

Fourth Annual Report, 1975

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Native American Rights Fund

The Native American Rights Fund is a national Indian law firm devoted to the protection of Indian rights and to the orderly development of the massive body of law affecting Native American people. NARF's major emphasis is upon the preservation of Indian tribal existence and resources and the fulfillment of the nation's long standing obligations to Indian people. NARF's headquarters are located in Boulder, Colorado; a small branch office is maintained in Washington, D.C.

STEERING COMMITTEE

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LaNada Boyer, Shoshone-Bannock

Resident, Fort Hall Indian Reservation, Blackfoot, Idaho

John Clifford, Rosebud Sioux

Educator, South Milwaukee, Wisconsin

Val Cordova, Taos Pueblo

Educator, University of New Mexico, Albuquerque, New Mexico

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Chief, Mattaponi Tribe, West Point, Virginia

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Director of the Native American Program for the Division of
Performing Arts, Smithsonian Institute, Washington, D.C.

Martha Grass, Ponca

Director, American Indian Referral Center, Marland, Oklahoma

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LeRoy Logan, Osage

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Janet McCloud, Tulalip

Member, Tulalip Indian Tribe, residing at Yelm, Washington

David Risling, Jr., Hoopa

Coordinator, Native American Studies, University of California, Davis,
California

John Stevens, Passamaquoddy

State Commissioner of Indian Affairs, Augusta, Maine

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John Stevens, Vice-Chairman¹

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Val Cordova¹

LaNada Boyer, Alternate³

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John E. Echohawk, Pawnee

Vice-Executive Director

Perl M. Bateman, Oglala Sioux⁵

Secretary

Joan C. Lieberman⁶

Treasurer

¹Until February, 1975

²Elected February, 1975

³Elected November, 1975

⁴Non-Voting Members

⁵Elected November, 1975

⁶Secretary-Treasurer until November, 1975

GAIL LUCY BENOIST

The Steering Committee and staff members of the Native American Rights Fund wish to record their profound sorrow and sense of loss at the sudden death on November 5, 1975 of their friend and fellow worker, Gail Lucy Benoist.

Gail was a member of the Cheyenne River Sioux Tribe. She was born on January 4, 1936 at Cheyenne Agency to Cyril and Evelyn Benoist and grew up on land near the Moreau River. She graduated from high school at Cheyenne Agency and left the reservation to attend business school in Aberdeen. After business school she returned to the Cheyenne River Reservation to work as a secretary to the tribal chairman. A few years later when the Office of Economic Opportunity funded a legal services program at Eagle Butte, she joined their staff as a legal secretary.

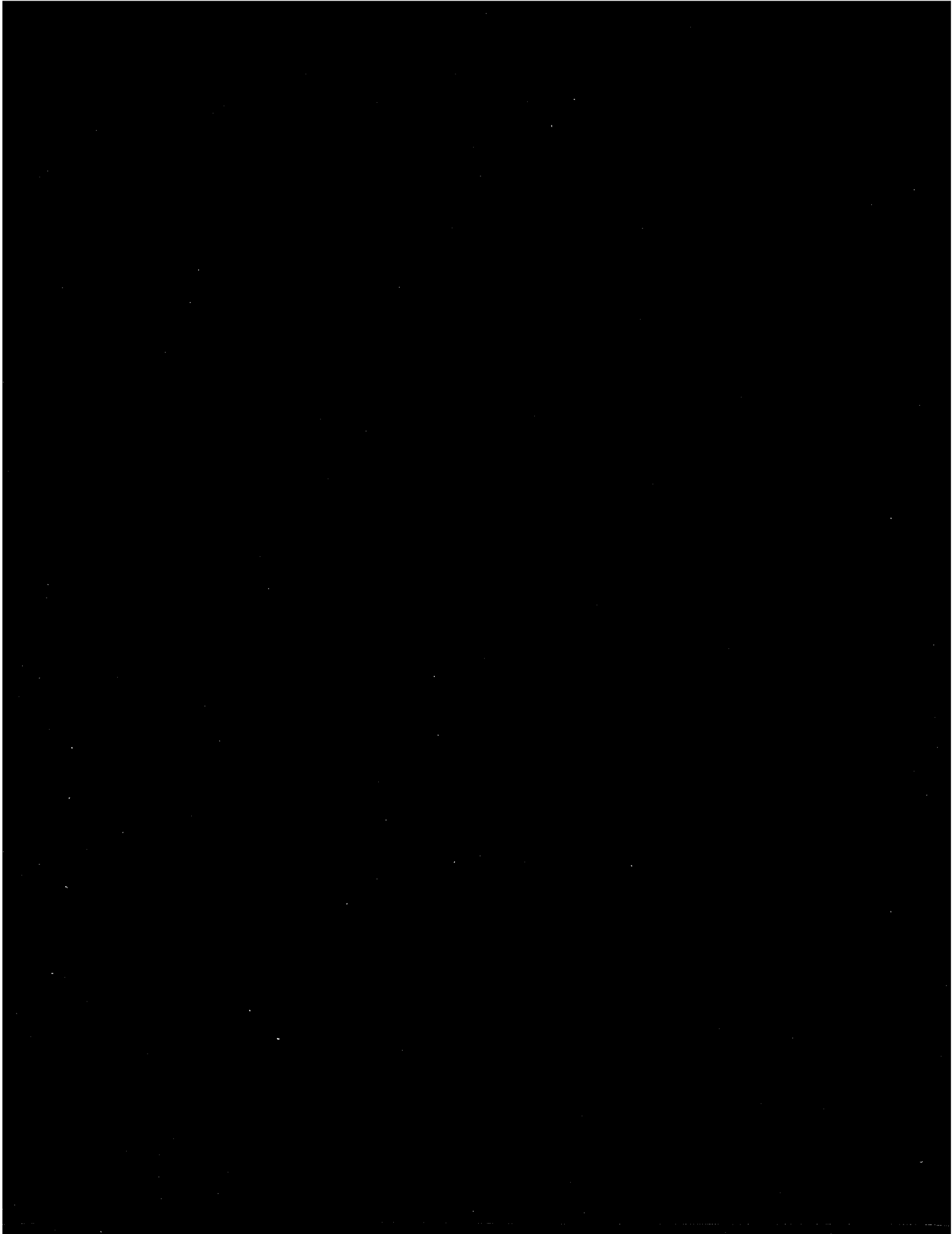
Because her interest and concern in Indian legal rights continued to grow, she was one of the first Indian staff members to join the program after the Native American Rights Fund opened its offices in Boulder during the summer of 1971. Her first two years of work with us were spent as secretary to NARF's Founding Director, David H. Getches. It was a time when the program was growing very rapidly. Gail put in long hours at NARF while also carrying the responsibility of raising her two young sons, Lance and Warren. As NARF's staff grew she did much to encourage other Indian people to move to Boulder and join our work. She always offered them encouragement, moral support and a place to stay in her home until they were settled.

In the summer of 1973 Gail took a leave of absence so she could return to South Dakota to spend time with her family and friends. When she returned to NARF she began to work closely with NARF's Treasurer, Joan C. Lieberman, in the development of a new direct mail fund-raising campaign which she continued to do until her death.

Gail was full of energy and ideas. Her incisive sense of NARF's purpose, combined with her personal integrity, warmth and generosity, made her contribution to the program invaluable. We will remember Gail's spirit with abiding affection and respect.

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DIRECTOR'S REPORT

The Native American Rights Fund has emerged as one of the finest Indian law firms in the country today. It has gained the respect of the Indian communities and their leaders, the federal government, many state governments and the private bar. This respect was not easily obtained, nor should it be.

It is through the individual efforts of each and every staff member that NARF has gained its reputation of excellence in the field of Indian law. The initial leadership and direction provided by the Steering Committee and staff, particularly by David Risling, David H. Getches and John E. Echohawk, have contributed greatly. As NARF marks its fourth anniversary, I will have been Director for six months. My hope and goal for the future is to continue to provide the leadership and direction which will enable NARF to meet the ever changing needs of our Indian clients.

During 1975, NARF for the first time was faced with the responsibility of replacing several key staff members. With the loss of three of our senior attorneys came the realization that we must make changes to minimize the problem of staff turnover inherent in all non-profit, public service organizations like NARF. Thus, 1975 was a year of transition for a young institution striving for excellence and success in the field of Indian law. As we added new staff members, we also added new policies to insure that NARF's services to the Native American community will continue until the enormous task before us is completed.

To this end a special Committee on Fees and Personnel Policies was established in July, 1975 to recommend changes designed to insure adequate financial security for the program and to encourage longevity among staff members. This Committee (composed of NARF's Executive Committee as well as professional and support staff people) fully reviewed the existing policies of NARF and recommended substantial changes. The Committee on Fees and Personnel Policies felt that their recommendations would assist NARF in its efforts to attract and retain outstanding lawyers, and would therefore give NARF the ability to continue to provide the excellent legal work so desperately needed if the program is to meet the goals the Steering Committee set during NARF's formative years. On October 31, 1975, after more than 100 hours of planning, a new NARF model for the future was put together.

First, the NARF Steering Committee decided that in order to build a stronger base of financial support, effective

November 1, 1975, all clients would be asked to cover those out-of-pocket expenses which NARF incurs on their behalf in litigating cases or providing other legal assistance. The Steering Committee agreed, however, that no tribe or individual client would be denied representation because of their inability to pay such costs.

The Steering Committee, in making its decision to ask those clients who are able to cover these costs, was particularly concerned about problems which might be caused by changing the rules in the middle of the game. Recognizing that the policy is one which might easily be misunderstood and that NARF would have to proceed cautiously in implementation, the Steering Committee agreed that clients who were already being represented in a particular matter would not be affected by the new policy. With regard to new matters and new clients, the Committee and staff members are taking a great deal of time to explain the rationale behind the decision and why the source of financial support is so critical to NARF's ability to continue its work in the future.

NARF, as a 501(C)(3) organization, does not contribute to Social Security and most staff members have not been able to make any provisions for their retirement because of NARF's low salary scales. Therefore, to encourage longevity among employees, the Steering Committee established a money-purchase pension plan for all employees and authorized NARF to make contributions on behalf of each staff member in an amount equivalent to five percent of gross salaries. The Committee set a ten-year vesting schedule for the plan and suggested that employees contribute individually as well.

To alleviate the problems of mental and physical fatigue caused by the pressures of litigation, which are complicated by the fact that NARF staff attorneys carry unusually heavy caseloads and face some of the most powerful opponents in the country, the Steering Committee established a sabbatical program. Staff attorneys will be eligible to participate in the program after five full years of employment and will be given six months' paid leave.

In an effort to make NARF staff attorneys' salaries more realistic, the Steering Committee voted an increase in the base salary from \$13,000 to \$15,000 per year. This makes salaries for young, inexperienced attorneys at NARF almost competitive with the federal government and in some areas, even with the private sector. Unfortunately, the salary discrepancies are much higher for NARF's more experienced attorneys and increase the longer an attorney remains with

the program. Currently, the most experienced attorney at NARF earns \$23,000 per year. If he were with the federal government his salary would be at least \$10,000 higher; in private practice he could double or triple that amount, but NARF's Steering Committee knows that as a non-profit corporation, it can never hope to match those levels. For this reason, NARF attorneys will always have to have a special commitment and dedication to their work and perhaps that is as it should be.

The Steering Committee also significantly raised NARF's salary scales for support staff personnel. Job categories were set up to assure that inexperienced Indian people who work for NARF will have an opportunity to advance rapidly and be paid at levels equivalent to those of experienced non-Indian staff. This year as we added policies designed to encourage longevity among NARF staff, we also felt it necessary to include a provision which would assure the Steering Committee and our clients that NARF would continue to provide the best possible legal representation. Therefore, an extensive amount of time was spent developing evaluation criteria for both professional and support staff positions, and henceforth, annual staff evaluations will be conducted by a team composed of the director and two other staff members. The evaluation teams will seek to encourage individual growth and make certain that NARF's training of inexperienced Indian attorneys is complete.

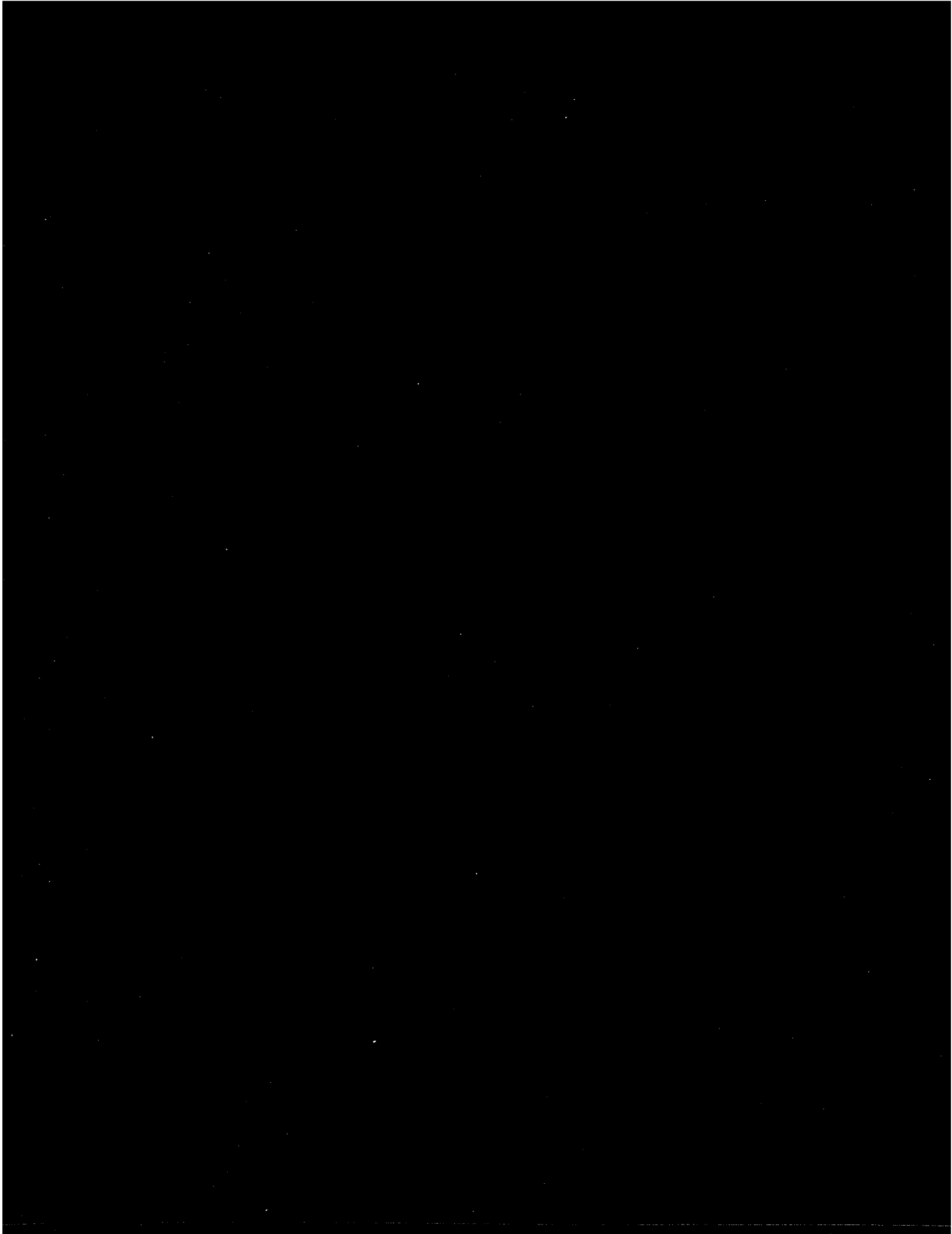
This year NARF's policy of Indian preference produced a majority of Indian attorneys on staff. Now 11 of the 18 attorneys employed at NARF are Native Americans. These 11 Indian attorneys are the nucleus of our institution and provide much hope for the future. Although NARF's policy of Indian preference still stands, this past fall the Steering Committee extended an invitation to those non-Indian attorneys and staff members who contributed so greatly to our efforts to remain a part of our program permanently. Their talents and their experience are unique, and replacements for them cannot be found. Most importantly their commitment and dedication, combined with that of the Native American staff members, have reaffirmed that NARF's approach to Indian law is successful and more necessary than ever.

We know now that we have done good work for Native American people and we also know we must continue to do it. Our briefs and our arguments have been affirmed by the courts. As the legal victories are upheld and become law, the lives

of our clients improve. Because of the work done this past year, the Steering Committee, the staff and our clients now can see a brighter future for Native American children. To this end, I respectfully submit NARF's Fourth Annual Report.

Thomas W. Fredericks
Director

January, 1976.



THE PROGRAM

Development

By the time this report is printed and distributed the Native American Rights Fund will be almost five years old. The cover reads "Fourth Annual Report" because of an early attempt to reconcile NARF's history with the calendar year. For the three original staff members who started the pilot project which subsequently became NARF, the program is really six and one-half years old. The originals -- David H. Getches, John E. Echohawk and Robert S. Pelcyger -- as well as those who have since joined them, have created a unique institution. It is one which has been molded and colored with the joint talents and idiosyncrasies of all the staff. Since 1971 the staff has multiplied six times in four years. As rapid as this growth has been and young as the institution and its founders still are -- "NARF" traditions and memories have emerged. Looking at some of these traditions and memories tells a great deal about what has made NARF the institution it is today.

