South Dakota rules that the Yankton Sioux Tribe, not the State of South Dakota, is the rightful owner of the Lake Andes lakebed located within the original Yankton Reservation

NARF and other Indian organizations and tribes are instrumental in restoring many proposed budget cuts submitted by the new administration.

*continued*



*“In the history of the United States Government’s treatment of Indian tribes, its failure to protect Indian water rights for use on the Reservations it set aside for them is one of the sorrier chapters.”*

Report of the National Water Commission—1973

## 1982

Narragansett Tribe of Rhode Island wins federal recognition of its tribal status

Congress formally recognizes the governmental authority of Oklahoma tribes to administer federal food programs

NARF assists in organizing the National Indian School Board Association (NISBA) dedicated to improving the quality of Indian education

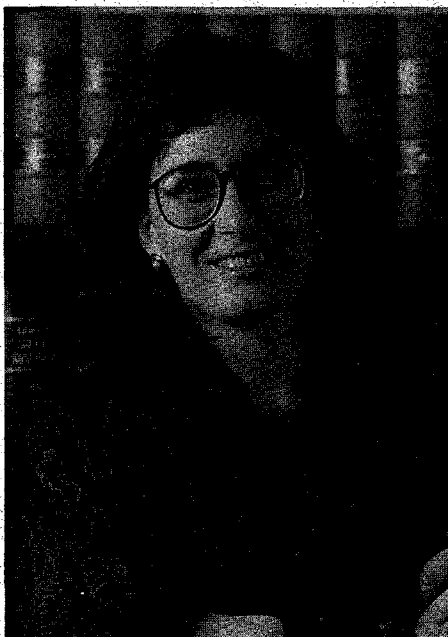
In *Covelo Indian Community, et. al. v. Watt*, the U.S. District Court in Washington, D.C. rules that the federal government is required to either litigate Indian damage claims or submit legislative proposals to resolve them. Congress subsequently extends the statute of limitations affecting these cases

- NARF represented the Southern Ute Tribe in southwest Colorado. Under NARF’s guidance, representatives of various government and private water users signed an agreement, in 1986, which provided the Tribe with \$20 million for economic development—and over 40,000 acre feet of water for industrial, agricultural and other beneficial purposes. The settlement agreement was eventually approved by Congress in 1988.

## HUNTING AND FISHING

Before Europeans set foot on this continent, Indians depended almost exclusively on hunting and fishing for their food. Commercial fishing continues to be an economic mainstay for members of many tribes. Protecting the rights of Indians to fish and hunt in traditional areas—both on and off reservations—remains a vital issue in Indian country. Among NARF’s accomplishments during the past two decades, hunting and fishing concerns have been the focus of many cases:

- In 1974, following an extensive trial in which NARF served as lead counsel, a federal district court ruled that under 1855 treaties Washington tribes with fishing rights are entitled to a definite share—up to 50 percent—of the harvestable catch passing through their traditional fishing sites. The ruling was eventually upheld by the Supreme Court in 1979.
- NARF represented the Bay Mills Chippewa Indian Community and helped win a major victory for Indian fishing rights in 1979. The Tribe asserted its rights to fish in traditional areas of the Great Lakes. These rights were reserved under the treaties in which the tribe’s ancestors had transferred vast amounts of land and water to the United States.
- In 1983, the U.S. Supreme Court established an important precedent in *Mescalero Tribe v. New Mexico*. It upheld the Tribe’s ultimate authority to manage hunting and fishing within the boundaries of their reservation. NARF participated by filing an *amicus* brief in support of the Tribe.



Staff Attorney **Patrice-Kunesh-Hartman**  
(Standing Rock Sioux)



**Richard Hayward**, Vice Chairman Board of Directors. (Mashantucket-Pequot)



## The Promotion of Human Rights

Many human rights issues facing Native Americans today are unlike those of other minorities. Equal access to the institutions of the dominant society is not always the appropriate answer. The unique cultural needs and experiences of Native Americans demand specialized legal responses.

### RELIGIOUS FREEDOM

The principle of religious freedom is fundamental to our society. It is so important, in fact, that the First Amendment to the United States Constitution guarantees it.

For Native Americans, however, the freedom to practice their traditional religions has never been fully ensured. Protection of religious sites, the right to possess and use sacred objects, and the freedom to practice traditional religious ceremonies—NARF has successfully defended these basic rights in many instances:

- NARF—representing the Kootenai Tribes—succeeded in blocking construction of a proposed hydroelectric plant. The plant would have directed Montana's Kootenai River around Kootenai Falls—an important religious site for the Tribes. The decision ended a nine-year legal battle for the Kootenai.
- The rights of a Navajo Native American Church practitioner were the subject of *Idaho v. Yazzie*. Sacred objects—such as eagle feathers—were confiscated from the individual's home and sweat lodge. NARF asserted that religious practices are protected by federal law. The state's charges were dropped.
- The American Indian Religious Freedom Act—passed in 1978—recognizes Native people's rights to believe, express and practice their traditional native religions. Because of its expertise in the area of securing Native American human rights, NARF coordinated implementation of the Act. To achieve consistent federal policies regarding Native American religious rights, NARF assembled an advisory board—composed of Indian leaders—to evaluate and recommend changes in federal policy.

NARF has long battled against the desecration of Indian remains and burial goods. Through its efforts, court decisions and legislation have upheld the sanctity of Indian burial grounds:

- In *Charrier v. Bell*, NARF was successful on behalf of the Tunica-Biloxi Tribe in a case of illegal excavation of an ancient burial ground. A Louisiana court ruled that the artifacts dug from the graves did, indeed, belong to the Tribe. The court found that the Tunica-Biloxi Indians are descendants of the people who crafted the artifacts—and that the artifacts were never abandoned by the Tunicas.