The Tradition of Rotating Directorship

On June 1, 1975 Thomas Wade Fredericks was appointed Executive Director of NARF. Tom is a Mandan-Hidatsa Indian and a member of the Three Affiliated Tribes of Fort Berthold, North Dakota. He graduated from the University of Colorado School of Law in 1972 and came to work for NARF as a full-time staff attorney immediately after graduation. Prior to that time he had been clerking with NARF on a part-time basis while he finished law school. In April, 1974 Tom was selected by the Steering Committee to act as Deputy Director of NARF and continued in that capacity until he assumed the Directorship. He had considerable experience in tribal government programs before he entered law school and he is very well known in the national Indian community.

NARF has had three different directors during the past four years. In any other institution this would be cause for alarm and might indicate that there were serious management problems, but this is not the case at the Native American Rights Fund. One foundation official familiar with NARF's change in directorship calls the process "the NARF musical chairs".

David H. Getches, NARF's Founding Director, was selected by a special California Indian Legal Services (CILS) advisory board during the early stages of the pilot project.

He was chosen because he had already demonstrated his expertise in the field of Indian law and because he recognized the need for Indian leadership in a program like the Native American Rights Fund. John E. Echohawk, a Pawnee and the first Indian attorney to graduate from the University of New Mexico School of Law's special program for Indian lawyers, joined the NARF pilot project staff in June, 1970 as soon as he graduated from law school. David and John worked side by side for three years. During those three years John learned a great deal from David about program development and management, and David learned a great deal from John about the kinds of things the Indians would have wanted from NARF.

In the spring of 1973, John was admitted to the Bar of the State of Colorado and within a few weeks he assumed the Directorship of NARF. David remained with the program as a full-time staff attorney.

John was Director of NARF for the next two years. By the beginning of 1975 he had been with the program (including time on the pilot project) for almost four years, but he had not yet had a single opportunity to litigate on behalf of Indian clients. Because John was very anxious to begin to develop his skills as an attorney, the Steering Committee decided after careful consideration that effective June 1, 1975, Tom Fredericks would assume the Directorship and John would, as David had before him, assume the role of a full-time staff attorney.

NARF is undoubtedly one of the few programs, if not the only one, in the country that has all of its past directors on staff, working as a team. This factor has eliminated any transition problems that might have occurred and has given the program a unique kind of continuity. The rotating directorship also says much about the atmosphere at NARF. There is a genuine feeling of comradeship and sharing, and because of this NARF is a very special place to work.

The Tradition of Hard Work

Every year NARF has a case which requires more staff time than any other matter on the NARF docket. During 1975 the big case was Papago Tribe of Indians v. Pima Mining Company, et al., a suit brought to adjudicate the water rights of the Papago Tribe in Arizona. Some 1,440 attorney man hours were spent on the Papago case in 1975, most of them by Sally N. Willett, a NARF staff attorney who is a Cherokee Indian from Oklahoma and a graduate of UCLA's School of Law. Despite this substantial commitment of NARF time and resources, the Papago case is just beginning and Sally will likely still be working on the Papago case in 1985.

The Papago case is typical of the kind of commitment NARF makes when it begins to represent tribal clients. The original complaint was filed in federal district court in March, 1975 after more than 12 months of tedious investigation. It was filed against the State of Arizona, the City of Tucson, and seven mining and agricultural companies -- adversaries which have virtually unlimited legal resources. NARF knew from the beginning that neither NARF nor the Tribe had sufficient financial resources to effectively litigate the case alone. For this reason, even prior to the time the original complaint was filed, Sally and other NARF staff attorneys had been working to persuade the federal trustee to join the Tribe in the action so that the resources of the federal government could be drawn upon to assist the Tribe in its struggle for economic and cultural survival. The government agreed and filed suit in advance of NARF.

NARF's and the government's complaints alleged that each of the defendants, except the State of Arizona, are infringing upon the water rights of the Papagos and that their activities are causing an accelerated lowering and depletion of the groundwater table underlying the Papago Reservation. The result has been to make the reservation barren and the land unuseable; in addition to the reeds used by the Papagos for their world-famous baskets, even the cottonwood trees on the Reservation have died. Further, it is rapidly becoming prohibitively expensive to obtain water for agricultural purposes on the Papago Reservation due to the extraction of water from deep wells around the boundaries of the Reservation for mining and municipal purposes by the defendants.

Shortly after the suits were filed all the defendants moved to have the suits dismissed. On October 16, 1975, the court denied those motions and granted NARF's motion to consolidate its suit with the one brought by the United States. These were the first victories in the Papago litigation. Although just procedural ones, had NARF and the federal government lost the motion for dismissal, the case would have been over and the Papagos would have lost all hope. Or if the defendants had succeeded in some of their other procedural motions, the Papago water rights case could have become so totally unmanageable as to preclude any effective remedies within Sally's or any currently living Papago's lifetime.

Despite the innumerable man hours required to date, the real work in the case lies ahead. Because the court did order that all 3,500 water users in the basin had to be joined as party defendants, NARF and the federal government have begun the tedious and time-consuming process of identifying the persons to be joined, and it will be several months before service of process can be effectuated. Then research and discovery will begin, followed by the preparation of expert testimony, depositions, interrogatories and briefs. Finally, there will be a

pretrial conference, then a trial (which will likely last several months), and post-trial briefs to prepare. Only then will the wait for a decision begin. Regardless of the outcome, which likely will not be known before 1978, appeals all the way to the Supreme Court are almost certain. The stakes are high for both sides, but given the financial and legal resources of the defendants, Sally and other NARF attorneys are going to have to carry the tradition of hard work on behalf of the Papagos for at least a decade.

Much of the NARF tradition of hard work was originally set by David Getches and Bob Pelcyger when they were working together as co-directors of the Escondido office of California Indian Legal Services (CILS). It was their energy and record of litigation which caught the eye of a program officer at the Ford Foundation named Leonard Ryan. Mr. Ryan liked what he saw on a first-hand visit and within a few months, a Ford Foundation grant had been made to CILS which called for David, Bob and John Echohawk (who had just graduated from law school and had been awarded a Reginald Heber Smith Fellowship at CILS) to put together a pilot project. The pilot project was to test the need for a national Indian legal program. From the beginning there was no doubt that the need was there and 18 months later the Native American Rights Fund was incorporated and opened its headquarters in an old fraternity house near the University of Colorado in Boulder.

As NARF's Founding Director, David worked an average of 70 hours a week from June, 1970 to April, 1973, when John was appointed to the position. John continued the tradition of hard work that David so firmly established when he became Director in 1973. Since the beginning, Bob, who is in love with the law, has worked that much just for the pleasure it gives him.

All of their hard work has paid off. Not only has a strong and remarkably workable institution been created, but NARF has obtained real results for its clients. David, who in 1970 began representing six Western Washington tribes in U.S. v. Washington, has spent about fifty percent of his time for the last six and one-half years defending their treaty-guaranteed fishing rights. This year, in 1975, it can really be said that the first half of that case is over and that NARF has gained everything it had hoped for its clients.

For David, for NARF, and for the clients, U.S. v. Washington proves that NARF's tradition of hard work brings results. What NARF has done did make a difference and it has changed the economic life of the tribes in Western Washington. It seems likely that Sally Willett's hard work in 1975 and the years ahead will some day make a similar difference in the lives of the members of the Papago Tribe.

The Tradition of Celebrating

During 1971 in the early months of NARF's existence there were people working in the Boulder office 24 hours a day, seven days a week. In those days, whenever a court ruled in NARF's favor on even a minor procedural motion, there was a celebration -- usually marked by beer and chocolate cake in the living room after work. NARF's attorneys were all scared then and not very certain that NARF was going to win the big issues.

Although there were a number of court appearances on motions during the early period of the program, it was not until October of 1972 that NARF actually went to trial in one of its cases. The case which Bob Pelcyger, as a member of NARF's pilot project staff, had filed in Federal District Court in August 1970, was Pyramid Lake Paiute Tribe of Indians v. Secretary of the Interior. The trial was held before Judge Gerhard Gesell in Federal District Court in Washington, D.C. and it lasted ten days. Bob admits to being terrified throughout the entire period. Although he was one of NARF's "experienced attorneys" (at that time he had been out of law school for five years), this was his as well as NARF's first trial.

When the trial was over, Bob, along with his exhausted secretary, 15 file boxes and 12 cannisters of exhibits, returned from the Capitol to Boulder to wait out the decision. It came 235 days later on June 22, 1973. Graeme Bell, the lone attorney in NARF's Washington office, received a call from the clerk, ran to the court, picked up the opinion, and rushed back to the office to call Boulder so he could read the opinion over the phone. Bob got on one phone extension and David Getches on another. People stood in the halls watching intently, trying to ascertain what was being said from Bob's and David's faces and listening to their shouts of delight.

Judge Gesell had ruled in the Paiutes' favor on every point and his strongly-worded opinion reaffirmed the obligation of the federal government to uphold its fiduciary duty to Indians everywhere. NARF really celebrated that night -- it had won its first big issue.

In 1975 NARF won more big issues. Important new case law was made in the areas of equal education (Sinajini v. Board of Education) and Indian prisoners' rights (Teterud v. Gillman), and the federal government's fiduciary obligation to Eastern Native Americans was firmly established in Passamaquoddy v. Morton. At the same time "old" victories in critical cases like U.S. v. Washington were upheld by the higher courts.

As NARF has become more certain of its ability to win the big issues the tradition of celebrating has become more

subdued. There is still the usual shouting, hand-shaking, and back-slapping, as well as a postmortem discussion of the court's opinion. But there is also a sense of urgency about getting on with the work which remains to be done -- a sense of urgency which comes from knowing that NARF's hard work does pay off and that NARF's legal theories can stand the test of re-examination by the higher courts in the country.

The Tradition of Coming to Leave

Douglas R. Nash, a Nez Perce Indian attorney who came to work for NARF in 1972, left the program in 1975 to begin practicing law near the Umatilla Indian Reservation in Oregon. Doug's coming and leaving helped NARF's Steering Committee to recognize that many Indian lawyers want to come to NARF for training and then return to Indian communities to practice law. As a result, NARF's staff spent considerable effort in 1975 in establishing the Indian Lawyer Intern Project for Indian law graduates like Doug.

Doug, who was raised on the Nez Perce Reservation, attended the University of New Mexico School of Law under a special scholarship program for Indian law students. He spent his first year after graduation working with the American Indian Civil Rights Task Force in Washington, D.C. While Doug was in D.C., he became homesick for the Northwest, and as it turned out, his coming to NARF in Boulder was a kind of stopover on his way back home.

While working for NARF, Doug spent more days on the road than any other attorney. Most of them as it turned out were in the Northwest. There he became deeply involved with the Umatilla Indian Tribe's problems and their struggle to preserve their in lieu fishing sites along the Columbia River and on Catherine Creek. When Doug announced his decision to leave in the summer of 1975 to start his own practice near the Umatilla Reservation, the staff was saddened, but his leaving was a comfortable one because everyone knew Doug was going on to do something he had dreamed of for many years. Further, Doug was going to a place where he and his dreams were very much needed, and Doug has been able to continue to work with NARF on a number of cases as local counsel.

For the first four years of its existence NARF has needed and has been able to add new Indian attorneys to the staff each year. This year, because NARF's staff was at the maximum growth limit set by the Steering Committee, everyone realized that the program was not going to be able to continue to hire Indian law graduates each year unless there was heavy attrition or the program let existing staff members go, both of which might jeopardize the best representation of NARF's clients in ongoing litigation.

For these reasons, in the winter of 1975 NARF began working with the Carnegie Corporation of New York in the development of an Indian Lawyer Intern Project. In May 1975 Carnegie generously agreed to fund a three-year project which provides money for two-year internships at NARF for four Indian law graduates. In June 1975 Jeanne S. Whiteing, a Blackfoot Indian, and Steven M. Rios, a Mission-Juaneno Indian, (both of whom graduated from the University of California's School of Law) joined NARF under the Carnegie intern program. In 1976, two other interns will be selected and the Steering Committee hopes that if the Carnegie program continues to be as successful as it has to date, NARF will be able to find funding for it in future years.

Because NARF's practice is so unique and because there is no other place in the country where an attorney can find exposure to so many facets of Indian law, the Steering Committee believes the tradition at NARF of "coming to leave" is a very appropriate one.

The Tradition of Noisy Excellence

Charles F. Wilkinson III came to work at NARF in October 1971, and like Doug Nash he too left the program during 1975. Before NARF, Charles had been working for a private firm in San Francisco and coming to Boulder was a big change for him to make in both his work and lifestyle. From his first day in the office it was obvious that Charles would be the noisiest attorney to ever work at NARF. He used to bounce up and down the stairs shouting, "Let's have a little noise around here! Let's have a little action!" Those attorneys who officed next to him complained bitterly for three years about the length and the decibel level of his telephone calls.

From the beginning it was also obvious that Charles would be one of the best attorneys to ever work at NARF. His enthusiasm, his incisive legal mind, and his exacting standards contributed greatly to the program. The question of whether something was up to "NARF standards" was frequently asked around the office, but never about Charles' work -- it was his work which set most of those standards.

Charles left NARF last summer to teach law at the University of Oregon. He was exhausted and concerned about having time with his wife and young son. He said his decision to leave NARF was the most difficult one he had made in his life. When he was gone, the office seemed empty for weeks.

New Traditions and Standards

NARF's Steering Committee and staff knew before Doug Nash and Charles Wilkinson left NARF that they both exemplified

the kind of talent that the program could not afford to lose. So in addition to establishing the Indian Lawyer Intern Project this year, the Steering Committee also called for a re-examination of NARF's policies with an eye towards encouraging longevity among NARF's staff.

As the Director's Report points out, the first step in this process was the creation of a special Committee on Fees and Personnel Policies which was appointed by the Executive Committee in July, 1975. The Committee's mandate was to examine NARF's policies and where appropriate or necessary to recommend modifications which would insure the survival of two NARF traditions -- hard work and excellence. The recommendations, which evolved after many hours of work by the Committee on Fees and Personnel Policies, were substantially adopted by the NARF Steering Committee in October, 1975. The changes are outlined in the Director's Report and stated in detail in the Secretary-Treasurer's Report.

It will, of course, be several years before NARF can measure the success or failure of the new policies. Certainly some NARF traditions will and should change, for some old memories have already begun to fade. But whatever changes may occur in the future, it is certain that an exceptional institution has been created -- one which has already improved the lives of thousands of Native American people and one which will very likely continue to do so for several decades to come.

THE PROGRAM

Community Response

The Tradition of Clients as Friends

The setting for most lawyer-client relationships in America is in the office of the lawyer. An appointment is made, the client arrives, waits, and then is ushered in. It is a situation which is controlled entirely by the lawyer, and is not always a comfortable one for the client.

There are two reasons why NARF does not practice law in this way. First, because the program has limited resources, an early decision was made to concentrate those resources in one central office so to assure that there was adequate training and manpower available to solve the complex Indian legal problems. This decision meant no field offices, and very few of NARF's clients can afford to travel to Boulder. Second, the Indian tribes who are NARF's clients have such diverse cultures that it is critically important that NARF lawyers see clients in the reservation setting. For these reasons, NARF attorneys go to their clients rather than their clients coming to NARF.

This reversal of the usual practice and the Indian tradition of sharing has led to strong friendships between NARF attorneys and their clients. The average NARF attorney is on the road at least ten days each month. That amount of travel is tiring and lonely, but it is made bearable for NARF staff members by the gracious way in which client communities receive them.

The tradition of clients as friends was firmly established in 1971, when John Echohawk spent two weeks on the Hopi Reservation in Arizona. He was there to be tested. 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. After they were satisfied that John could be trusted, Bob Pelcyger joined him and together they spent a day on Second Mesa with the traditional leaders, working on a line-by-line translation of a complaint which was to be filed against the Secretary of the Interior.

The Hopi traditionalists had decided to go to court because the Secretary had approved a lease to strip mine the sacred Black Mesa, an act they believed was in violation of the Hopi Constitution. When the work was finished, there was feasting

and sharing. The Hopis then made a gift of two special prayer feathers to John. They represented the first token of appreciation NARF ever received from a client, and it was those Hopi prayer feathers which were the inspiration for NARF's feather logo.

The Tradition of Never Doing It Alone

From the beginning, NARF has always known that it couldn't do its work alone. There were legal services attorneys on Indian reservations who couldn't do all of their work alone either and fortunately early in NARF's development the federal government took a step which brought NARF and these attorneys together. The step was taken by the OEO Legal Services Division which made a grant to the University of Colorado which was to be sub-contracted to NARF. Under the provisions of the grant, NARF became the Indian Law Backup Center to all of those government funded legal services programs in the country which had Indian clients. OEO had already created almost a dozen other backup centers to assist field programs in the areas of welfare, housing, juvenile and economic law.