*“I think it's important when we represent tribes that they get not just paper rights to water, but also the means to put the water to use on their reservations.”*

Ethel Abeita  
(Laguna Pueblo)  
Native American Rights Fund  
Deputy Directory

### 1983

Congressional Act gains federal recognition for the Texas Kickapoo expediting the citizenship process for Kickapoos, placing 100 acres in trust as a landbase and making vital social services available to the impoverished Kickapoo

In *Arizona v. California*, the U.S. Supreme Court, relying on the principles of finality, rules that five Colorado River tribes cannot claim additional water rights for lands not considered in a previous decree

In *Nevada v. United States*, Supreme Court uses principles of finality in refusing to allow the Pyramid Lake Paiute Tribe in Nevada to bring a claim for water for the maintenance and preservation of the Pyramid Lake fishery

*continued*



In *Arizona v. San Carlos Apache Tribe*, the U.S. Supreme Court voices its preference for state courts to hear and decide Indian water rights claims. The case was a consolidation of separate cases involving five Arizona tribes and seven Montana tribes

U.S. Supreme Court upholds the Tribe's ultimate authority to manage hunting and fishing within the reservation's boundaries in *New Mexico v. Mescalero Apache Tribe*. NARF files amicus brief

NARF pays off mortgage on its Boulder headquarters building

Poarch Creek Tribe of Alabama is granted federal recognition

In *Yellowfish, et. al. v. City of Stillwater*, the U.S. Supreme Court lets stand a decision that states and their agencies may condemn rights-of-way across Indian trust lands

The indefinite operation of the Wahpeton Indian Elementary School is assured resulting from NARF's representation in *Omaha Tribe v. Watt*

Mashantucket Pequot's land claim is settled and federal tribal recognition is obtained through an act of Congress, ending seven-year NARF case

*“Disturbance of the sanctity of the dead for white people is abhorred and avoided at all costs, while Indian dead are actively searched out, dug up, and put in museums.”*

Walter Echo-Hawk  
(Pawnee)

Native American Rights Fund  
Staff Attorney

## 1984

NARF attorney Arlinda Locklear becomes the first Indian woman to argue before the U.S. Supreme Court in *Solem v. Bartlett*. The Court unanimously agrees that a 1.6 million-acre area of the Cheyenne River Sioux reservation opened to non-Indian settlement in 1908 was not removed from reservation status. The court rejects South Dakota's claim to criminal jurisdiction over Indians in the area in favor of federal and tribal jurisdiction

NARF represents Blackfeet Tribe in *Kennerly v. U.S.* and successfully asserts the immunity from suit of the Tribe and tribal officials, an attribute of the Tribe's sovereignty. A federal appeals court ruling also holds tribal oil and gas revenues immune from state taxation

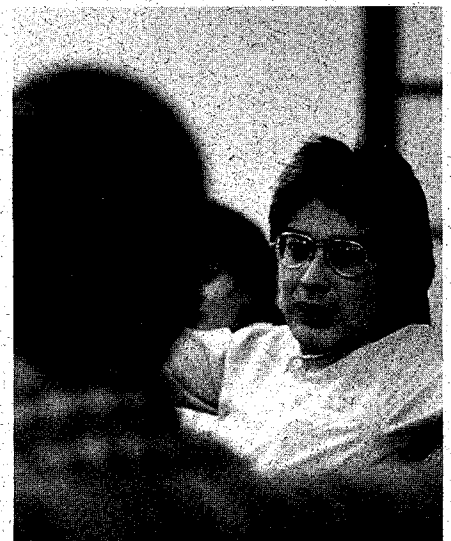
- As a result of NARF's efforts, Nebraska lawmakers in 1989 enacted a precedent-setting law. It requires state-sponsored museums to return Indian skeletal remains and burial goods to tribes for reburial. It is the first law of its kind in the country.
- Also in 1989, the State of Kansas enacted the Kansas Unmarked Burial Sites Preservation Act. The Act bans unregulated public displays of human remains and protects unmarked graves from unnecessary disturbance. Kansas was the site of a controversial roadside display of Indian remains which has now closed as the result of negotiations coordinated by NARF.
- In another important achievement in the area of burial rights, the Smithsonian Institute was required by federal legislation in 1989 to repatriate Indian remains to tribes for reburial.



1972 Board Members: Alfonso Ortiz (San Juan Pueblo), John Stevens (Passamaquoddy), Charles Lohah (Osage), David Risling, Jr. (Hoopa), LaNada Boyer (Shoshone-Bannock), Thomas Banyacya, Sr. (Hopi), and Fred Gabourie (Seneca)



Office Manager Rose Brave (Oglala Sioux)



Staff Attorney Walter R. Echo-Hawk (Pawnee)

## EDUCATION

All cultures educate their young. Appropriate education lays the foundation for the future. For Indian children, education is especially crucial—it alone can provide them with the skills to reverse past tribal misfortunes and shape healthy, self-sufficient communities. The Fund recognizes that only through Indian control over education will the unique needs of Indian children and Indian communities be met.

NARF places a high priority on assisting Indians in exerting their influence on the education system:

- In the early 1970's, NARF participated in revising the Johnson-O'Malley funding regulations. These regulations are the guidelines by which certain Indian education funds are distributed to public schools. However, previous misuse of the funds had resulted in Indian children not receiving the full benefits to which they were entitled.
- NARF has been instrumental in the development and on-going support of organizations dedicated to improving Indian education. These include the Coalition of Indian Controlled School Boards, the National Advisory Council on Indian Education and the National Indian School Board Association. Over the years, NARF has also sponsored a number of educational workshops for Indian educators.
- Stone Child College now receives funding from the Bureau of Indian Affairs—under the Tribally Controlled College Act. On behalf of the Chippewa-Cree Tribe of Montana, NARF proved that the College is eligible for federal funding—due to its remote location and the lack of other educational institutions in the area.
- NARF attorneys helped guarantee free tuition for Indian students at Colorado's Fort Lewis College. The right to free tuition—for Indians—was guaranteed in a nineteenth-century agreement. The State of Colorado, unsuccessfully, attempted to avoid the agreement.
- Indian students attend not only public schools, but also schools run by the Bureau of Indian Affairs (BIA) and by the tribes themselves. In one instance, NARF provided counsel in obtaining a \$100,000 BIA contract for a community-operated school on the Wind River Reservation.
- In *Omaha v. Watt*, filed on behalf of the Omaha Tribe of Nebraska and the Wahpeton School Board, NARF was successful in ensuring the indefinite operation of the Wahpeton Indian Elementary School in North Dakota.

In June 1982, Congress amended the 1965 Voting Rights Act prohibiting discriminatory electoral practices. These amendments led NARF to file its first voting rights case against a school board—*Buckanaga v. Sisseton Independent School District*—in 1984. Four years later, NARF reached a settlement with the school district. The agreement modified at-large district voting procedures which had, in effect, prevented minority representation on a local school board. The new system gives Indians a better opportunity to elect candidates of their choice.

Federal appeals court ruling holds that the land claim of the Catawba Tribe in South Carolina has not been extinguished and allows the Tribe to pursue it.

Supreme Court declines review of *Southern Pacific v. Clark* letting stand a lower court decision upholding the requirement of tribal consent before the Secretary of Interior can grant a reservation right-of-way. NARF continues to negotiate trespass damages.

Northwestern Band of Shoshone in Utah obtain federal trust status for their land.

Wisconsin's Lac Courte Oreilles Chippewa settle their case against a power company whose dam flooded tribal wild rice areas.

In *Escondido Mutual v. La Jolla*, the U.S. Supreme Court rules that the Federal Energy Regulatory Commission, in licensing hydro-electric power projects, must abide by conditions imposed by the Secretary of the Interior to protect tribal water rights.

An appellate court, in *U.S. v. Adair*, upholds the right of the Klamath Tribe of Oregon to sufficient water to maintain their treaty rights to hunt and fish on former reservation lands.

An administrative appeal to the Bureau of Indian Affairs on behalf of the Walker River Paiute Tribe of Nevada is successful in forcing the repeal of a 500% increase in water rates for the Walker River Indian Irrigation Project.

NARF's Indian Law Support Center completes *A Manual on the Indian Child Welfare Act and Laws Affecting Indian Juveniles*.

NARF establishes an office in Alaska to assist in addressing Native issues of sovereignty and subsistence hunting and fishing as native protections in the Alaska Native Claims Settlement Act (ANCSA) move toward expiration in 1991.

NARF participates in hearings of the Alaska Native Review Commission discussing the impact of ANCSA on federal powers and trust responsibility to Alaska Natives.

NARF files its first voting rights case against a school board in *Buckanaga v. Sisseton Independent School District*, obtaining temporary restraining order halting an upcoming school board election.

## 1985

In *Montana v. Blackfeet*, the Supreme Court rules that the State of Montana does not have the authority to tax the oil and gas royalties of the Blackfeet Tribe.

In *Askew v. Seminole Tribe*, a state Court of Appeals holds that the Florida State Department of Revenue cannot sue the Seminole Tribe to collect state sales taxes from Reservation tribally-owned businesses because of tribal immunity from suit.

*continued*

NARF begins work with the Association of Village Council Presidents to implement legislative changes in the Alaska Native Claims Settlement Act (ANCSA) to ensure and protect Native land ownership, subsistence hunting and fishing rights and tribal self-government

In a landmark case, *County of Oneida v. Oneida Indian Nation*, the Supreme Court confirms the right of the Oneida Indians to sue to protect their property lost in 1795 and also finds that tribal property rights cannot be lost due to state statutes of limitations

In *Klamath Tribe v. Oregon Department of Fish and Wildlife*, the Supreme Court rules against the Tribe's claim to treaty hunting and fishing rights on 621,000 acres of former treaty land. However, the State of Oregon agrees that a disputed 88,000-acre tract of land remains within the Reservation boundary and retains treaty hunting and fishing rights

In *Williams v. Gowanda School District*, NARF successfully challenges a New York State election law prohibiting reservation Indians from serving on school boards

NARF sues the State of Alaska on behalf of several villages challenging the State's refusal to provide state revenue-sharing funds to Alaska Native village governments as required by state law

NARF assists California Mission Indians in establishing the San Luis Rey Indian Water Authority

In *Muckleshoot Tribe v. Puget Sound Power and Light*, the federal district court holds the Washington Tribe's water rights to sustain a salmon fishery had not previously been condemned and still exist

NARF represents the Pyramid Lake Paiute Tribe when the U.S. Supreme Court lets stand a lower court ruling cancelling a government contract with an irrigation district to operate a federal reclamation project. The district had refused to allow more water for Pyramid Lake as ordered

NARF reviews proposed federal Indian burial policy to protect Indian burial sites and repatriate over 300,000 Indian bodies stored in federal and state institutions

In *Charrier v. Bell*, a Louisiana state court rules that the Tunica-Biloxi Tribe is the rightful owner of artifacts unearthed by an amateur archaeologist

## 1986

In *Heckler v. Roy*, the Supreme Court finds that the requirement for an Indian father to obtain a social security number for his daughter to receive social security benefits does not violate his constitutional rights. NARF files an *amicus* brief

In *Indian Country U.S.A., Inc. and Muscogee (Creek) Nation v. The State of Oklahoma*, a federal district court rules the State of Oklahoma has no jurisdiction to regulate or tax the bingo operation of the Creek Nation. NARF files an *amicus* brief

- NARF successfully challenged a New York State election law which prohibited reservation Indians from serving on school boards. The lawsuit—on behalf of a Seneca Nation resident—established that the state law was unconstitutional. A federal court ordered NARF's client's name placed on the ballot.