For the first three years of the Center's operation, Thomas L. Smithson acted as the Center's Director. After he resigned in December 1974 to go to work with the Hannahville Indian Community of Michigan, NARF sought the services of Bruce R. Greene. In January, 1975 Bruce, who had been on NARF's staff in Boulder during 1971 and 1972, agreed to return to the program. While he had been away, he was Director and a staff attorney for California Indian Legal Services. Therefore, when he returned to NARF in 1975 he had an above-average understanding of the problems of the under-funded legal services attorney in the field who has an enormous caseload and little time to do proper research or develop litigation strategies. Bruce's understanding of the problems of his attorney clients has greatly increased the effectiveness of the Backup Center.

In 1975, an average of 2.2 Backup Center requests came to NARF each working day. These requests ranged from a midnight telephone call from a desperate attorney needing citations to help in preparation of a brief to acting as co-counsel in the major fishing rights case, U.S. v. Michigan, in which Bruce prepared endless interrogatories, wrote a brief for the Michigan Supreme Court in a related case and then argued the case.

The government monies which come to NARF for the Backup Center are only enough to cover the time and expenses of one NARF attorney, but because NARF believes the tradition of aiding other attorneys is an important one, it has allocated

the time and resources of at least two additional staff attorneys to the Center. NARF attorneys have gone into the field to meet with legal services programs and their clients to discuss in person the problems confronting them. Legal services attorneys have come to NARF to spend a week writing a brief, using NARF's library and the advice and writing skills of one or more NARF attorneys.

Apparently it is the nature of lawyers everywhere to work under considerable deadlines (and to wait until the last minute to prepare required documents), and as a result, those NARF attorneys who work on Backup Center matters are often under added pressure. They understand what it is like for the isolated attorney in the field who may not even have access to an adequate library and who is confronted with literally hundreds of service cases on a day-to-day basis and lacks travel money to even get to the courthouse. It is that understanding that has led NARF to extend its resources beyond that for which it is funded to assist these attorneys.

An improperly researched or ill-thought-out case can affect not only the client in whose behalf the suit has been brought, but literally every Indian in America. For this reason, NARF works hard to try to assure that the best possible Indian law is brought, not only by its own staff but by those other attorneys with whom it works, whether they are legal services attorneys or private practitioners. Providing services as the Indian Law Backup Center offers NARF an ideal opportunity to work with a large number of attorneys on major problems confronting Indian people. In many cases, it is the best possible local counsel arrangement available. The legal services attorney is on the reservation, he can meet with clients and have day-to-day contact with them and draw upon NARF's resources as necessary. Together, NARF and the attorneys in the field can do twice the job for their clients.

During the past three years, as OEO has been slowly and somewhat tortuously dismantled, there has been a steady stream of announcements that soon there would be no more backup centers. This happened because several Congressmen believed that the backup centers were doing little more than dreaming up class action lawsuits to be filed against the federal and state governments. For this reason, funding for NARF's Indian Law Backup Center, as well as the funding for other backup centers, has been on a quarter-by-quarter basis for the last 24 months. Things have been further complicated by the never-ending problems of filing grant renewal papers in the midst of trying to determine just what Congress was going to do.

In 1974, Congress finally passed the Legal Services

Corporation Act and President Ford nominated a board of directors whose responsibility is to oversee all government legal services, and to make a determination about whether to fund the backup centers. Ironically, during 1975 as pronouncement after pronouncement came out that the backup centers were "going to be phased out," NARF's Backup Center requests from Indian programs in the field increased 83% over those received during 1974.

In December, 1975, a six-man team from the Legal Services Corporation (LSC) visited NARF to do a study on the functions of the Indian Law Backup Center in preparation for the Corporation assuming the responsibilities for the Center. All of the other backup centers were also visited by study teams and the board expects to make a final decision in 1976 with regard to what will be done about the future of all the centers. Following the LSC study team's visit to NARF's offices, a report was prepared and the comment in the report on the "quality of performance" says much about the community response to NARF's work in 1975.

Although the study team did not focus on the quality of work done by the Indian law Backup Center, either in its examination of case files or in its discussions with legal services attorneys, those members of the study team who have had professional contact with NARF attorneys agreed that the organization's work was "absolutely first rate." Gilbert Horn [a tribal judge and tribal chairman from the Fort Belknap Reservation in Montana and a member of the study team] commented that the Indian community thinks that NARF's attorneys are superb. Comments from other legal services attorneys who have received assistance from the Indian Law Backup Center bolstered these views.

The Most Difficult Tradition -- Not Being Able to Say Yes

On an average working day, NARF receives about 15 requests -- they come by mail, phone, and occasionally are made in person. Not all of these requests are for legal assistance. About 25% are general inquiries, i.e., "What is NARF? Whom does the program help? Please send more information." An even greater percentage, some 40% are requests for legal materials which the National Indian Law Library staff handles. The remaining 35% are the hard ones.

It is that percentage of requests which must be carefully evaluated and measured against NARF's priorities, and a decision made as to whether or not NARF can help. Unfortunately, NARF must say "no" to 40% of them. Not being able to say "yes" is the most difficult tradition at NARF and one which the staff does everything it can to avoid.

Many hundreds of attorney man-hours were spent during 1975 in an effort to match a client whom NARF could not help with another resource which could. It isn't an easy task and in many instances the staff knows that not being able to say "yes" means that the client's problems will never be solved. Not being able to say "yes" rarely feels right, and a sense of helplessness and frustration often follow for both the potential client and NARF's staff.

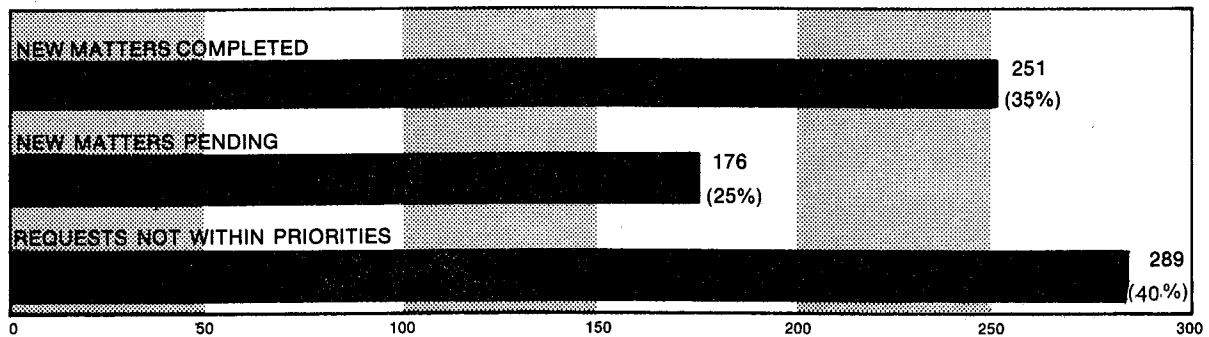
The graph on page 18 illustrates the type and number of requests received by NARF during 1975. Of the 716 requests for direct legal assistance, 289, or 40%, were not within NARF's priorities. Of the remaining requests which NARF agreed to handle, 251, or 35%, were completed by the end of the year; while 176, or 25%, are still a part of NARF's active docket.

When NARF requests for assistance for 1975 are measured against those received in 1974, they reveal an 8% increase. For the most part, the percentages within the request for assistance categories in 1974 and 1975 were almost identical. That is, in 1974, 34% of the new matters NARF accepted were completed, compared to 35% in 1975. In 1974, 26% of the new matters were still pending at the end of the year; in 1975, only 25% were pending. With regard to requests received not within NARF priorities, the percentage was exactly the same -- 40%.

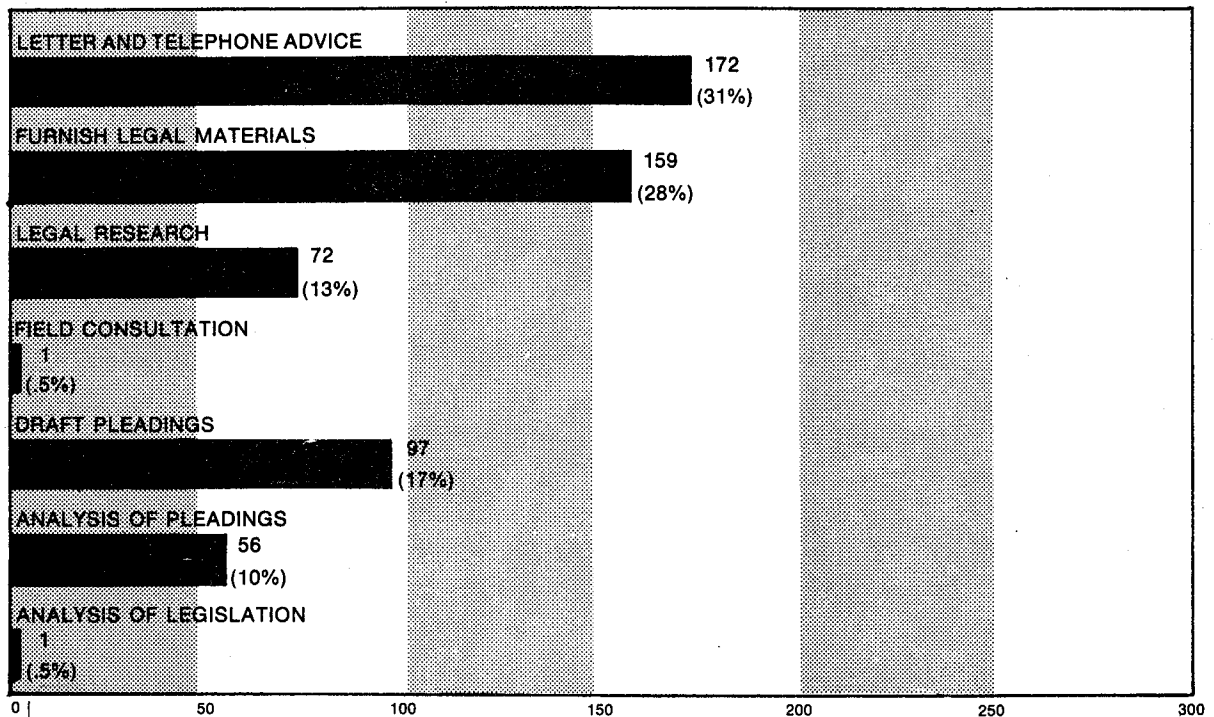
For the past two years, NARF has reported separately on those requests for assistance it receives in its capacity as the Indian Law Backup Center. Last year, NARF (as the Center) received 558 requests, an 83% increase over 1974, when 304 requests came in. The 1974 figure represented an increase of 67% over the request total of 182 for 1973. A detailed breakdown by seven categories shows just what kind of assistance legal services attorneys in the field sought from NARF during 1975. Letter and telephone advice was given to 172 Center clients, while 159 were sent specific legal materials. NARF handled 72 requests for legal research, but due to budget and time contracts made only one field consultation during 1975. In another 97 instances, NARF prepared draft pleadings for attorneys in

Native American Rights Fund Requests for Assistance and Information, 1975

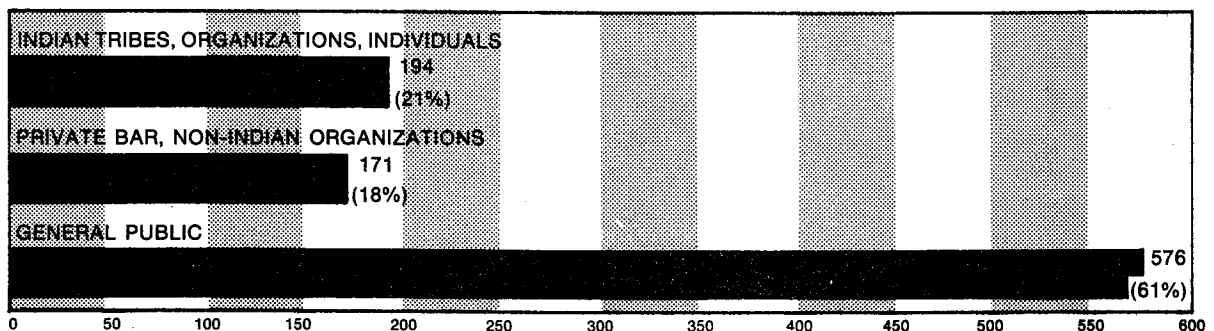
Native American Rights Fund Requests for Assistance (716 total)



Indian Law Backup Center Requests for Assistance (558 total)



General Requests for Information (941 total)



the field, in addition to doing an analysis and review of 56 pleadings prepared by field attorneys. In one instance NARF was asked by a legal services program to review pending legislation. The breakdown of requests reveals that NARF has almost exclusively acted as a litigation backup unit, and for this reason it is hoped that funding for the Center will continue since it is litigation activities which are still permissible under the new Legal Services Corporation Act.

Every day NARF receives an average of four requests for information about its work and Indian affairs in general. Most of these, some 61%, come from the general public who, for one reason or another, are concerned about or interested in American Indians and look to NARF for specifics. Many school children write NARF for information about Indians, as do citizens of foreign countries. During last year, NARF had requests from every state, from Canada, and from 15 different European countries. Some 21% of the general requests for information came from Indian tribes, organizations, and individuals. The remaining 18% came from members of the private bar or representatives of non-Indian organizations. The total of 941 requests for general information which NARF received during 1975 represented a 44% increase over the previous year. Not included in this total are the more than 7,000 individuals who made contributions to NARF's work in 1975, most of whom NARF had personal correspondence or contact with.

THE PROGRAM

Areas of Involvement

The Tradition of Going More Places and Doing More Things

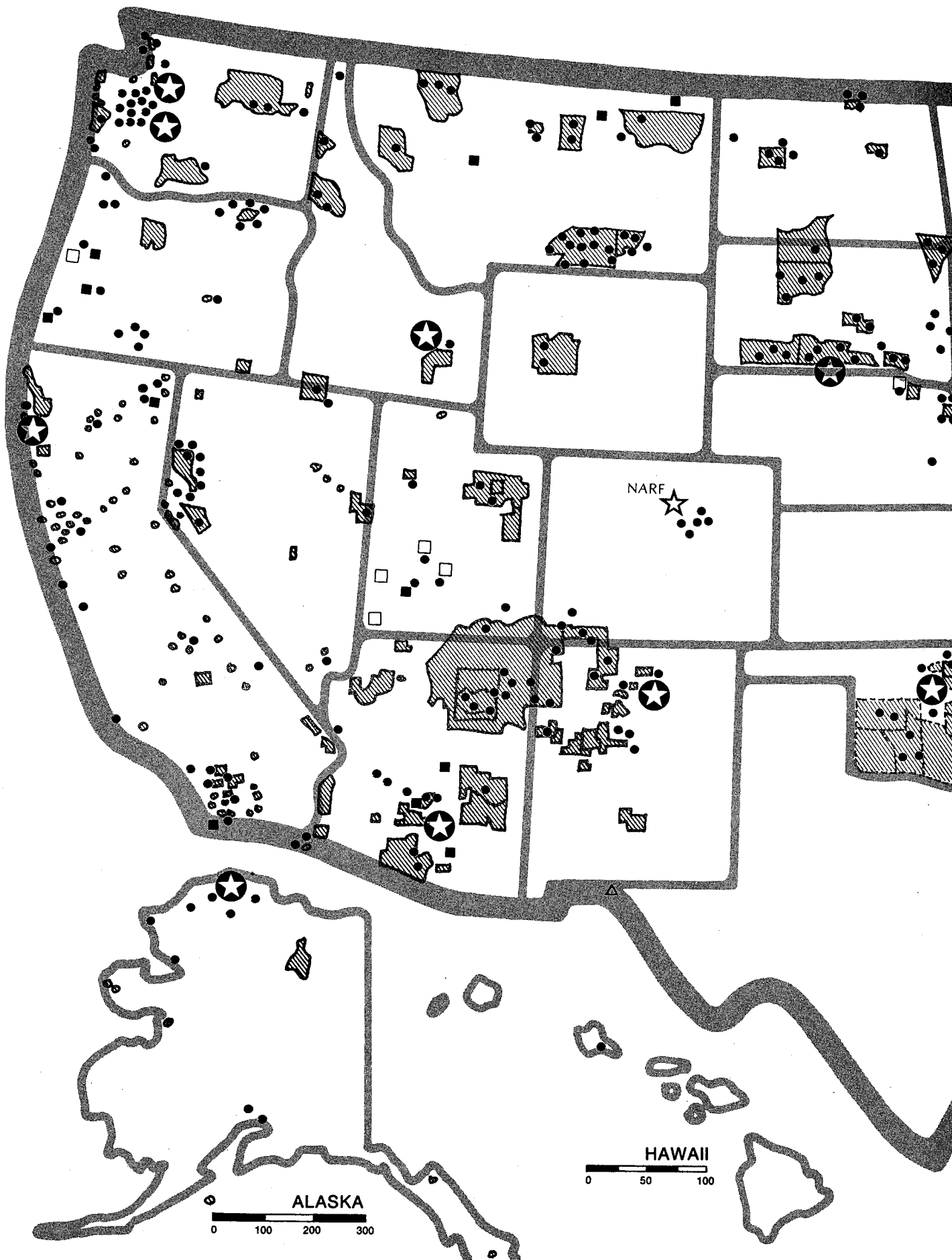
In 1971 when NARF opened the Boulder office, its practice encompassed ten states. During 1975, NARF practiced in 40 states, an increase of ten states for each year of the program's existence.

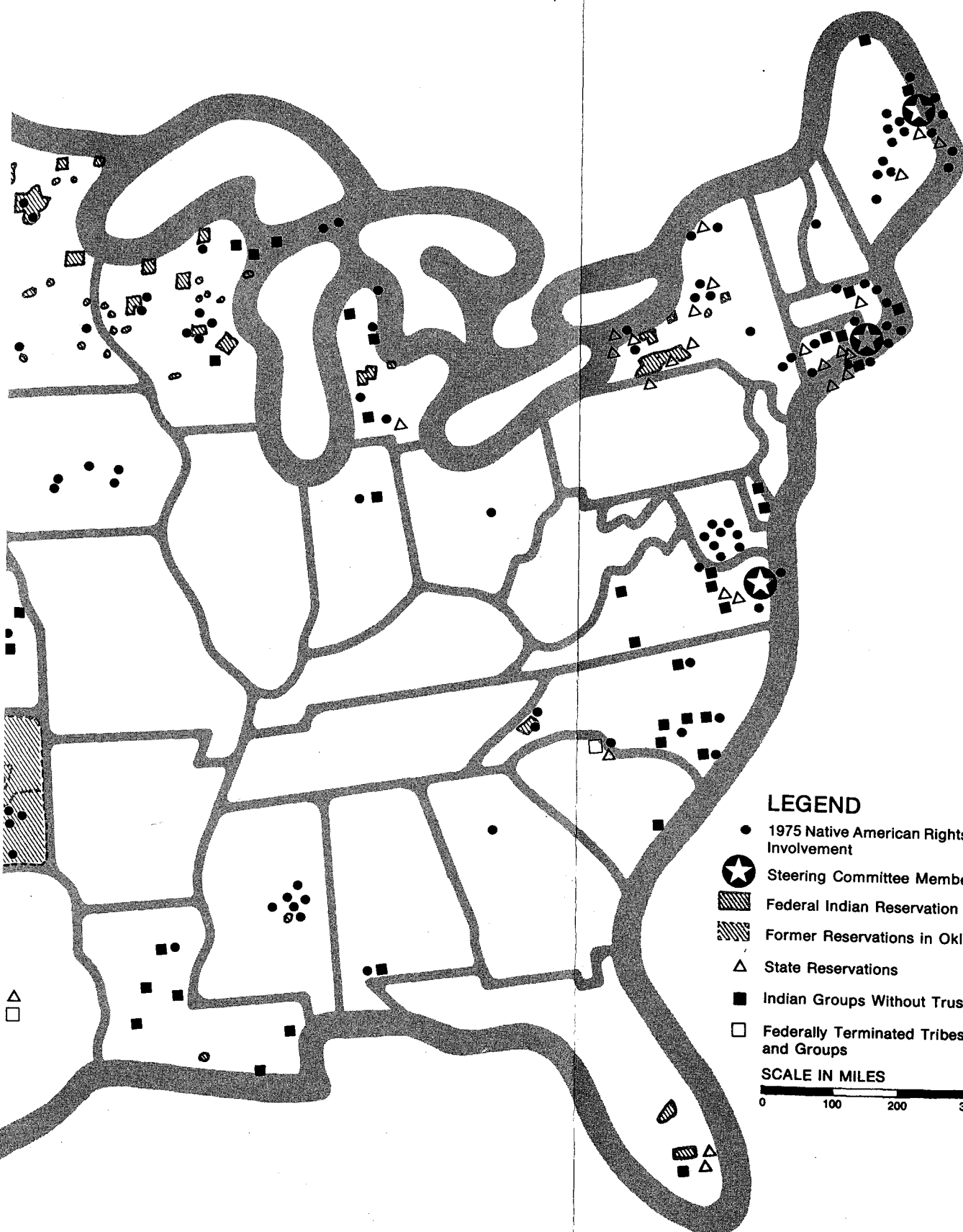
Watching this kind of geographic growth has been exciting for the Steering Committee and staff. A request for assistance from a new client in a new state is still a special treat among NARF attorneys. Because most of the ten remaining states where NARF is not now practicing have few Indian residents (six are states where there are no federal or state reservation lands whatsoever), future geographic growth will be slower. Still, the tradition of "going more places" shows that NARF's services are filling an incredible vacuum and that word of NARF and its good work has spread throughout the Indian world.

The map on the following page provides a visual diagram of just where NARF is all across the country in relation to "Indian Country." There is a map symbol for each reservation or city where NARF is working. This is not to say that NARF is only doing one thing in those locations. Each map symbol may represent up to five different matters NARF is handling on behalf of a particular tribe or client.

There is also a map symbol for each member of the Steering Committee. These indicate that during 1975, there were two Steering Committee representatives from the State of Washington and one each from the states of California, Idaho, Arizona, New Mexico, South Dakota, Oklahoma, Virginia, Rhode Island, Maine, and Alaska.

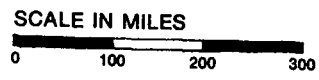
NARF Steering Committee members are selected because of their knowledge of the issues facing Indian people. Their unique and individual experiences have played a remarkable role in NARF's development. As Committee members have sat in NARF's living room each fall and spring since October, 1971, they have recalled, sometimes sadly and sometimes bitterly, the experiences of their tribes, families and friends. Out of these recollections have emerged a sense of just what kinds of problems NARF's lawyers should attack.





LEGEND

- 1975 Native American Rights Fund Involvement
- ★ Steering Committee Members
- ▨ Federal Indian Reservation
- ▧ Former Reservations in Oklahoma
- △ State Reservations
- Indian Groups Without Trust Land
- Federally Terminated Tribes and Groups



**Native American
Rights Fund
1975 Involvements**

Putting the effect of hundreds of years of colonization and acculturation into "priorities" is a difficult task, but funding sources and others require that the white man's words be used to describe what the Steering Committee members believe must be protected in the Indian world. The Steering Committee's priorities shown below have been effective ones because NARF has been winning most of its legal battles.

The Priorities of NARF

1. Tribal Existence, including religion, Indian ways, treaty obligations, tax and jurisdiction problems.
2. Tribal Resources, including trust responsibility and production from abusive economic development programs.
3. Human Rights, including education, health and prison reform.
4. Accountability of tribal, state, federal and local governments.
5. Indian Law Development, including strengthening important legal precedents, development of local legal resources and dispersal of Indian legal information.

The Tradition of Independence

When NARF was still a pilot project of CILS, its board of directors was a special eleven-man Advisory Council composed of individuals from all over the country. Their most important responsibility was nominating the original members of NARF's Steering Committee. In an effort to provide continuity between the pilot project and the formal national program, the Advisory Council selected two of their own members to sit on the Steering Committee. One of those members was David Risling.

For the first two years of NARF's work David served as Vice Chairman of the Steering Committee, and in 1973 he was elected Chairman. David is a Professor and Coordinator of Ethnic Studies at the University of California at Davis and a Hoopa Indian. He is also a member of many Indian organizations, and his experience with Indian legal services dates back to the beginning of CILS which he helped to establish. For many years David served as Chairman of the

CILS Board of Trustees, and in that role he had been intimately connected with NARF and its affairs from the beginning.

David knew that NARF had to last a long time. His guidance has helped to build a NARF funding system which resembles a patchwork quilt because he wanted to make certain that NARF was not dependent on just one source of funding support which could be withdrawn at any time the program's work became unpopular politically. David has been particularly insistent that NARF build a source of unrestricted capital which it can use to support its work at the time when foundations no longer have an interest in Indian problems.

David's vision of the Indian world is that it resembles a big wheel of which NARF is but a single spoke. He better than any other Committee member understands and accepts the role of other Indian organizations whose goals might conflict with NARF and his insight into the process of colonization has gone a long way to guide NARF's work. David was reelected as Chairman in October, 1975 by a unanimous vote for another two year term. His leadership and guidance have been instrumental to NARF and have set a firm foundation for the program's survival in the future.

The Tradition of the Traditionalists - Thomas Banyacya and Janet McCloud

Thomas Banyacya was nominated by the NARF advisory Council to be an original member of the Steering Committee. Thomas, a member of the Hopi tribe of Arizona, is an interpreter for the Hopi Independent Nation and is widely known as a prominent traditionalist leader. For years he has spoken throughout the country on the environmental destruction of Indian resources caused by strip-mining and electrical power generation. It was Thomas who was instrumental early in 1971 in getting NARF started on what ultimately became the Southwest Indian Environmental Project.

Thomas came to the first meeting of the Steering Committee in October, 1971 to explain to the other Committee members why he would not be able to serve. He said that the traditional people he represented at Hopi did not feel it was appropriate for him or them to be "caught up in the paper world." But Thomas remained at the meeting and has since attended several others as a special consultant and spiritual advisor to the members. Subsequently he recommended other traditional people whom he thought would be good members for NARF's Steering Committee. As a result of his guidance, Janet McCloud, a traditional Tulalip Indian woman, was elected to the Committee in the fall of 1972.

Janet has brought incredible strength and wisdom to the Committee. Sometimes it has been a painful struggle for her to sit through all the corporate procedures necessary for NARF to exist in the "paper world" and meet the legal requirements set out by the dominant society. However, at those times when the Committee has dealt with the essence of what NARF is all about, Janet leads the thinking. She well understands that legal victories are sometimes only paper ones, and that the results for Indian clients can be devastating without proper follow-up and assistance. As a resident of the western part of Washington, Janet had experienced for years the conflicts and harassments associated with the treaty fishing rights struggle there. She has done much to provide guidance to NARF as the U.S. v. Washington litigation proceeded.

Perhaps Janet's most important contribution has been her insight into the problems of Native American prisoners. Her interest in their problems led NARF to develop the Indian Corrections Project. One of the first suits filed under that Project was because the warden at McNeil Island Federal Penitentiary suddenly denied Janet access to the prison where she has been providing spiritual guidance to Indian inmates for years. The suit (Calf Looking v. Richardson) was settled in Janet's favor when federal officials changed their position and decided to let her back into the prison.

Janet's recognition of the need Indian inmates have for Indian spiritual guidance has been translated by NARF into new case law and prison practices in ten different state penitentiaries and all across the country in federal penal institutions. The traditions of Thomas Banyacya and Janet McCloud of dedication and love for Indian people reflect their strong belief that the Indian way will ultimately prevail.

The Tradition of Pushing Back the Frontier

John Stevens, a Passamaquoddy Indian from Maine, is one of the "originals" on the Steering Committee. He is still a member and since the October, 1971 meeting, has served on its Executive Committee. John is the former governor of the Passamaquoddy Tribe and is currently the Commissioner of Indian Affairs for the State of Maine.

In the late 1960's, John and his wife obtained a small grant which enabled them to visit Indian communities located east of the Mississippi. Both of the Stevenses had had a longstanding interest in Eastern Indian groups and have studied their history extensively. The things that they saw on their trip brought into focus the tragic history surrounding Eastern Tribes, and the fact that tragedy was still very much a part of the Eastern Indian experience.

Thomas N. Tureen, a young staff attorney with the Indian unit of Pine Tree Legal Assistance in Calais, Maine became very much interested in the Stevenes' experiences, and working with them, subsequently wrote an article about their findings. ("Remembering Eastern Indians" was first published in Inequality in Education in 1971.) Through Pine Tree Legal Assistance and at John's urging, the assistance of the Office of Economic Opportunity was sought in developing a special Eastern Indian Research Project (EIRP). NARF, which had been working with Tom Tureen on the problems of the Passamaquoddy and Penobscot Tribes in Maine, also joined forces with Pine Tree Legal Services in the EIRP effort. More funding was obtained from OEO and Tom joined NARF's staff on a full-time Of Counsel basis. The purpose of EIRP was to take an initial look at what legal remedies might still be available to Eastern Indians.

Another result of John's trip was that he now was more convinced than ever that something had to be done about the need to bring together the long isolated and nearly invisible Eastern groups. He hoped something constructive could be developed from their separate but common experiences. John expressed this particular concern at the initial meetings of the Native American Rights Fund Steering Committee and by the spring of 1972, NARF had begun to seek funding to bring together Eastern Indians.

By September, 1972, the Edna McConnell Clark Foundation had agreed to make a grant to NARF for an "Eastern Indian Conference." The conference was held in December, 1972, just after the Trail of Broken Treaties sit-in in Washington. As a result of the conference, those Eastern groups who attended (over 120 in number) joined together to form the Coalition of Eastern Native Americans (CENA). The concept behind CENA was that by banding together, Eastern Indians could begin to work more effectively for the advancement of their tribes, groups and communities. The conference pointed out just how many groups needed assistance with even the most basic type of community development and showed that virtually all needed a stronger land or service base if they were to move out of the "poorest of the poor" category.

During the first six months of 1973, NARF carefully reviewed the results of the Eastern Indian Conference and began to work with CENA representatives in developing an outline for an Eastern Indian Legal Support Project. One of the earliest resolutions passed by CENA's Board of Directors was the unanimous approval of NARF's efforts to put together a special team of lawyers for Eastern Indians to call upon.

Today, as a result of John's commitment and his foresight, NARF with the generous assistance of Lilly Endowment has two and one-half attorneys working on a full-time basis on the legal problems of Eastern Indians. NARF is assisting more than twenty tribes in matters involving land claims, recognition and services.

Indians all across America have been denied their legal rights, but none for so long or under such hard circumstances as Eastern Native Americans. They need and deserve the fullest possible commitment from the dominant society if they are to overcome the historical handicap of having been born on the Eastern side of the American frontier. What John Stevens has done is to help build a new tradition of pushing back that frontier, recovering Eastern Indian lands illegally taken and reestablishing the viability of the many long-forgotten and abandoned tribes.

The Tradition of Foundations and Bureaucrats As Friends

Like members of the Steering Committee, individuals in the philanthropic sector of America have had a major impact on the work undertaken by NARF. Without their special interests and concerns about American Indian problems NARF's work might never have begun.

Leonard Ryan was NARF's first Foundation friend. He was responsible for guiding the initial 1970 pilot project grant through the layers of Ford Foundation bureaucracy and then for putting together the \$1.2 million three-year grant in 1971. Leonard had very specific ideas about how NARF should be set up and he cared so deeply about the program's success that he would often call three or four times a day during critical stages of NARF's development to offer suggestions. His flair for details and the "right way to do things" set a precedent at NARF that the program has always tried to follow.

In 1973, R. Harcourt Dodds became NARF's Ford Foundation Program Officer and he continued to carry that responsibility throughout 1975. He guided the program through a second major Ford refunding effort, as well as through the intensive evaluation which the Foundation made of NARF's work during 1974. Harry continues to be a good friend of NARF--alerting the staff to East Coast developments in both the foundation and legal world and visiting the program often.

A visit to NARF in Boulder by Mike Sviridoff, Vice President in charge of the National Affairs Division of the Ford Foundation, had a significant impact on NARF's

relationship to the Foundation during 1975. Mike liked what he saw at NARF and casually announced at dinner one evening that the Foundation might consider making a documentary film about NARF's work.

As a result of Mike's interest and commitment to NARF's work early in 1975 the Foundation announced that it had set aside \$60,000 to make a 30 minute film. Throughout 1975 NARF's staff worked closely with Nancy Boggs of Ford's Office of Reports on the selection of a filmmaker and the approval of a treatment or script. More than seven hours of footage was shot at locations like Pyramid Lake, Nevada, the former Siletz Reservation in Oregon, and on several reservations near Seattle, Washington as well as at McNeil Island Federal Penitentiary. The filming process will continue through the summer of 1976 and it is hoped that a final version will be available for distribution by the end of 1976. The Ford film on NARF will be an invaluable tool--one which will quickly convey the importance of the program's complex legal work to the outside world. The Steering Committee and staff are very grateful that Mike Sviridoff came to visit.

Leslie Dunbar of the Field Foundation in New York is another good Foundation friend. He took a chance on NARF and made a grant to the pilot project when there was barely a "NARF" let alone a track record. Leslie has an abiding concern for the protection of the environment, and he was outraged by what he saw happening in the Southwest. From 1971 through 1975 he, on behalf of the Field Foundation, has supported NARF's work on the Southwest Indian Environmental Project, and he has never given up hope that significant progress will eventually be made there despite the fact that several of NARF's legal efforts to protect the environment of the 39 Indian tribes who live in the area have failed.

Eli Evans and Barbara Finberg, Executive Associates at the Carnegie Corporation of New York, are some of the hardest working Foundation friends NARF has had. Eli and Barbara (who acted in Eli's place while he took a leave of absence to write), stuck their necks out and funded the National Indian Law Library (NILL) when it was only ten stacks of dusty briefs, four 3"x5" cardboard files and some hopes. They believed in the inherent possibilities of the innovative project and made a three-year grant which was crucial to NILL's development.

When the grant period was nearly over Eli suggested that the project was now successful enough to be considered for funding by the federal government. He was right and after he helped NARF obtain support for NILL from the Office of Native American Programs, NARF staff members

went back to see Eli about a new project. He came out from behind his desk (as always, three feet high with papers) and said yes, he'd like to help. That "yes" eventually meant another three-year grant -- this time for the Indian Lawyer Intern Project, which the Carnegie Corporation's Board of Trustees made in June 1975.