## PRISON REFORM

NARF took the lead in protecting the rights of incarcerated Native Americans. Working with tribal leaders, NARF sought to improve confinement conditions—protect the religious freedom of Indian inmates—and sensitize the correctional system to the unique cultural needs of Native American inmates in federal, state and county facilities:

- In Alaska, NARF assisted various state prison inmate groups in developing—and implementing—prison policy changes. As a result, inmates now participate in religious programs, enjoy native foods and are involved in cultural activities.
- *Teterud v. Burns*, a case undertaken by NARF on behalf of Indian inmates of the Iowa State Penitentiary, challenged the requirement for all inmates to wear short hair. A federal appeals court ruled that traditional Indian hair styles are a tenet of Indian religion—protected by the First Amendment.
- Another NARF case, *Crowe v. Erickson*, resulted in a comprehensive order regarding Indian religion, culture, discrimination, rehabilitation, medical treatment and access to the courts for Indian inmates at the South Dakota Penitentiary.
- A comprehensive decree in *Indian Inmates of the Nebraska Penitentiary v. Vitek* ordered inmate access to Native American religious traditions such as a sweat lodge and medicine men and also provided for Indian studies classes.
- NARF played a significant role in the development of the Swift Bird Project. This alternative incarceration facility—located in an abandoned Job Corps installation on South Dakota's Cheyenne River Sioux Reservation—used traditional Native American correctional methods. Swift Bird was tribally-controlled and housed Native American inmates from several states.

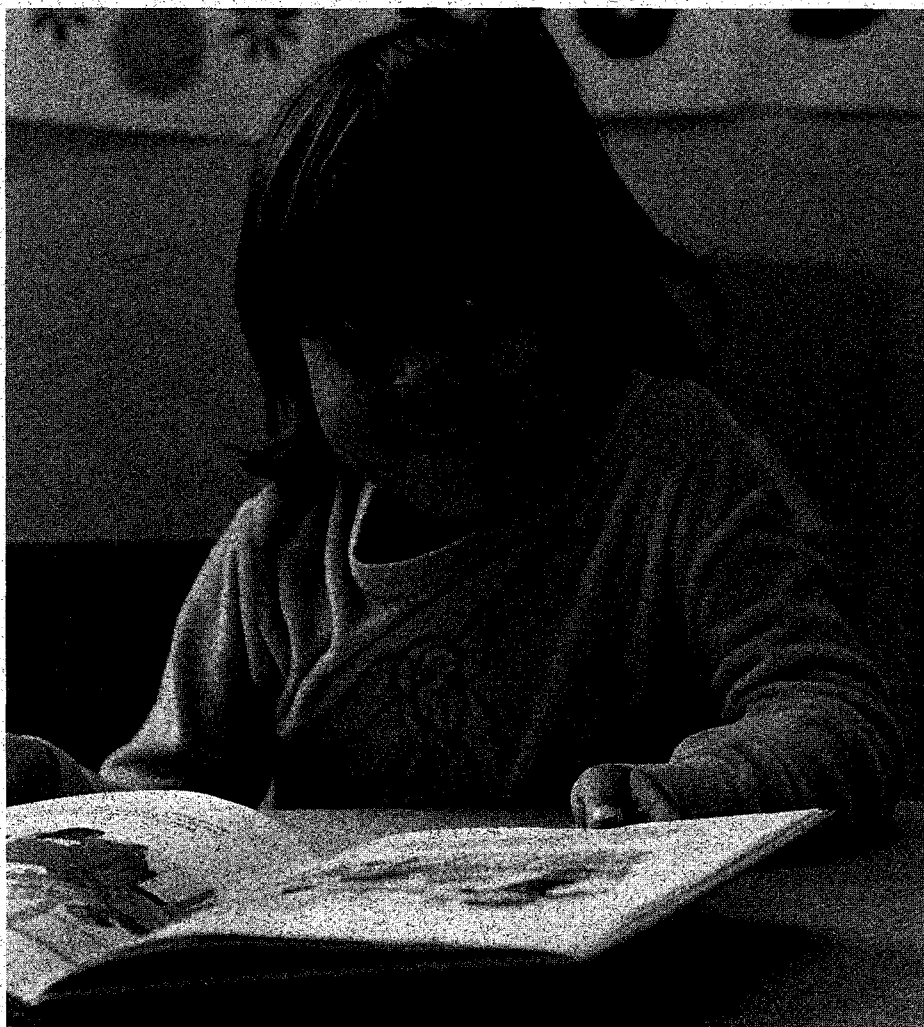


Prison Project (1974)

## INDIAN CHILD WELFARE

In 1978, Congress passed the Indian Child Welfare Act. Its purpose is to promote the stability of Indian tribes and families. It establishes minimum federal standards for the removal of Indian children from their families, as well as adoptive or foster home placement standards. NARF has fought to protect the survival of Indian families:

- In *Fisher v. Montana*, the U.S. Supreme Court overturned a decision of the Montana Supreme Court. The Court held that the jurisdiction over adoption proceedings—in which all parties are tribal members and residents of the reservation—rests exclusively in the tribal court. NARF filed an *amicus* brief for the Northern Cheyenne Tribe.
- The U.S. Supreme Court, in *Mississippi Band of Choctaw Indians v. Holyfield*, upheld the jurisdiction of the Mississippi Choctaw Tribal Court. The case involved the adoption of twin Indian children born off the Choctaw Reservation—although their parents lived on the Reservation. The Court stressed the social and psychological damage to children removed from their cultural setting—and the effect of separating families on the long-term survival of tribes. NARF participated in an *amicus* brief in support of the Tribe.



The Winnebago Tribe of Nebraska obtains criminal jurisdiction over its reservation as a result of Nebraska retrocession legislation

In the U.S. Supreme Court case, *Three Affiliated Tribes of the Fort Berthold Reservation v. Wold Engineering*, a tribe's right to sue in state court is reaffirmed

The U.S. Supreme Court holds that the South Carolina statute of limitations applies to the Catawba Tribe's claim to 144,000 acres of land. The case, *South Carolina v. Catawba Indian Tribe*, is remanded to a lower court to determine if a state statute bars the claim

NARF assists the Southern Ute Tribe in negotiations to resolve water claims in southwest Colorado

The Walker River Paiute Tribe helps block passage of the California-Nevada Water Compact which would have limited the Tribe's claim to additional water from Nevada's Walker River

In *United States v. Dion*, the U.S. Supreme Court holds that the Bald Eagle Protection Act abolished an 1858 treaty right to hunt bald and golden eagles on the Yankton Sioux Reservation in South Dakota. NARF files an *amicus* brief

The Pamunkey Tribe, recognized by the State of Virginia but not the federal government, gains recognition as a tribal government by the Internal Revenue Service making the Tribe eligible for governmental tax treatment under the Tribal Government Tax Status Act