When a program like NARF has to raise \$1 million a year just to survive, a three-year grant commitment provides an enormous beneficial relief (and reduced ulcers among those staff members who have to do the fund raising). What Carnegie's three-year grants reflect are an above-average understanding of what program development is all about, as well as just how important NARF is to the Indian community. Carnegie Corporation, because of Eli and Barbara, has been a model foundation friend.

Alan Greene, President of the Irwin-Sweeney-Miller Foundation, is one of the most incisive and considerate foundation friends NARF has had. It was Alan who agreed to support NARF's grant request for the Indian Corrections Project. After funding the project for two years, the Miller Foundation decided it had to shut down for awhile because of a sudden drop in the value of its endowment. Alan worked for weeks in putting together a list of contact people who he felt might be able to continue to fund the Corrections Project.

While he was still working with NARF and the Miller Foundation he came to Boulder regularly for short visits. Nothing special was required -- he just came for a few hours, visited, shared lunch with the staff and left. He cared, people could tell it, and his caring made him special.

Will Hays, Jr., and Ed Ristine of the Lilly Endowment in Indiana came to NARF's rescue back in 1973 when a tentative commitment from another foundation fell through. They listened to NARF staff members very carefully and then promptly made some \$25,000 available for the establishment of the Eastern Indian Legal Support Project. Their initial emergency commitment has been followed by two substantial grants which have covered the time for two and one-half NARF attorneys to work on the Eastern Project. It was Will Hays' and Ed Ristine's willingness to listen and Lilly's financial commitment which made the 1975 victory in Passamaquoddy v. Morton possible and set the stage for returning millions of acres of land to Eastern Indians.

It was an unusually effective bureaucrat named Dr. Jerry Bathke who walked into NARF in May of 1975 and

announced that the Office of Native American Programs was prepared to say yes to NARF's request to fund the National Indian Law Library and Indian Technical Assistance Project. Jerry, a Special Assistant to Dr. George Blue Spruce, Director of ONAP, is relaxed and easy to work with. His experience in working for the Navajo Tribe has given him an excellent understanding of Indian affairs. Because he understands instantly what the issues are, he knows when NARF is doing its job. His commitment to what NARF is trying to do is shown in his flexibility and his tolerance for an occasional late or incorrectly filed report.

Roger Detweiler, who handled OEO's Indian Legal Services desk in Washington, D.C., had wanted to see an Indian Law Backup Center established for years. It was he who pushed the paper through the federal system in order to make the grant which established NARF as the Indian Law Backup Center. Although Roger disagreed with what he saw as NARF's emphasis on "big cases" versus field work and consultations, he took a very personal interest in his work and made the NARF staff examine closely the day-to-day problems of legal services field attorneys and just how NARF could best assist them.

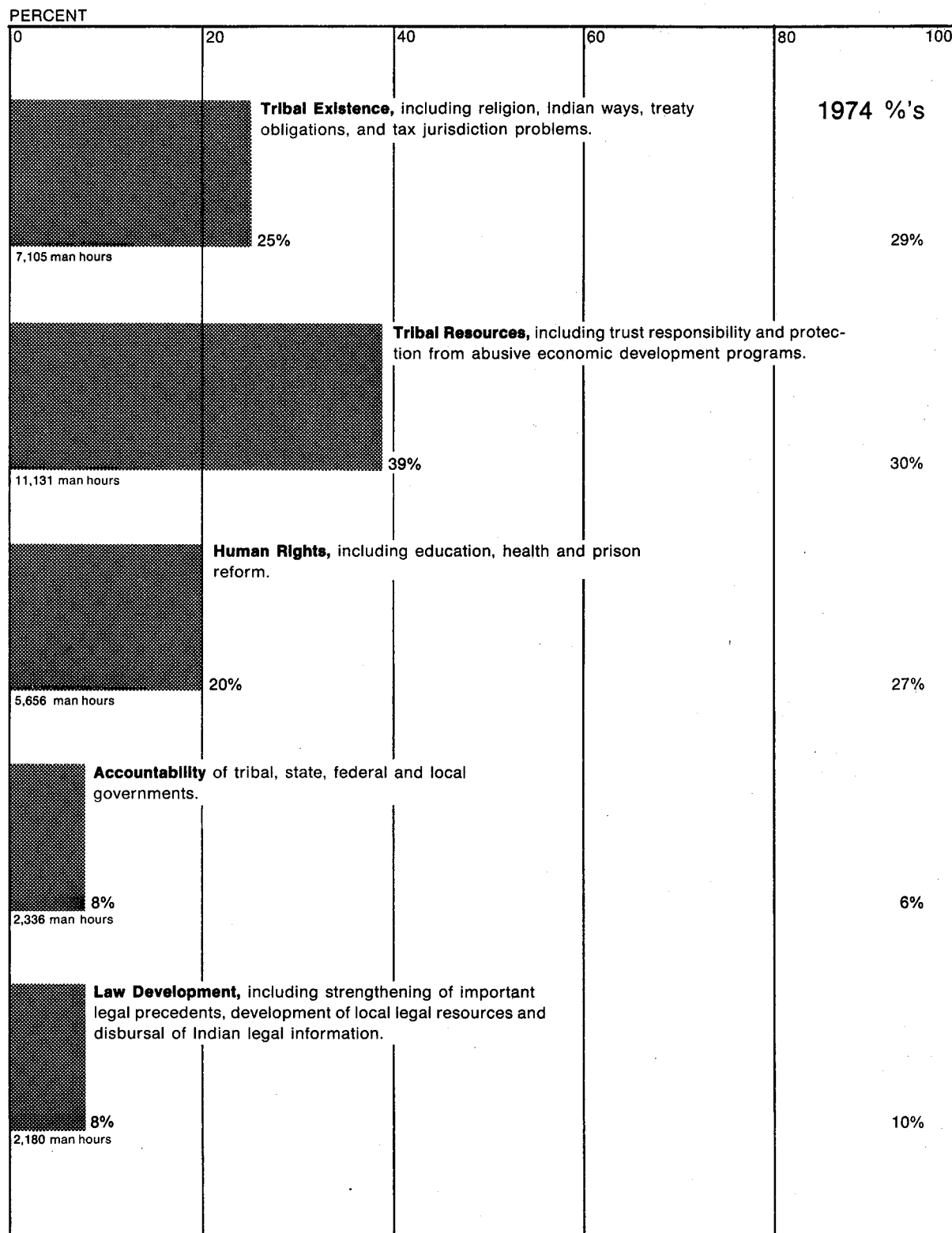
Although Roger is no longer working in Washington and OEO is out of business, he and many others, (both the foundation people described here and thousands of individual Americans), have left their mark on NARF. Their ideas and their commitment to the preservation of Indian tribal existence have been just as important to NARF as the legal strategies put together by the Steering Committee and staff. Without adequate financial support from foundations, the federal government and individual contributors there would be no Native American Rights Fund.

Traditional Statistics on Areas of Involvement

On the following page is a graph which NARF has used for a number of years to illustrate the allocation of NARF's attorney man-hours by priority. Percentages for 1975 as well as comparative figures for 1974 are shown. As the graph indicates, NARF spent 7,357 attorney man-hours on problems relating to tribal existence. This represented 25% of the total personnel resources available. In 1975, 11,131 man-hours were spent on tribal resources. This is a 9% increase over the 30% spent during 1974, and a result of the fact that three of NARF's four most time-consuming cases during 1975 were cases which fall under the tribal resources priority.

Native American Rights Fund

Allocation of Attorney Man-hours by Priority, 1975



Total Attorney man hours 28,408

With regard to the human rights priority, NARF spent 5,656 man-hours during 1975, which represented 20% of the total resources available. This was a drop of some 7% from the previous year, reflected by the fact that several cases involving human rights were either settled during 1975 or trials were postponed until 1976. Issues involving accountability took 2,336 man-hours which represents 8% of the total resources. This is a 2% increase over 1974.

Finally, NARF's fifth priority, Indian law development, absorbed 2,180 man-hours or 8% of NARF's attorney resources. It is important to note that this 8% does not include the non-attorney staff time spent in providing the services of the National Indian Law Library. The time of two additional full time professionals was devoted to NILL services as well during 1975.

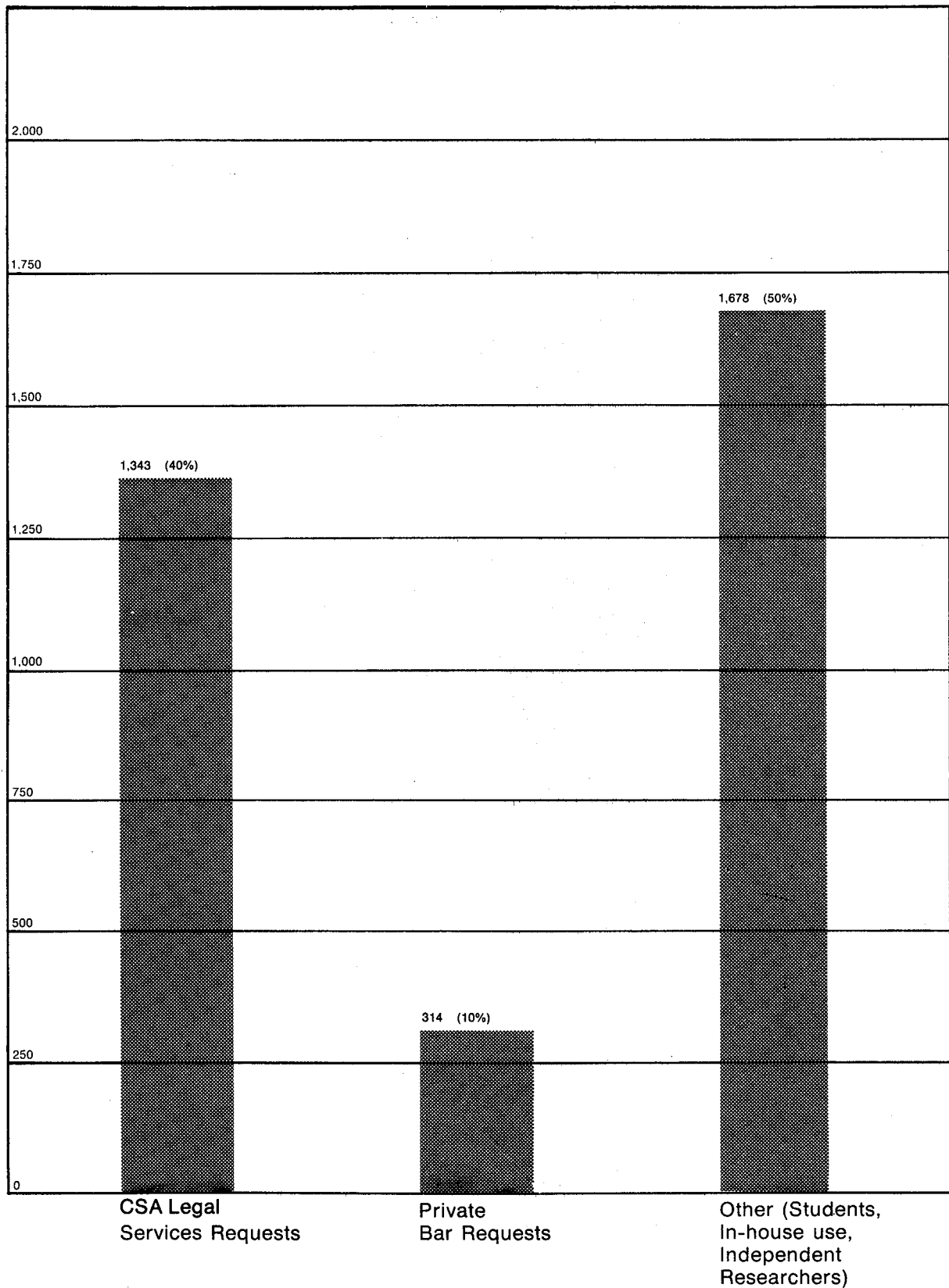
The graph in this section on page 32 indicates the number and requests for assistance and materials received by the National Indian Law Library during 1975. Total requests were up 281 from 1974. Requests from CSA Legal Services Programs were up 5%, from 1,083 in 1974 to 1,343 in 1975. While use by the private bar increased by 3% over 1974, use of NILL by others (students, in-house and independent researchers) was down by 8% from 1974. A detailed description of NILL's activities during 1975 can be found on page 89.

As the Secretary-Treasurer's report indicates, during 1975 NARF, in order to meet the audit standards set by the American Institute of Certified Public Accountants, was required to report on its allocation of resources by functional areas. After considerable discussion, NARF agreed that there were four major categories which were reflective of NARF's activities. Those categories were: Litigation and Client Services; National Indian Law Library Services; Management and General; and Fund Raising.

The graph on page 33 indicates that \$825,810 or 76% of NARF's resources were spent on Litigation and Client Services. National Indian Law Library Services, which include NARF's publication activities, accounted for 6% of NARF's expenditures or \$63,858. Management and General Costs, including the expenses for NARF's Steering Committee, staff attorney meetings, bookkeeping services, record keeping, Xerox and reception staff and a proportionate share of all program expenses, amounted to \$122,360 or 11% of NARF's total resources.

Native American Rights Fund
National Indian Law Library

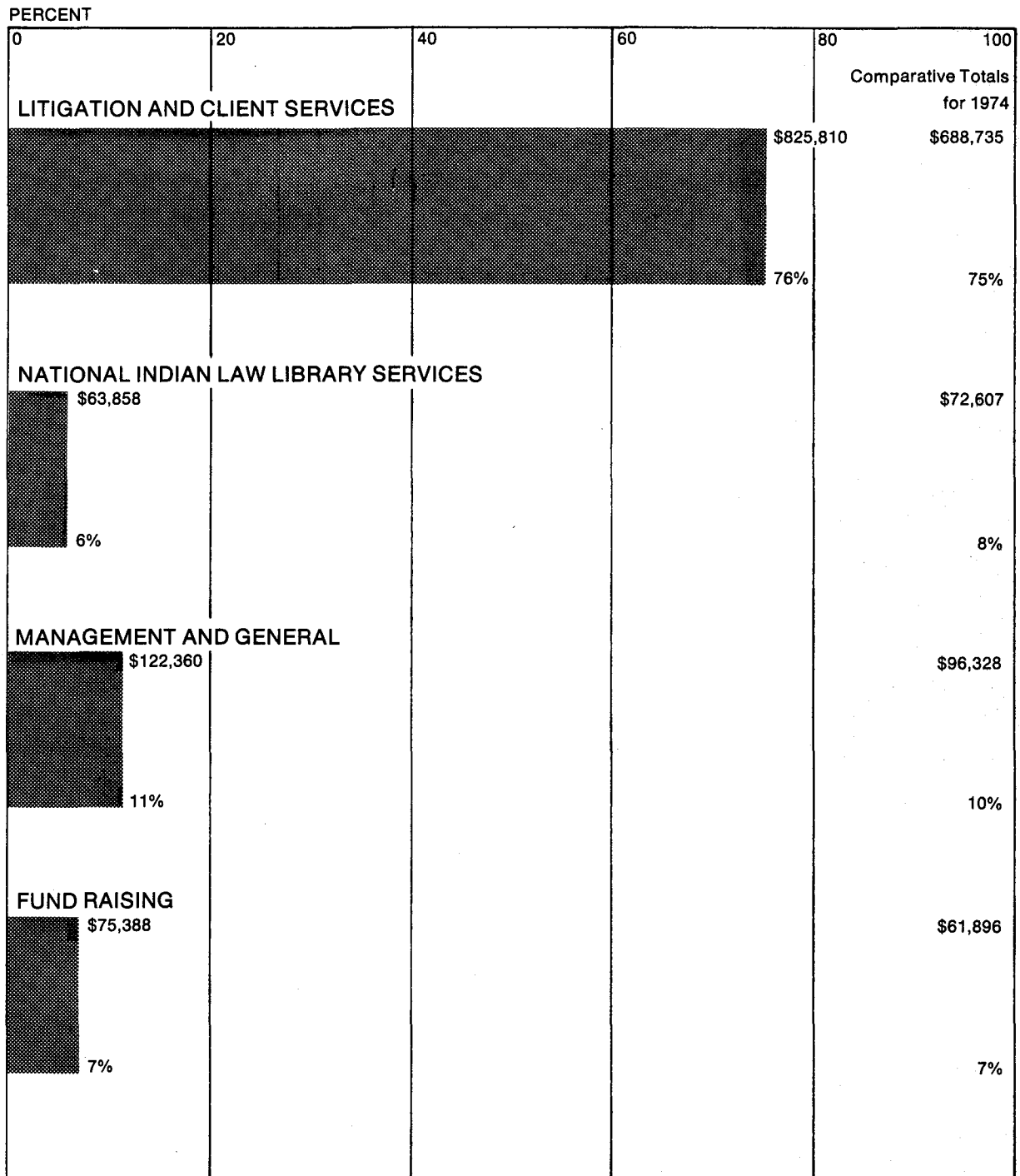
Requests for Assistance and Materials, 1975



Total number of requests: 3,335

Native American Rights Fund

Allocation of NARF Resources by Functional Area, 1975



Total Expenditures \$1,087,416

1974 Total \$919,566

Fund raising costs, including the cost of mailing 400,000 pieces of direct mail, preparation of proposals, pro-rated costs for the annual report, thank you acknowledgements to all of NARF's individual donors, and a proportionate share of all program expenses, came to \$75,388 or 7% of the total. Comparative totals are shown on the graph for 1974. Although the dollar expenditures are higher in 1975 than 1974, the percentage of total are almost exactly the same for all categories.

NARF believes that its Management and General costs, as well as its Fund Raising costs, are extremely reasonable. Comparative figures for similar programs run between 26% and 43% of their total versus the 11% and 7% respective totals for NARF. Much of NARF's ability to maintain such low overhead costs relates to the tradition of hard work set early on in the program and an attempt by everyone on the staff to keep all costs at a reasonable minimum without jeopardizing the representation provided to clients.

THE PROGRAM

Measurable Results

The Tradition of Reaffirming Treaty Rights

On June 4, 1975, the Court of Appeals for the Ninth Circuit unanimously affirmed the District Court's 1974 decision in U.S. v. Washington, the most significant treaty rights case in recent years.

Shortly after the decision was handed down, petitions for certiorari were filed by Washington state agencies, the Northwest Steel Headers (a sports fishing group), and the Reef Netters (a commercial fishing group). In January, 1976, as this report was being drafted, the United States Supreme Court denied certiorari to the state and non-Indian interests and the victory in U.S. v. Washington was secured once and for all.

In U.S. v. Washington the issue was not simply the existence of a treaty right, but how that right was to be interpreted. Washington state authorities, for years, held a very restrictive view of Indian treaty rights to fish off the reservations at their usual and accustomed places. Following a series of indecisive court rulings and violent confrontations, the United States finally filed suit in 1970 and NARF's Founding Director, David Getches, intervened on behalf of several treaty tribes in December of that year, six months after the NARF pilot project began.

In a sweeping decision in 1974, Judge George Boldt of the U.S. District Court for the Western District of Washington ruled that the Indians were entitled to 50% of the harvestable fish and that the regulation of off-reservation treaty fishing was a matter of tribal, not state, jurisdiction. NARF, throughout the four year proceedings, advocated on behalf of its Indian clients a stronger position than that of the United States, as fiduciary, and the Court agreed with NARF's position. The U.S. v. Washington litigation is a good example of why it is important for Indian tribes to be represented independently by NARF or other private counsel even when the federal trustee goes to court on their behalf.

When the Court of Appeals unanimously affirmed Judge Boldt's decision, the concurring opinion by one of three judges on the Court chided the State of Washington and its sport and commercial fishing allies for their "recalcitrance" in refusing to recognize the Indian fishing rights for so many years.

As a result of U.S. v. Washington, Indian fish catches have increased from about 5% to more than 13% and they are still

on the increase. Even though the courts have said the tribes are entitled to an opportunity to take up to 50% of the harvestable fish at their usual and accustomed fishing places, the Indians find that they are limited by their reduced population and the adequacy of their costly fishing gear. Nevertheless, many Indians whose fishing efforts in the past have been frustrated by state action are now becoming successful fishermen and leaving the welfare and unemployment rolls.

In addition, Western Washington tribes have now established their own fishing enterprises, and others charge a tax to members exercising the treaty right based on the number or poundage of fish caught. With their fishing rights recognized by the courts, the tribes are now having some success in getting grants and loans to purchase fishing boats and other equipment necessary to finance fishing businesses. Four tribes have begun salmon rearing projects and those projects have contributed considerably to restoring and enhancing the fisheries in a number of Washington's waterways.

NARF's work in assisting the tribes in the implementation of U.S. v. Washington will go on for years. The second phase to the U.S. v. Washington litigation is now in the planning stages. Phase II will deal with environmental issues, and it will challenge actions taken and permitted by the state which have interfered with fishery habitats and fishing opportunities (such activities would include streambed alteration, gravel taking, logging operations, water pollution, agricultural diversions, etc.). In short, although the first half of one of NARF's first cases is over and has been won, the real war has just begun.

The Beginning of the Tradition of Giving "Nice Christmas Presents"

On December 23, 1975, the United States Court of Appeals for the First Circuit unanimously affirmed the U.S. District Court's decision in Joint Tribal Council of the Passamaquoddy Tribe v. Rogers C. B. Morton, Secretary of the Interior. The decision was, as NARF staff attorney Tom Tureen put it, "a nice Christmas present", a present which firmly established a fiduciary relationship between the federal government and the Passamaquoddy Tribe of Maine, and one which set the stage for the return of millions of acres of land to the Passamaquoddies and other "non-recognized" Eastern Tribes.

The Passamaquoddy case first began on June 2, 1972, when NARF and Pine Tree Indian Legal Assistance of Calais, Maine, filed suit in United States District Court in Maine on behalf of the Passamaquoddy Tribe against the Departments of Interior and Justice. The suit asked that the court require that the federal government bring a \$150,000,000 damage action on behalf of the Passamaquoddies against the State of Maine

because only two weeks remained before the statute was to run and their claim would be barred forever.

On June 16, 1972, Judge Gignoux of the Federal District Court for the District of Maine ordered the federal government to decide just what it was going to do by June 22. On June 16, the same day, the government responded that it would take no action because the Passamaquoddy Tribe had no ratified treaties with the United States. The day after that, Judge Gignoux ordered the government to file the action demanded by the Tribe. This was the first time that NARF knows that the federal government had ever been ordered to go to court on behalf of an Indian tribe.

The Passamaquoddy case challenged the primary obstacle to Eastern Indian claims -- that is, the argument that the Nonintercourse Act of 1790, a law which prohibited the taking of Indian lands without federal approval, applies only to those Indians which have been officially "recognized" by the federal government. Tom Tureen, Robert Pelcyger and Pine Tree Legal Assistance attorneys successfully defeated the federal government's attempt to have the suit dismissed on sovereign immunity grounds, and they obtained a stipulated set of facts which obviated the need for a protracted trial, and briefed and argued the recognition issue in June, 1974.

Seven months later, in January, 1975, Judge Gignoux issued his opinion which found that the 1790 Nonintercourse Act does apply to "non-recognized" Eastern tribes and that the Act established a fiduciary relationship between the federal government and the Tribe. Gignoux's opinion also strongly suggested that the federal government could be forced to litigate claims on behalf of the Tribe.

Both the State of Maine and the federal government appealed Gignoux's decision. Nonetheless, on December 23, 1975, the United States Court of Appeals for the First Circuit unanimously affirmed Gignoux's decision and permanently set the stage for everything to come in the area of Eastern Indian land claims.

As a result of the Passamaquoddy decision the federal government can be sued for breach of its fiduciary obligation if it fails to file suit on behalf of the Tribe against the State of Maine and others who illegally took over 2,000,000 acres of land from the Passamaquoddies without federal consent. In addition to the claim for actual return of the land there is the issue of trespass damages for the past 180 years.

The significance of these claims to the Indian world and to the dominant society cannot be overestimated. Not only did the Passamaquoddy decision set the stage for proceed-

ing with the Passamaquoddy claim, but it is the key to claims for an additional 8,400,000 acres by the Penobscot, Wampanoag, Gay Head Wampanoag, Narragansett, Schaghticoke, Western Pequot, Oneida, Shinnecock and Catawba Tribes.

Once these Eastern tribes have obtained restricted land they will be eligible for federal services and may exercise their sovereign rights over their lands. The Passamaquoddy decision has truly pushed back the frontier and made it possible for thousands of Eastern Native Americans to begin anew.

The Tradition of Changing Ancient European Institutions

On September 4, 1975 the Court of Appeals for the Eighth Circuit unanimously affirmed the District Court's 1974 decision in Teterud v. Gillman, a case which established for the first time the unique constitutional rights of Native American prisoners. The State of Iowa did not appeal the decision of the Supreme Court and so because NARF's victory in Teterud stands, a major step has been taken towards changing both conditions and treatment programs for Native American prisoners -- conditions and programs which to date have been as alien to Indian traditions as the ancient institutions themselves.

Institutionalization of "problem people" was unknown among Indian tribes before the white men colonized this country. When they came they brought with them these ancient European ways including the concept of prisons.

NARF attorneys Walter (Bunky) Echo-Hawk and Roy S. Haber filed the Teterud suit on behalf of Indian inmates incarcerated in the Iowa State Penitentiary in 1973. The issue in the case was whether or not Jerry Teterud and other Indian inmates had the right to wear traditional braids.

NARF argued for several constitutional guarantees on their behalf. First, Indians must be protected under the First Amendment proscription against laws violating religious freedom. Secondly, Indian inmates should be protected under First Amendment rights to freedom of expression of one's cultural heritage. Third, the Fourteenth Amendment guarantee that persons will not be discriminated against because of their race; and finally, under the combined protections of both the First and the Fourteenth Amendments, the Indian way of life deserves special protection from forced assimilation in prisons.

In presenting these issues to the court, NARF offered the testimony of Wallace Black Elk, a Sioux medicine man, who testified as to the significance of hair to Indians, not only as a direct manifestation of a religious practice, but

as a part of their traditional way of life. Anthropologists also offered evidence that it was offensive to Indian traditional ways to cut off the hair, except as an expression of mourning.

A psychologist testified that one of the plaintiffs in the case had admitted to being ashamed of being an American Indian, and that because of this, it was his expert opinion that instilling racial and cultural pride in the inmate would have to include the inmate's physical identity. Thus, according to the psychologist, for Jerry Teterud to identify with the ways of his race, he would have to look like an Indian.

Shortly after the 1974 trial in Teterud, the federal government agreed to file an amicus brief supporting NARF's position in the case. This was vitally important because the Bureau of Prisons was not then permitting Indians to wear long hair in federal penal institutions, and this meant that there was then a conflict in policy within the Justice Department on hair for Indian felons. As a result of the Teterud victory and other pressures from NARF, the Bureau of Prisons then reversed itself on the issue of long hair for Indian inmates in all federal prisons.

As a result of NARF's work during the past three years, a special body of law now exists which protects the cultural rights of Indian prisoners. This new body of law is an essential ingredient in giving Native American prisoners access to Indian experiences -- experiences which the dominant society has stolen or distorted -- experiences without which Indian people are lost. Further, the benefits of NARF's legal efforts in the area of prison law accrue to all Indian people, not just to Indian prisoners.

The Tradition of Insuring Equal Educational Opportunities

During 1975, Loretta Tapaha spent four hours every day riding a school bus. This is the price she had to pay for living at home with her parents on the Navajo Reservation in Southern Utah. She was not alone -- around 6:00 a.m. many of her classmates also waited to board the school bus at the Oljato Trading Post for the tedious 80-mile ride to Blanding, Utah, to attend public high school. Fortunately, as a result of NARF's work in 1975, Loretta and her classmates will not have to make that ride anymore.

Because they chose to live at home with their Navajo families, Loretta and her classmates had to ride a school bus 28,000 miles every school year, and spent time equivalent to 90 full school days each year inside a bus. Most of the

year they left their homes for school before light and returned home after dark. As a result, one out of seven dropped out of school. Another three out of seven had marginal attendance records because they made the long ride only once or twice a week, particularly during the long winter when the roads were treacherous.

Loretta and her friends live in what is called the "Southern" portion of San Juan County School District. They come from the communities of Oljato, Monument Valley, Mexican Hat, Aneth, Montezuma Creek, Bluff, Red Mesa, and Navajo Mountain, where population is primarily Navajo. The "Northern" portion, where Blanding is located, has a primarily non-Indian population. Few of the non-Indian children who attend school in Blanding are on a school bus more than 20 minutes a day.

Because the San Juan School District refused to build schools for all grades in the Southern portion of the county, a large number of Indian children who could not endure the bus ride had to reside in Bureau of Indian Affairs boarding schools, foster homes, and boarding dormitories in order to attend school. The practical result was that the school district had become instrumental in breaking up or weakening Indian home life. Those Navajo children who did live at home and attended the few elementary schools in the "South" were taught by teachers whose educational training was much lower than those taught in the "Northern" schools.

In addition, a substantial majority of the Native American students in the district came from homes in which the predominantly spoken language was Navajo, and as a result, they spoke little or no English when they began to attend school. However, the school district did not provide or use a bilingual and bicultural education program of any kind.

In the spring of 1974, this pervasive discrimination against their children by the San Juan County School District led Navajo parents to DNA, the Navajo Legal Services Program, which in turn came to NARF. At that time NARF had just finished litigating similar issues in the Gallup-McKinley School District in New Mexico (Natonabah v. Board of Education). Natonabah was a terribly expensive and time-consuming suit, and NARF hoped to avoid similar litigation in San Juan County since the New Mexico court's ruling clearly pointed out the unlawful inequities applicable to both districts.

NARF attorneys met informally for several months in the fall of 1974 with San Juan school officials and reviewed the problems they saw in light of the Natonabah ruling. Several settlement plans were prepared which focused on the need to build a high school in the Southern portion of the dis-

trict, as well as to implement a bilingual educational program. All of these plans were rejected by District officials and, as a result, NARF was forced to file suit in November, 1974. The case was entitled Jimmy Sinajini v. Board of Education.

Due to the conditions confronting the children, NARF attorneys began working for an early trial date. As a first step, in the spring of 1975, NARF attorneys A. John Wabaunsee and Charles F. Wilkinson set out on a two-week trip through San Juan County, deposing Navajo parents, children, medicine men, and teachers at the Southern schools. Finally, they began the depositions of the San Juan County School Board members and the Superintendent of Schools. Within a few hours after the depositions were over, the District announced that settlement was once again a possibility. After several months of negotiations, a final consent decree was signed by the Federal District Court in Salt Lake City on August 15, 1975.

In November, 1975, the school district held a bond election to obtain the necessary financing for two new high schools in the Southern portion of the county. Due to a heavy Navajo voter turnout, the bond passed and construction of one of the new high schools is now under way. Final plans have been drawn for the second high school. In addition, under the consent decree, the school district has halted illegal expenditures and is working on a bilingual/bicultural program aimed at assisting all Navajo children.

The Sinajini decree will improve the educational opportunities for Loretta, her classmates, and for Navajo children for many generations to come.

The Tradition of Learning to Lose

It is never easy to lose, but it is particularly hard for NARF lawyers and their clients because the stakes are so high. The case, Chemehuevi Tribe of Indians v. The Federal Power Commission, was filed in January, 1972, on behalf of the Chemehuevi and Cocopah Tribes, the Committee to Save Black Mesa, the Sierra Club and several individual Navajos. What they wanted was for the FPC to take licensing jurisdiction over six Southwest power plants in the Four Corners area, so as to insure that the plants would be environmentally sound and their location or siting consistent with the purposes of the reservations in the area.

As NARF expected, the FPC denied it had jurisdiction and dismissed the complaint, and a petition for rehearing before the Federal Power Commission was routinely filed and denied in December, 1972. NARF immediately filed a petition for review in the United States Court of Appeals for the District of Columbia, and in 1974 the Court of Appeals reversed and ruled in favor of NARF's clients.

Unfortunately, the FPC petitioned the U.S. Supreme Court for review of NARF's victory in the Court of Appeals and the Court agreed to hear the case. Therefore, in January, 1975, NARF staff attorney, Joe Brecher, went to Washington to argue the case. The argument went fairly well, and NARF people began to wait. Nonetheless, on March 3, 1975, the Court reversed the Court of Appeals' decision and the case was lost forever. It was a sad day at NARF and in the Southwest.

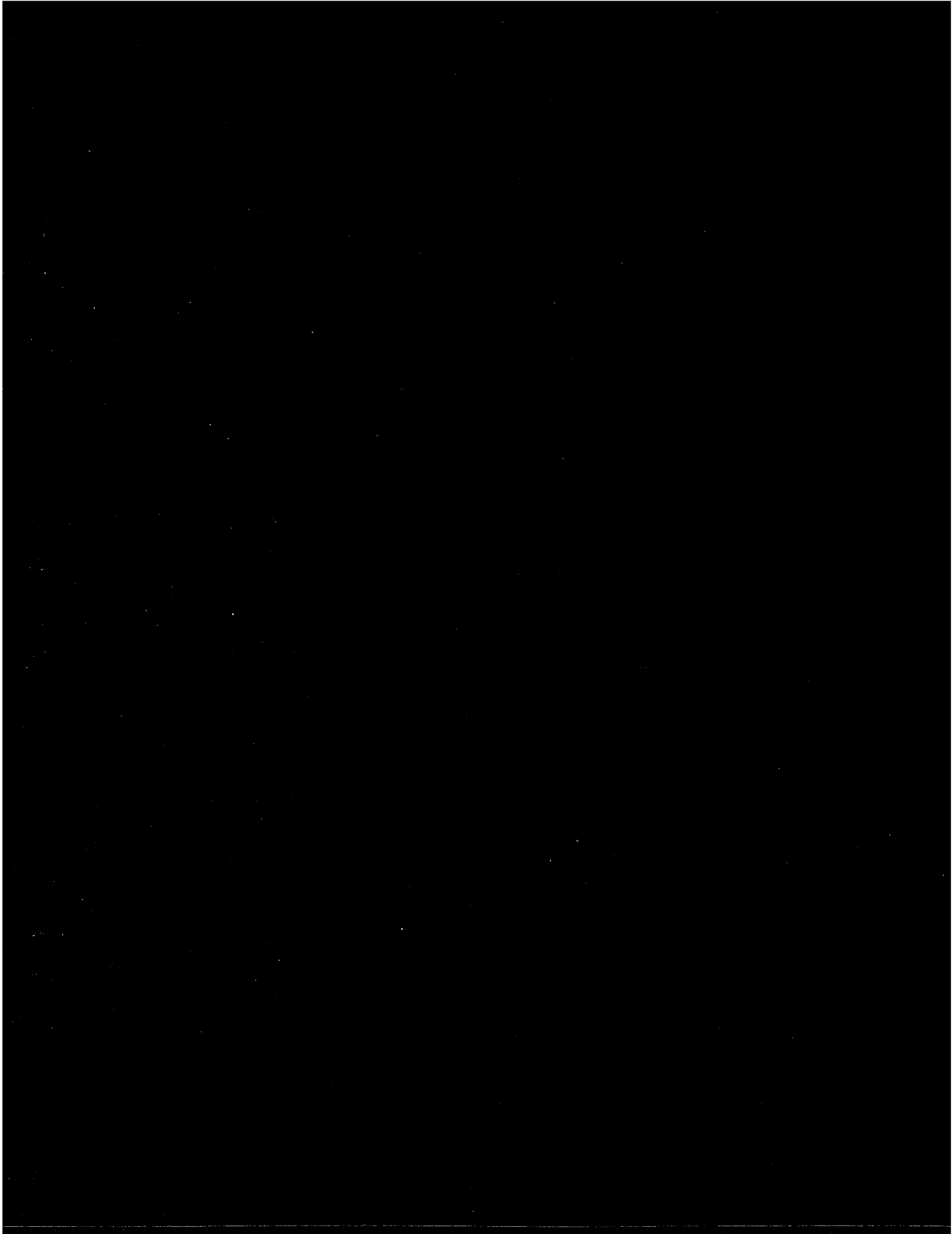
The Tradition of Diversity in Winning

Despite the loss of the Chemehuevi case, NARF's track record in effectively representing its clients is excellent. It is still "winning" about 85% of its cases and other legal efforts. A sampling shows the diversity in the concept of "winning".