Federal legislation passes which protects the tax-exempt status of income from Alaska Native reindeer herds held in trust by the federal government

A voting rights case in South Dakota, *Black Bull v. Dupree School District*, ends with the Dupree School District extending the number of school board election polling places to facilitate voting by Indians

The Bureau of Indian Affairs declares the Montana Chippewa-Cree Stone Child College eligible for funding under the Tribally Controlled College Act

In *Re: The Department of Energy Stripper Well Exemption Litigation*, a settlement is negotiated requiring states to fund tribal energy-related restitution programs from state funds resulting from violations of petroleum price regulations by energy companies

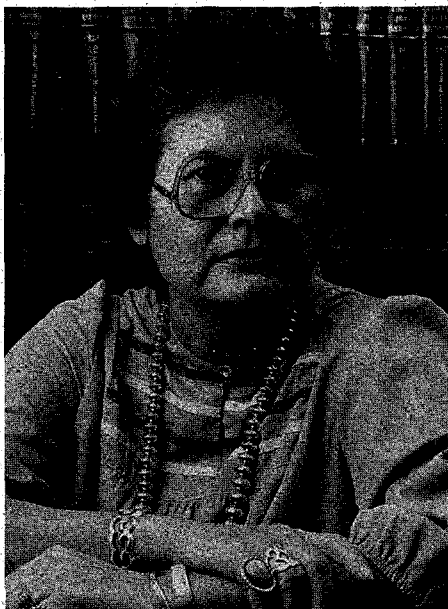
Indian Law Support Center produces manual on prison law and the rights of Native American prisoners

Court ruling for the Walker River Paiute Tribe of Nevada declares federal approval of mining leases on tribal land invalid without tribal consent

A Bureau of Indian Affairs practice of blocking tribal elections on certain tribal constitutional amendments is halted by *Coyote Valley Band of Indians v. United States* brought by CILS and NARF

*continued*





Ada Deer (Menominee) Chairwoman

“... I am convinced there is no organization in America doing more to restore rights and dignity to Native Americans than NARF.”

Ada Deer  
(Menominee)  
Board Chairwoman  
Native American Rights Fund

## 1987

Alabama-Coushatta Tribe and the Ysleta del Sur Pueblo are restored their tribal status by Act of Congress

In *California v. Cabazon Band of Mission Indians*, the U.S. Supreme Court holds that the State of California does not have the authority to enforce state gambling laws within the Tribe's reservation. NARF participated with an *amicus* brief

Ely Colony Shoshones obtain criminal and civil jurisdiction over their reservation when Nevada retrocedes jurisdiction



## The Accountability of Governments

Laws are only as effective as the people who administer and enforce them. All governments are made up of individuals who bring their own judgment, and bias to the law. NARF places a high priority on accountability of governments—federal, state and tribal—for their interpretation and administration of laws governing the lives of Indian people.

The federal government, particularly, has a unique trust responsibility to protect the rights of Indian tribes and to act in their best interest.

For the past twenty years, the Native American Rights Fund has sought justice and responsible conduct from governments whose actions impact Native Americans:

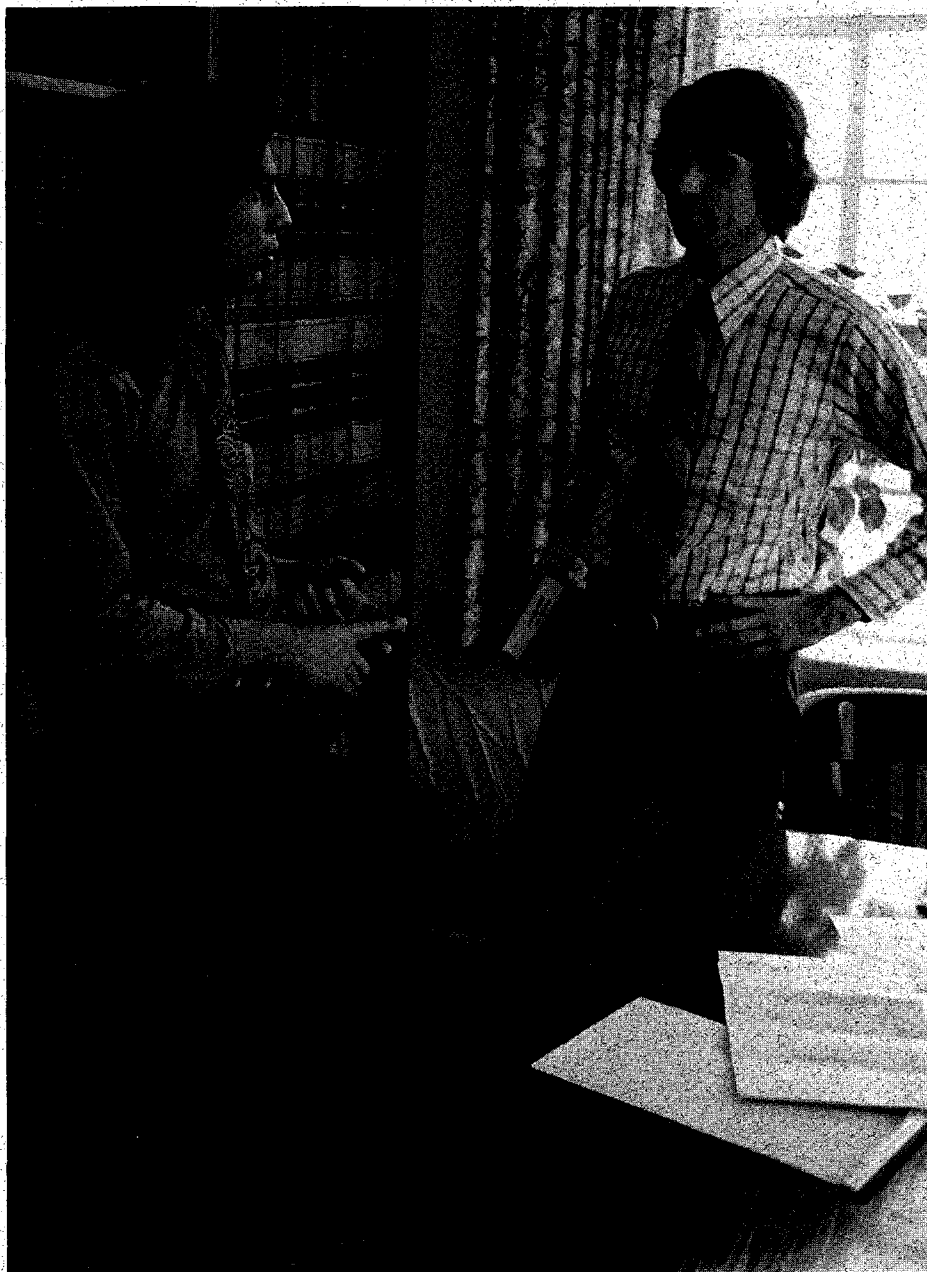
- Over 17,000 Indian damage claims were in danger of being lost in 1982. In *Covelo Indian Community et. al. v. Watt*, NARF charged that the federal government was not carrying out its responsibility to resolve these damage claims. As a result, the U.S. District Court in Washington D.C. ordered the federal government to either litigate the claims—or submit legislative proposals to resolve them. Congress subsequently extended the statute of limitations and directed timely handling of all the claims.
- An administrative appeal by NARF was successful in forcing cancellation of a 500% water rate increase. The irrigation water was used by the Walker River Paiute Tribe of Nevada. The huge increase violated Department of Interior regulations.