In the East NARF persuaded the State of Alabama to agree to transfer a parcel of land to the Alabama Creek Nation, the first critical step which would thereby make the Nation eligible for federal Indian services and give it the ability to exercise tribal sovereignty over the property. In the Nation's Capital, NARF attorneys succeeded in getting a bill for the restoration of the Siletz Tribe of Oregon introduced into Congress. Also, in Oregon, NARF began to successfully implement the 1974 victory in Kimball v. Callahan, which affirmed the hunting and fishing rights of the terminated Klamath Indians.

A major NARF effort aimed at the accountability of the federal trustee was successful in January, 1975, when the U.S. District Court for the District of Columbia ordered the creation of the Thirteenth Regional Corporation for non-resident Alaskan Natives, pursuant to the Alaskan Natives Claims Settlement Act. The Secretary had certified that a majority of the non-residents had voted against the creation of the Corporation to handle the \$7 million the non-resident Natives were awarded by the Act. NARF's suit challenged the conduct of the election and the court reversed the Secretary's decision.

These cases are representative of the 42 cases or matters NARF considers to be on its "winning" docket for 1975. There are stories behind each of them, but they cannot all be told here. In the section on "The Priorities", a summary description is included of the developments in each of those cases on which NARF spent 25 or more man-hours. They provide a glimpse into what 1975 was like and what NARF's future work will be about. There is obviously a long way to go, but there is no doubt that with continued support from its friends, the best and most useful traditions of the Native American Rights Fund will survive and will continue to benefit Indian people.



THE PRIORITIES

The Tradition of Trying to Hit the Bull's Eye

The time and energy-consuming problems of putting together a well-equipped and highly trained group of legal marksmen is relatively simple compared to the exacting task of deciding just which of the innumerable Indian legal problems those marksmen should attack first. NARF's Steering Committee members are selected not only because of their first-hand knowledge of the devastation that colonization brought upon the Indian community, but also because they each have made their own ingenious attempts to solve some of these problems.

For the Steering Committee and NARF's staff, it has been difficult to sort the results of colonization into problem categories and to order them into priorities. It has been almost impossible to then try to parcel out the human and legal resources of only 15 individual lawyers and to see how many unnecessary and tragic debts are still outstanding. Nevertheless, from the results to date, it appears that Indian people (with their unmatched passion and reverence for life) plus a few non-Indian lawyers (with the driving, argumentative personalities common to successful law school graduates) have been able to keep themselves together as they begin what is obviously a long "trail of trials" that must be marked out between Native American people and the dominant culture.

In the last four years of NARF's existence, the Steering Committee, the staff and the clients have successfully covered a remarkable number of miles for such a short period of time.

The objectives and priorities which were set by the Steering Committee in 1972 appear deceptively simple, not only because Indian legal problems are rarely definable within the context of only one priority, but because a particular legal approach for the preservation of tribal existence may adequately meet the needs of one tribe, but be disastrous for another. Nonetheless, the priorities established by the Steering Committee have worked. They may be modified to some degree in the future, but the priorities thus far have been excellent signposts in leading NARF attorneys through some very treacherous legal territory. Most importantly, the courts have shown that the right roads have been chosen and NARF's most important victories have now been reaffirmed.

NARF Priorities

Tribal Existence

Enabling tribes to continue to practice their religion and Indian ways, protecting their original treaty rights, as well as insuring their independence on reservations.

Tribal Resources

These efforts concentrate on protecting Indian lands, water, minerals, and other natural resources from abuse.

Human Rights

NARF is concerned with securing for Indians their rights to an education which complements their culture, to adequate health care, and to equitable treatment for Indian prisoners.

Accountability

Indians are controlled by more laws than other Americans. NARF works to make certain that governments -- federal, state, local and tribal -- are accountable for proper enforcement.

Indian Law Development

NARF is joining efforts with others working in Indian law to insure an orderly development of this complex body of law and is working to increase other Indian legal resources.

Sandstone Cliff painting, Ralls County, Missouri



TRIBAL EXISTENCE

We Preferred Our Own Way of Living
Crazy Horse, Sioux, 1877

TRIBAL EXISTENCE

Summary of Major Cases and Activities

Alabama Creek Recognition

The Creek Nation East of the Mississippi is not recognized as an Indian Tribe by the federal government primarily because it presently has no federal trust or restricted land. NARF, in conjunction with Pine Tree Legal Assistance of Maine, has negotiated on behalf of the Alabama Creek Nation and arranged for the transfer to the Department of the Interior of land formerly used for an Indian school. The land has been transferred from the County School Board to the State, and Alabama Governor Wallace has formally offered the land to the Secretary of the Interior. A lengthy petition, demonstrating that the Alabama Creek Nation held federal trust land in its present community until that land was illegally patented by the federal land office in 1921, has been filed with the Department of the Interior, and is presently under review. Initial indications are that if the Department can confirm the accuracy of the statements made in the petition, it will accept the trust land offered by Governor Wallace and restore the Creek Nation to recognized status. Federal recognition will make the Nation eligible for federal Indian services.

Blackfeet Tribe Treaty Rights in Glacier National Park and Lewis and Clark National Forest

This is an administrative proceeding undertaken by NARF on behalf of the Blackfeet Tribe asserting that the Tribe retained treaty rights to hunt, fish and gather timber in Glacier National Park at the time it ceded these lands to the United States. Should the Interior Department refuse to recognize these treaty rights, the Tribe may have to initiate litigation. At the same time, the Tribe has obtained from the Senate of the United States an acknowledgement of the very same treaty rights in the Lewis and Clark National Forest. In a bill passed by the Senate in December, 1975, and now awaiting House approval, Congress has instructed the Secretary of the Interior and the Secretary of Agriculture to undertake a plan to exchange the Blackfeet rights in the Lewis and Clark National Forest for additional reservation lands.

Brooks v. Nez Perce County, United States
Court of Appeals, Ninth Circuit

NARF attorneys are assisting Idaho Legal Services attorneys in their efforts to challenge the authority of the State of Idaho to tax certain Indian land located in that state on behalf of same individual Nez Perce allottees. The United States District Court in Idaho ruled that it had no jurisdiction to determine whether this land was in fact beyond the jurisdiction of the State of Idaho. That decision, which NARF attorneys believe was plainly in error, has been appealed to the Court of Appeals for the Ninth Circuit. NARF attorneys assisted Idaho Legal Services attorneys in the preparation of the appellate briefs. The case will be argued in 1976.

Bryan v. Itasca County, Omaha Tribe v. Peters,
United States Supreme Court

The United States Supreme Court has agreed to decide Bryan v. Itasca County, and has reserved any decision on Omaha Tribe v. Peters pending the outcome in the Bryan case. Bryan involves the issue of whether Public Law 280 authorized the State of Minnesota to impose personal property taxation on the Leech Lake Indian Reservation while Omaha Tribe raises the question of whether Public Law 280 authorizes the State of Nebraska to impose income taxes on the Omaha, Winnebago and Santee Sioux Reservations. It is hoped that the Supreme Court will resolve many of the complex questions raised by the grant of civil jurisdiction over some Indian reservations granted to some states in Public Law 280, which was enacted in 1953. The United States has filed an amicus curiae brief in support of the Indian position in both cases. In Bryan v. Itasca County, NARF has been acting as co-counsel with Leech Lake Indian Legal Services on behalf of an individual member of the Leech Lake Band, as a part of its Indian Law Backup Center activities. In the Omaha litigation NARF is representing the Omaha, Winnebago and Santee Sioux Tribes.

Confederated Tribes of Siletz Restoration

The trust relationship between the Confederated Tribes of Siletz of Oregon and the Secretary of Interior was terminated in 1954 pursuant to an act of Congress. That termination, which was an ill-conceived and poorly administered policy, is witnessed by the tremendous social and psychological disorientation which has befallen the Siletz Tribes since termination. The Tribes, represented by NARF, have drafted restoration legislation which was introduced in both houses of Congress by the Oregon congressional delegation. If enacted, the Siletz

Restoration Bill would restore the trust relationship between the Confederated Tribes of Siletz and the United States.

Confederated Tribes of the Umatilla Indian
Reservation - Retrocession of Jurisdiction

The State of Oregon was given limited jurisdiction by the federal government over the Umatilla Tribes through Public Law 280 in 1953. Pursuant to a 1968 amendment to Public Law 280, that jurisdiction may be regained by the Tribes with the consent of all parties. NARF has been advising the Umatilla Tribes in their efforts to regain their tribal jurisdiction from the state.

Confederated Tribes of the Umatilla Indian
Reservation v. Callaway, United States District
Court, District of Oregon (filed December 1974)

The Umatilla Tribes oppose the construction of a dam by the Army Corps of Engineers across Catherine Creek near the Umatilla Reservation because it will impair the exercise of the Tribes' treaty rights to fish, hunt and gather in that area. After unsuccessful negotiations with the Corps to protect these treaty rights, a suit was filed to enjoin construction of the project on the grounds that the Corps lacks express Congressional authority to abrogate these treaty rights. Several motions are before the court at this time. NARF is assisted in the case by Hogan & Hartson of Washington, D.C. on a pro bono basis.

County of Thurston v. Morton, United States
District Court, District of Nebraska

Indian trust allotments on the Omaha and Winnebago Reservations are subject to local property taxes by federal law, although the lands cannot be taken for nonpayment of taxes. The Secretary of the Interior is "authorized" to pay the tax out of an Indian allottee's rent money held by the Bureau of Indian Affairs. The County has filed suit to compel the Secretary to pay over \$200,000 in individual Indian monies for back taxes. NARF has intervened in the case on behalf of the Omaha and Winnebago Tribes and, emphasizing the trust responsibility, asserts that it is not mandatory for the Secretary to make the payments. A final decision by the court is expected in 1976.

Death Valley Shoshone Indians

NARF attorneys, in conjunction with attorneys for California Indian Legal Services, represent this small band of Western Shoshone Indians who have lived in what is now the Death Valley National Monument, from time immemorial. The Band's living conditions are abysmal and its members receive no federal services whatsoever. NARF attorneys are assisting them in obtaining government services, housing and related job opportunities, together with a permanent land base within the borders of the national monument.

Erickson v. Feather, United States Supreme Court

Many Indian reservations were allotted in the late nineteenth century among the tribal members with any surplus lands being opened for non-Indian settlement. This case presented the question of whether South Dakota has criminal jurisdiction over Indians on non-Indian owned land located within the original boundaries of the Sisseton-Wahpeton Sioux Reservation. NARF filed an amicus curiae brief on behalf of the Sisseton-Wahpeton Tribe setting forth its position against state jurisdiction and in favor of tribal/federal jurisdiction within the reservation boundaries. The Supreme Court, however, held that the reservation had been diminished by non-Indian settlement and state jurisdiction over Indians on non-Indian lands was proper.

Fisher v. Montana, United States Supreme Court

This case arose out of custody and adoption proceedings in which all parties were members of the Northern Cheyenne Tribe and residents of the Northern Cheyenne Indian Reservation. One party, in disregard of orders entered by the Northern Cheyenne Tribal Court, initiated adoption proceedings in Montana state court. The Montana Supreme Court upheld state jurisdiction over the proceeding and the case was presented to the United States Supreme Court for review. NARF filed an amicus curiae brief on behalf of the Tribe contesting state jurisdiction over this reservation matter. A decision is expected early in 1976.

Fort Buford Development Corporation Federal
Services

Some 1,600 members of the Turtle Mountain Chippewa Band in North Dakota received allotments years ago on public domain land several miles west of the Reservation because of a shortage of reservation land. Although they were guaranteed all rights and privileges as tribal members, they have been receiving only limited services from the Bureau of Indian Affairs. NARF assisted the allottees, organized as the Fort Buford Development Corporation, in having the geographic location of these allotments declared a service area eligible for BIA services. NARF also assisted the Corporation in securing funds in the Bureau of Indian Affairs' budgetary process for additional services and is currently in the process of assisting the Corporation in securing funds from other governmental agencies.

Godfroy v. Board of County Commissioners,
United States District Court, Northern
District of Indiana (filed May 1974)

This case seeks to establish the immunity from state taxation of an allotment established by an 1838 treaty and held by a Miami Indian, Swimming Turtle Godfroy. As an Indian allotment, the land is protected from state taxation by the Northwest Ordinance of 1787, despite the fact that the bulk of the Miami Tribe was removed westward in 1840. The Godfroy case, which raises important questions concerning continued federal protection of Eastern Indian land, was brought by NARF in conjunction with Pine Tree Legal Assistance of Maine. Progress has been hindered by the death of the presiding judge.

Kimball v. Callahan, United States District
Court, District of Oregon (filed February 1973)

This hunting and fishing treaty rights case was initially filed by NARF in 1963 on behalf of several Klamath Indians. In 1974 the United States Court of Appeals for the Ninth Circuit ruled in favor of the Klamath Indians and found that their treaty rights to hunt, fish and trap survived the Klamath Termination Act of 1954. The United States Supreme Court denied review of the lower court's decision in late 1974. During 1975, the case was on remand to the United States District Court for the District of Oregon to determine who are the beneficiaries of the decision; whether the beneficiaries are only the members of the Klamath Tribe who were on final roll in 1954, or whether the beneficiaries also include descendants of those persons on the final roll. In addition, the question of what conservation authority, if any, the State of Oregon has over these treaty

rights is now being litigated. A trial on these issues is scheduled for 1976.

Maynor v. Morton, United States Court
of Appeals, District of Columbia (filed
February 1973)

In this action NARF established the eligibility of a group of North Carolina Indians for federal recognition and services under the Indian Reorganization Act of 1934. In 1939, a group of 22 North Carolina Indians were recognized as persons of half or more Indian blood and thereby became eligible for limited individual benefits - specifically to have the Secretary of the Interior accept land in trust for their benefit and to organize as a tribe or community. When this same group of Indians was told by the Bureau of Indian Affairs that its IRA rights had been terminated by a 1956 Act of Congress which recognized the cultural identity of the "Lumbee Indians," NARF and Pine Tree Legal Assistance then brought suit challenging the Bureau's decision. The federal district court ruled against the Indians, but was reversed by the Court of Appeals for the District of Columbia in March, 1975. The Secretary of Interior did not appeal the U.S. Court of Appeals decision. Since March, 1975, NARF has been engaged in negotiations with the Bureau for the provision of services to the recognized individuals, for the acceptance in trust of a parcel of land and the completion of the organization of the group.

Menominee Tribe Restoration

Terminated from federal supervision and recognition in 1954, the Menominee Tribe of Wisconsin suffered from economic difficulties and the loss of tribal lands. In 1973, with assistance from NARF, they secured historic federal legislation repealing termination, restoring the Tribe's status as a federally recognized Indian tribe and returning tribal lands to trust status. NARF has continued its assistance to the Menominee Tribe by negotiating a complex plan with the Department of the Interior, the State of Wisconsin and congressional representatives to implement the Menominee Restoration Act. NARF also assisted in the preparation of the new tribal enrollment procedures, and is currently assisting the Tribe with the drafting of a tribal constitution and bylaws.