Kurt Blue Dog (Sisseton-Wahpeton Sioux), Nakai Breen (Texas Traditional Kickapoo) and Adolpho Anico (Texas Traditional Kickapoo)



- On behalf of the National Congress of American Indians, NARF negotiated a settlement agreement requiring states to fund tribal energy-related restitution programs. These programs resulted from litigation involving profits collected—illegally—by petroleum companies from 1973 to 1981. The refunds were due to violations of petroleum price regulations in effect during that period.
- *McNabb v. Bowen* challenged the federal Indian Health Services' (IHS) assertion that a county welfare program in Montana had primary responsibility for Indian patients. IHS maintained that it had only a secondary responsibility to these patients. In 1987 a federal appeals court held that the Indian Health Service was primarily responsible for Indian health needs. NARF filed an *amicus* brief in the case.



John E. Echohawk and David Gotthees (1st NARF Director) - 1973

In *Iowa Mutual v. La Plante*, the U.S. Supreme Court rules that when a citizen of another state tries to sue a reservation resident in federal court, the suit must be heard first in tribal court. NARF filed an *amicus* brief

North Carolina Supreme Court rules in *Jackson County North Carolina v. Swayney* that tribal courts, not state courts, have exclusive jurisdiction over paternity actions where the mother and father are tribal members

Gay Head Wampanoag Tribe of Massachusetts wins its petition for federal recognition and land claim settlement providing 178 acres of land for tribal housing and 250 acres held in trust in the town of Gay Head on Martha's Vineyard

In *Pawnee v. U.S.*, a federal appeals court rules that the United States has a trust obligation to individual Indian allottees in the management of oil and gas leases involving their lands. NARF filed an *amicus* brief

The Muckleshoot Tribe of Washington restores its White River fishery through a settlement with Puget Sound Light and Power providing a fish hatchery and fourfold increase in water flowing through the reservation from Puget's upstream dam

Members of the Alaska Native Village of Mentasta are allowed to legally subsistence fish at traditional sites for the first time since 1964

Ending a nine-year battle, the Federal Energy Regulatory Commission denies a construction license for a dam and hydroelectric project at Montana's Kootenai Falls, a sacred religious site for the Kootenai Tribe

In *Brown v. Aravae*, prisoners are guaranteed their rights to possess sacred religious objects and to practice their Native American religion in the Idaho corrections system

A federal appeals court rules in *McNabb v. Bowen* that the federal Indian Health Service (IHS) has primary responsibility for Indian patients. NARF filed an *amicus* brief

NARF successfully challenges an illegal Department of the Interior rule which resulted in denial of trust status for off-reservation tribally-owned lands belonging to the St. Croix Chippewa of Wisconsin

The U.S. Supreme Court declines review of an appeals court ruling in *Yankton Sioux Tribe v. Nelson* against the Tribe's claim to the lakebed of Lake Andes

## 1988

NARF helps the Alaska's Kluti Kaah Native Village of Copper Center develop and implement tribal tax ordinances to create governmental revenue

The "1991 Amendments" to the Alaska Native Claims Settlement Act (ANCSA) extend restrictions on sale of Native stock indefinitely and authorize individual corporations to voluntarily lift the restrictions

*continued*

Congress passes legislation exempting treaty fishing income from federal or state taxation

Indian Reorganization Act (IRA) of 1934 is amended establishing procedures and deadlines for the Secretary of Interior to approve tribal constitutions and bylaws

St. Croix Band of Chippewa Indians of Wisconsin places land in trust enabling the Tribe to generate revenue through a tribal bingo enterprise

NARF appeals decision against the land claim of the Alabama-Coushatta Tribe of Texas

In a decision adverse to religious freedom, the U.S. Supreme Court rules in *Lyng v. Northwest Indian Cemetery* that the Forest Service can construct a road across land sacred to many Indians in northern California. NARF files an *amicus* brief

NARF launches its Indian Economic Development Law Project, funded by the MacArthur Foundation, to facilitate tribal economic and business development

In *Dedman v. Hawaii Board of Land and Natural Resources*, the U.S. Supreme Court denies the appeal of Native Hawaiians to stop development of a geothermal project on a sacred religious site

Ending a four-year battle, a settlement is reached in *Buckanaga v. Sisseton School District* providing for a cumulative voting system

## 1989

U.S. Supreme Court rules that the State of New Mexico may impose severance taxes on reservation oil and gas production by non-Indian lessees. This oil and gas production is already subject to the Jicarilla Apache Tribe's own severance taxes. NARF supports the Tribe with *amicus* brief

*Mustang Fuel Corp. v. Cheyenne-Arapaho Tribe* concerning the Tribe's right to tax oil and gas production on trust lands represents the first time a major tax case is heard in tribal court

In *State of Alaska v. Native Village of Venetie*, a federal court of appeals rules that the tribal status of Alaska Native villages must be determined by the same rules of federal Indian law applicable to tribes elsewhere in the U.S.

The Alaska Supreme Court rules that the Nome Eskimo Community, organized under the Indian Reorganization Act (IRA) of 1934, constitutes a tribe under the IRA and its property is protected against tax foreclosure

*continued*



## The Development of Indian Law

In the years before NARF, many attorneys had never heard of Indian law. It was not a routine part of the curriculum of law schools. Only a handful of attorneys were serving the needs of Indians.

The Native American Rights Fund stepped in to fill the breach. It made the development of Indian Law a priority.

In its leadership role, NARF began two ongoing projects crucial to the growth of Indian Law:

- The Indian Law Support Center (ILSC) was first proposed during NARF's infancy—those very early days when NARF was much more vision than reality. The Center became operational in 1972. With funding from the Office of Economic Opportunity, NARF staff began



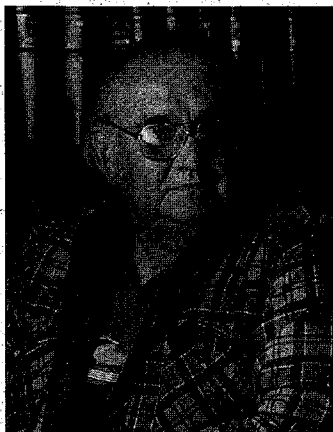
Law Librarian **deana harragarra waters** (Kiowa/Otoe-Missouria) and Staff Attorney **Jerilyn DeCoteau** (Turtle Mountain, Chippewa)



Staff Attorneys **Jeanette Wolfley** (Shoshone-Bannock Navajo), **Kim Gottschalk** and **Yvonne T. Knight** (Ponca/Creek)

providing support and technical assistance to local legal services attorneys serving Indians across the country. That support continues today. The Center responds to thousands of requests each year. Among the Center's services:

- furnish legal materials
  - conduct legal research
  - provide legal advice
  - serve as co-counsel
  - review legal documents
  - analyze draft legislation
- In addition, the Center has written and distributed manuals on major aspects of Indian law. These include tribal economic development, Indian education, natural resources management, Indian child welfare and Native American prisoner rights.
  - The Indian Law Support Center also regularly sponsors workshops and seminars on topics of interest to Indian leaders and legal services attorneys. In 1989, ILSC hosted a training conference focusing on community-based Indian economic development. Other workshops have been held on education, tribal codes, child welfare and other timely concerns.
  - With start-up funding from the Carnegie Corporation, the National Indian Law Library (NILL) was also founded in 1972. It was the first national collection devoted exclusively to Indian law. The collection continues to grow—thousands of court cases, legislative histories, tribal constitutions and codes, media articles and Indian law casebooks fill its shelves.
  - The wealth of information housed at NILL is used by attorneys, judges, students, researchers, historians, Indian organizations and tribal courts. The cumulative National Indian Law Library Catalogue—supplemented annually—assists users in reviewing and accessing NILL's holdings. In addition to book form, the catalog is being automated for use from remote locations.
  - In the early 1970s, NARF undertook an Indian Lawyer Intern Program to teach and guide Indian law school graduates. During that same period, NARF attorneys were instrumental in forming the American Indian Bar Association.



Calvin Peters (Squaxin Island) Board of Directors



John E. Echohawk (Pawnee) and Tenaya Torres (Chiricahua Apache) - 15th Anniversary Celebration

*“Since its inception in June 1970, the Native American Rights Fund has provided legal representation to . . . Indian tribes, Indian organizations and hundreds of individual Native Americans. Without exception in each case or matter, the pursuit of accountability has been involved.”*

Excerpt from  
Announcements  
April - 1973

An appeals court rules that the Alaska Native Village of Iyonek possesses sovereign immunity. NARF files an *amicus* brief

The U.S. Supreme Court holds that where fee lands within a reservation are mostly held by non-Indians, the Tribe retains no control over zoning of the area. NARF files an *amicus* brief

NARF's Indian Economic Development Law Project and the Indian Law Support Center co-host an Indian economic development conference for Indian legal services attorneys and tribal leaders

NARF works with Congressional representatives to streamline the administrative process for federal recognition of tribes

In *California v. United States*, the U.S. Supreme Court affirms that the United States is immune from being sued over reservation boundary determinations. NARF filed an *amicus* brief

A court of appeals rules that the South Carolina statute of limitations does not bar the Catawba Tribe from pursuing its land claim

U.S. Supreme Court upholds the "practically irrigable acreage" (PIA) standard for quantification of Indian water rights in *Wyoming v. United States*. NARF files an *amicus* brief



Charles Wilkinson

- NARF attorneys are often called upon to speak at conferences and workshops addressing Indian law concerns. They also are presenters at major law schools. NARF's expertise is made available to groups nationwide to inform the American public about Indian legal issues.
- The Native American Rights Fund is the oldest and most respected law firm dedicated to pursuing justice for Native Americans. Through its work—in courtrooms and in other settings—NARF has ensured that Indian law developments are integrated into the mainstream of American life.



Native American Rights Fund Staff - 1978

*"NARF has been the custodian of the development of Indian law as a special body of law. NARF, more than any other organization, has defined the issues that needed to be resolved. In 1970, Indian law did not have legitimacy—it was not understood as being a distinct body of law. It took a custodian to do that."*

Charles F. Wilkinson  
Former NARF Staff Attorney  
Law Professor  
University of Colorado

## ●The Native American Rights Fund— Into the Twenty-First Century . . .

*“They (NARF) listened and they worked with us to help us decide how we could best reach our goal of economic independence while still preserving the history and culture of the Pequots. This combination of legal expertise and a deep understanding of Native concerns is what makes NARF so unique—and so needed . . .”*

Richard A. Hayward  
Chairman, Mashantucket Pequot Tribe

*“NARF’s economic development program is primarily focused on federal Indian policy with respect to development . . . how to get the federal government, the Congress and the various agencies to support tribes in their local communities in their own development efforts. Tribes know best what they need and how they ought to get it.”*

Donald R. Wharton  
Director, NARF Indian Economic Development Law Project

Twenty years ago, NARF began its work on behalf of Native Americans. Much has been accomplished—restoration of federal trust relationships, affirmation of tribal sovereignty, preservation of natural resources and protection of religious freedom. Native Americans’ inherent right to self-determination has been firmly upheld.

However, the battle is far from over . . .

While conditions have improved in Indian country, many communities are still gripped by poverty and despair. Several recent United States Supreme Court decisions threaten the protection of Native American resources and rights.

NARF, and the many others who join with us in the struggle for Native American justice, must persevere. We must continue to respond to the needs in Indian country. The continuing challenge is to fulfill the ultimate promise—that Indians can sustain their culture and traditions in this, their native land.

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***As part of the commemoration of our twentieth anniversary, NARF is launching the Twenty-First Century Trust. The purpose of the trust is to ensure that NARF has the necessary financial resources to continue its work on behalf of all Native Americans.***



In *Katie John v. State of Alaska*, a federal district court grants a temporary injunction permitting full-time subsistence fishing at traditional sites for Native users

The States of Nebraska and Kansas enact legislation to stop the desecration of Indian remains and burial goods

NARF, the National Congress of American Indians and the Association on American Indian Affairs work with the Senate Select Committee on Indian Affairs to development amendments to the American Indian Religious Freedom Act to protect sacred Indian religious sites

Smithsonian Institute is required to repatriate Indian remains and burial goods to Indian tribes

In *Mississippi Band of Choctaw Indians v. Holyfield*, the U.S. Supreme Court upholds the jurisdiction of the Mississippi Choctaw Tribal Court over the adoption proceedings of Indian children born off the reservation to parents who are reservation residents. NARF files an *amicus* brief

NARF testifies before Congress against federal death penalty legislation due to its discriminatory impact on Native Americans

### **1990**

The U.S. Supreme Court rules that the First Amendment to the U.S. Constitution does not require the exemption of peyote for religious purposes in state drug laws in *Employment Division, Oregon Department of Human Resources v. Smith*. NARF files an *amicus* brief

In *Duro v. Reina*, U.S. Supreme Court rules that Indian tribes do not have criminal misdemeanor jurisdiction in their tribal courts over non-member Indians. NARF files an *amicus* brief



*“We are very appreciative of the tremendous amount of time and energy Susan Sanders put into this publication. Through interviews with NARF staff and friends, research of twenty years of NARF materials and long hours of writing, Susan created this beautifully packaged historical piece. Thank you, Susan, from all of us at the Native American Rights Fund.”*

John E. Echohawk  
Executive Director

*“When I volunteered to write NARF's twentieth anniversary brochure, I knew little about your work. I have learned a tremendous amount about NARF as well as the issues facing Native Americans today. My life has been changed. Thank you for the opportunity to be a part of telling the story of the Native American Rights Fund.”*

Susan Sanders

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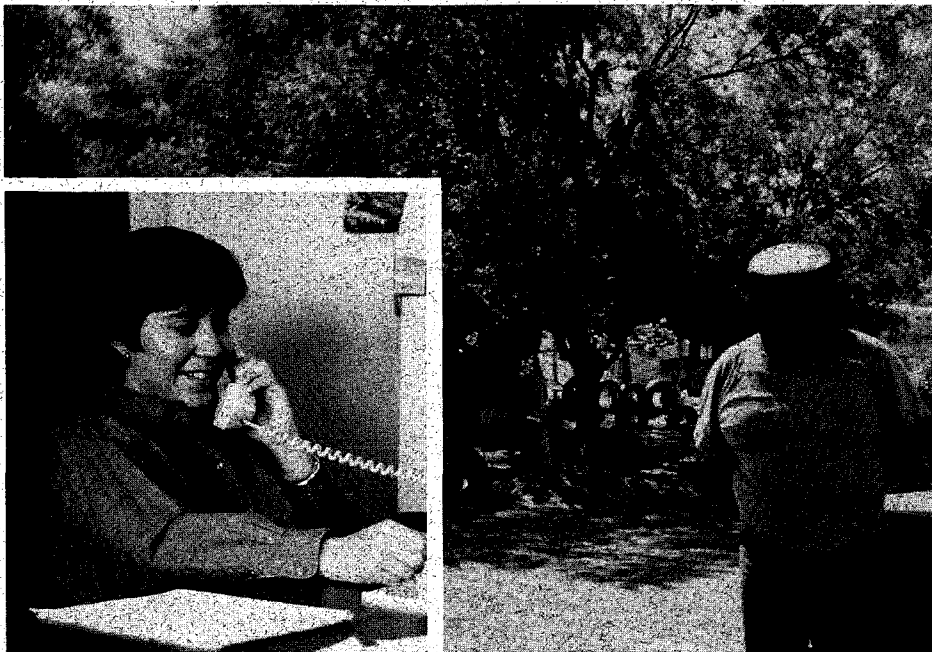
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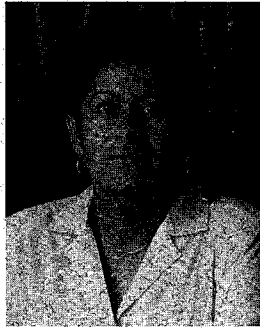
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Staff Attorney Melody McCoy



**“When you go out there to represent Indian people, you see your family—your brothers, your sisters, your nephews, your mother and father, your grandparents. You realize the devastating impact that society can have on people because they are a different culture, because their skin is a different color.**

**Being Indian at NARF brings a focus—a fire—a determination to do the very best . . . you’re going to be as good a lawyer as any non-Indian lawyer who ever walked into a courtroom. This organization is like a warrior society. You put your life on the line—be the best you can be—always be prepared.**

**You are fighting for the survival of your people . . .”**

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Native American  
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