Nacotee v. Montour, United States
Court of Appeals, Seventh Circuit

NARF filed an amicus curiae brief on behalf of the Menominee Tribe in this federal habeas corpus proceeding which challenged Wisconsin criminal jurisdiction over the Menominee Reservation. NARF asserted that the Menominee Restoration Act of 1973 superseded P.L. 280's grant of state jurisdiction in 1953 and that the 1973 Act authorized the transfer of jurisdiction back to the Tribe and the federal government by the State. Negotiations with the State of Wisconsin resulted in the State changing its position in Nacotee and supporting the Tribe's position that P.L. 280 was not applicable. The adverse lower court decision in Nacotee was vacated by the Seventh Circuit at the State's request, and thereafter the Department of the Interior and the State Attorney General issued complementary opinions calling for the transfer of jurisdiction from the State pursuant to the Menominee Restoration Act by February 1, 1976. The Department of Justice, however, refused to concur in the two opinions and further negotiations are underway. NARF has been assisted in negotiations by the Menominee Tribe's local attorneys.

Passamaquoddy Tribe v. Morton, United States
Court of Appeals, First Circuit (filed June 1972)

The Passamaquoddy and Penobscot Tribes in Maine had their entire aboriginal territory intact as of 1790, when the federal Indian Nonintercourse Act was passed. The Nonintercourse Act renders void any Indian land transactions concluded after 1790 without federal consent. These Tribes then had the vast bulk of their land taken without federal consent subsequent to 1790. As a result, these two tribes have a claim which is unique in the history of American Indian law: a claim for return of approximately half of the State of Maine, plus damages in the form of rents for 180 years of wrongful occupation. However, when the Passamaquoddy Tribe petitioned the United States to initiate a Nonintercourse Act suit on its behalf against the State of Maine, the government refused on the ground that no trust relationship existed with the Tribe and that the Nonintercourse Act was not applicable to the Tribe. Since a statute of limitations threatened the claim, NARF, with assistance from Pine Tree Legal Assistance in Maine, and Hogan & Harson, in Washington, D.C., filed suit on behalf of the Tribe against the federal government and obtained a court order requiring the government to file a protective suit seeking \$150,000,000 in trespass damages from the State of Maine. A similar \$150,000,000 damage action was then voluntarily filed by the federal Government on behalf of the Penobscot Nation. Early in 1975, the Federal District Court for the State of Maine issued a declaratory judgment holding that the Nonintercourse

Act is applicable to the Tribe and that it creates a trust relationship between the Tribe and the United States. Both the federal government and the State of Maine, which had intervened in the action, appealed the decision, but the lower courts' decision was unanimously upheld by the Court of Appeals in December 1975. The State of Maine and federal government are presently deciding whether to petition the Supreme Court for review.

People v. LeBlanc, Supreme Court of Michigan

This criminal case is a companion case to the treaty fishing rights litigation in Michigan known as United States v. Michigan. Here, NARF attorneys represent a Chippewa Indian who was arrested for fishing contrary to Michigan law which proscribes the use of gill nets and requires fishing licenses, in waters which the treaty protects from state regulation. The Indian was convicted in the lower court in his first appellate effort, but on appeal to a higher court in Michigan his conviction was reversed. The case is now pending in the Michigan Supreme Court. If successful, the companion civil litigation in federal court should be significantly shortened.

Rosebud Sioux v. Kneip, United States
Supreme Court

In this litigation, the Rosebud Sioux Tribe maintains that a certain area of land adjacent to its reservation is in fact within the exterior boundaries of the reservation, is therefore Indian country, and is subject to the jurisdiction and control of the Rosebud Sioux Tribe. This important "diminishment" case was lost in the Court of Appeals for the Eighth Circuit and the Tribe has asked the Supreme Court of the United States to hear the case. NARF attorneys have prepared an amicus curiae brief on behalf of Covello Indian Community of California in support of the Tribe's position. If the Supreme Court decides to hear the case, NARF will file another amicus curiae brief with the Supreme Court of the United States.

Sac & Fox v. Licklider, United States District
Court, Northern District of Iowa (filed July 1974)

This is an action to determine the extent of the Sac and Fox Tribe's treaty hunting and fishing rights within the boundaries of its reservation and the extent of state jurisdiction over those rights. Litigation was stayed for most of 1975 pending a decision by the United States on whether to join in the action on the side of the Tribe. Finally, in late 1975, the United

States was convinced to file an action on its own behalf against the State of Iowa seeking to protect the Tribe's hunting and fishing rights. The two cases will now be consolidated and trial set for some time in 1976.

Smith-John v. Lee, United States District Court, District of Mississippi, (filed November 1975)

Two members of the Mississippi Band of Choctaw Indians were indicted in state court for assault with intent to do great bodily harm, although the alleged offense took place on the Reservation. Shortly thereafter, they were indicted in federal court for the same offense. With NARF assistance, a civil action was filed in federal court seeking to enjoin the state prosecution on the grounds that the state court lacked criminal jurisdiction over Indians on the Reservation. The federal court preliminarily denied a motion for a temporary restraining order and in doing so held that Indian country existed within Mississippi, the offense was committed in Indian country, but that Mississippi has concurrent jurisdiction with the United States for the offense. A final decision on this issue will be forthcoming. NARF has been assisting the Choctaw tribal attorney on this matter.

State of Idaho v. Coffee, Idaho Supreme Court

A member of the Kootenai Tribe of Idaho, a non-treaty tribe, was arrested and prosecuted by the State of Idaho for hunting deer out of season in violation of state law. The alleged offense took place on lands which were within the aboriginal domain of the Kootenai Tribe. NARF has participated as defense co-counsel, asserting that the aboriginal hunting rights of the Kootenai Tribe exist because no treaty or federal law has extinguished them. The defense was rejected by the lower courts and the defendant was convicted. The case is on appeal to the Idaho Supreme Court.

State of Mississippi v. Tubby, Supreme Court of Mississippi

A Mississippi Choctaw Indian allegedly committed arson on a restricted Indian allotment in the town of Philadelphia, Mississippi. He was convicted in state court over the objections that (1) the grand jury was improperly convened, (2) the county systematically excluded Indians from the grand and petit juries, and (3) the state court was without jurisdiction over Indians on Indian land. On appeal to the Mississippi Supreme Court,

his conviction was reversed on the narrow grounds that the grand jury was improperly convened. However, the court also held that the State of Mississippi had jurisdiction over the matter. NARF and the local tribal attorney have petitioned the Supreme Court of Mississippi for a rehearing on the jurisdictional issue.

Stillaguamish v. Kleppe, United States District Court, District of Columbia (filed October 1975)

The Stillaguamish Tribe of Indians, a western Washington tribe, has been seeking to have the Department of Interior acknowledge that it is a federally recognized tribe based upon its distinct cultural heritage and powers of self-government, its treaty relations with the federal government, and its continuing contacts with the Bureau of Indian Affairs. NARF submitted a petition to the Secretary of the Interior on behalf of the Stillaguamish Tribe seeking official acknowledgment that the Tribe is a recognized tribe. Due to the inaction on the petition, the lawsuit was filed in late 1975 by NARF on behalf of the Stillaguamish Tribe in which the Tribe again asks for official acknowledgment of the Tribe's federal recognition. No action has been taken by the Court yet.

United States v. Akin, United States Supreme Court

This case was originally filed by the United States in federal district court in Colorado to determine the water rights of the United States on its own behalf and on behalf of the Southern Ute and Ute Mountain Indian Tribes to the rivers and streams in southwestern Colorado. The court held that the case should be heard in the Colorado state courts, even though Indian trust property rights are involved which have traditionally been adjudicated in the federal courts. On appeal by the United States, NARF filed an amicus curiae brief on behalf of the two Ute Tribes and the National Tribal Chairmen's Association. The Court of Appeals reversed, but did not reach the Indian issues. It held that it was improper for the federal district court to abstain from hearing the case. When the Supreme Court agreed to review the case on petition of the non-Indian water users, NARF filed another amicus curiae brief during 1975 on the Indian jurisdiction issue on behalf of the two Ute tribes as well as twelve other Tribes and the National Tribal Chairmen's Association. A decision is expected during the 1976 term of the Supreme Court.

United States v. Mazurie, United States
Supreme Court

In March, 1975, the United States Supreme Court reversed the holding of the Court of Appeals for the Tenth Circuit in this case concerning the sale of alcoholic beverages on the Wind River Reservation in Wyoming. The Court of Appeals had held that an act of Congress delegating power to Indian Tribes to control the sale of alcohol within Indian reservations was invalid as applied to a non-Indian owned bar on non-Indian land within the Wind River Reservation in Wyoming because the Tribe was a "voluntary association" rather than a sovereign entity. The Supreme Court's decision resoundingly reaffirmed tribal sovereignty. NARF had filed an amicus curiae brief on behalf of the National Tribal Chairman's Association urging the Supreme Court to hear the case and reverse the decision of the Tenth Circuit Court of Appeals, emphasizing the importance of tribal powers.

United States v. Michigan, United States
District Court, Western District of Michigan
(filed April 1973)

This suit, originally brought by the United States on behalf of the Bay Mills Indian Community, challenges the authority of the State of Michigan to regulate Indian treaty fishing. The Bay Mills Indian Community consists of a small group of Chippewas living on the Upper Peninsula of Michigan, on the waters of Lake Superior. NARF, in conjunction with Upper Peninsula Legal Services, is representing Bay Mills as a plaintiff-intervenor in the litigation in order to assert additional claims to Indian treaty fishing rights beyond those raised by the United States. Primarily through the urging of NARF attorneys, the scope of litigation has been significantly expanded during 1975 to include half of Lake Superior, all of Lake Michigan waters in the State of Michigan and a significant portion of the waters of Lake Huron. A trial has been scheduled for the fall of 1976.

United States v. Oregon, United States
Court of Appeals, Ninth Circuit

In a 1969 decision, the Oregon Federal District Court recognized the existence of Indian treaty fishing rights and the limitations on the state's regulatory powers over these rights. The court has maintained continuing jurisdiction in the case to insure that the Indians receive a fair and equitable share of the fish. NARF represents the Umatilla Tribes as intervenors in these proceedings. When the court further defined the

Indians' share under treaties as 50% of the harvest, the State appealed. The Ninth Circuit Court of Appeals, however, affirmed the lower court's action, consistent with its decision in U.S. v. Washington. The lower court is continuing its jurisdiction.

United States v. Washington, United
States Supreme Court

The federal government filed suit in 1970 against the State of Washington asserting that enforcement of state laws and regulations interfered with the fishing rights of Indian tribes in western Washington guaranteed under several treaties and deprived the tribes of the fish to which they are entitled under those treaties. NARF, in conjunction with Seattle Legal Services, intervened on behalf of the Muckleshoot, Squaxin Island, Sauk-Suiattle, Skokomish, and Stillaguamish Tribes to present additional arguments. After extensive pre-trial proceedings and a lengthy trial, a favorable decision was obtained from the Federal District Court, which is often referred to as the "Boldt" decision, in reference to Judge Boldt who heard the case. The Court held unlawful the state laws and regulations restricting Indian fishing that were not necessary for preservation of the fish runs and also recognized the authority of the tribes to regulate the off-reservation treaty fishing rights of its members. Furthermore, it was held that the Indians were entitled to 50% of the harvestable fish. The decision was appealed to the Ninth Circuit Court of Appeals, which affirmed in a strong opinion in June 1975. The United States Supreme Court is considering a petition for certiorari filed by the State. Still before the district court is the application of the plaintiff tribes for an award of attorneys' fees and several matters related to implementation of the far reaching decision.

United States v. 210.43 Acres of Land,
United States Court of Appeals, Eighth
Circuit, United States v. 687.30 Acres
of Land, United States District Court,
District of Nebraska

The United States filed these suits to condemn certain Winnebago Reservation lands and non-Indian lands along the Missouri River for an Army Corps of Engineers project. Questions of land title and valuation have now been determined in the Iowa case and an appeal has been filed by the Tribe. The Tribe asserts error in the lower court decision rejecting the Tribe's claim that the clear congressional intent required to abrogate their 1865 treaty, which guarantees the Tribe the land "forever", is

present, so the Corps lacks authority to condemn the land. The Tribe also asserts that its consent is required by law before the Corps can proceed with the project.

Wildcat v. Adamay, United States District Court, Western District of Wisconsin (filed June 1974), Quileute Tribe v. Washington, United States District Court, Western District of Washington, (filed December 1974)

Each of these cases raises the question of whether the states of Wisconsin and Washington were granted general taxing power over Indian reservations under Public Law 280, the 1953 Act of Congress allowing some states limited civil jurisdiction over Indians on reservations. These cases will be won or lost, depending on the Supreme Court decisions in Bryan v. Itasca County and Omaha Tribe v. Peters previously described in this section. In the Wildcat case NARF is co-counsel with Wisconsin Judicare on behalf of several individual Chippewa Indians, as well as the Bad River and Red Cliff Bands of Lake Superior Chippewa Indians, the Lac Du Flambeau Band, the Lac Courte D'Oreilles Band and the St. Croix Chippewa Bands. In Quileute Tribe v. Washington, NARF is co-counsel with Small Tribes of Western Washington on behalf of the Quileute, Muckleshoot, Nisqually, Skokomish, Squaxin Island, Quinault, and Shoalwater Indian tribes as well as the Confederated Tribes of the Chehalis Reservation.

Zaste v. North Dakota, United States District Court, District of North Dakota (filed November 1974)

In this case NARF is representing an individual member of the Turtle Mountain Band of Chippewa Indians in seeking to establish that state liquor laws are not applicable within the Turtle Mountain Reservation. The reservation Indian in this case holds a valid tribal liquor license, but wholesalers have refused to sell to him because he does not have state and county licenses as required by the State of North Dakota. Several motions are currently before the court.

TRIBAL RESOURCES

Summaries of Major Cases and Activities

Arkansas River Trust Authority

Seven Oklahoma tribes -- the Kaw, Ponca, Tonkawa, Pawnee, Otoe, Osage and Creek Tribes -- formed the Arkansas River Trust Authority in order to press their water rights claims and particularly their claims to the riverbed of the Arkansas River. Adverse claimants to the Indians are largely non-Indian landowners along the river. Because of the magnitude of the case, NARF has assisted the Authority in securing funds from the trustee United States for technical assistance, as well as conducting preliminary research on the claims. NARF also assisted the Authority in negotiating the contract with the Bureau of Indian Affairs for additional technical assistance with their claims. All member tribes now have attorneys retained with BIA monies to research the tribes' claims. Meetings of tribal attorneys (NARF represents the Ponca Tribe) are now ongoing with the Solicitor's Office of the Department of the Interior to map out a litigation plan whereby the tribes' claims to the riverbed may be best asserted.

Cady v. Morton, United States Court of Appeals, Ninth Circuit

This case was instituted by non-Indian ranchers in Montana against the Crow Tribe, the United States and a coal company, Westmoreland Resources, seeking to enjoin an off-reservation strip mining project undertaken between the Crow Tribe which owns the mineral estate, and Westmoreland Resources. The Tribe and the United States were successful in all counts in the United States District Court for the District of Montana. On appeal, the Ninth Circuit upheld the Indian law defenses of the Crow Tribe and the United States, but reversed in part on the National Environmental Policy Act issues in the case and ordered the United States government to submit a new conforming Environment Impact Statement.

Cappaert v. United States, United States Supreme Court

NARF submitted an amicus curiae brief in this case on behalf of the Salt River Pima-Maricopa Indian Community and the Papago Tribe supporting the position of the United States that the reserved water rights of the United States include ground-

water as well as surface water. This suit had been instituted by the United States to enjoin the harmful pumping of groundwater by ranchers from certain wells located near Devil's Hole in Death Valley National Monument. Devil's Hole is the exclusive habitat of the pupfish, an endangered species threatened by the pumping activities. At both the trial and appellate court levels, the Cappaerts claimed inter alia that the "implied reservation" water doctrine -- which had been expanded in Arizona v. California in 1963 to apply all types of federal reservations -- did not apply to groundwater. The district court found that the reserved water right applied equally to groundwater as well as surface water, with the Ninth Circuit affirming the decision. Due to the critical importance of groundwater to tribes and the similarities between Indian reserved water rights and federal reserved rights, an amicus curiae brief was filed in order to inform the Supreme Court of the wide-ranging and negative ramifications that a decision adverse to the United States' position could have on Indian tribes in the arid and semi-arid states. A final decision by the Supreme Court is expected in 1976.

Catawba Tribes of Indians - Land Claims

On behalf of the Catawba Tribe of South Carolina, NARF is investigating the legality of the treaty of Nation Ford in 1840 between the Catawbas and the State of South Carolina. The Catawbas, once one of the Southeast's most powerful Indian tribes, fought on the side of the colonists during the Revolutionary War. The Catawbas had been guaranteed possession of a 144,000 acre tract through the 1763 Treaty of August with the British Crown, but were divested of those lands by the 1840 Treaty of Nation Ford. The United States was not involved in the treaty negotiations as required by federal law. South Carolina failed to provide a new reservation for the Catawbas as provided for in the Treaty and the Tribe ended up on a small tract within the boundaries of their former reservation. In the 1940's the tribe gained federal recognition by organizing under the Indian Reorganization Act but was terminated by an act of Congress effective in 1961.

Chemehuevi v. Federal Power Commission United States Supreme Court (filed September 1971)

On behalf of the Chemehuevi Tribe, the Cocopah Tribe and individual Navajos, NARF filed a petition in the Federal Power Commission against several southwestern power companies seeking to compel the FPC to take licensing jurisdiction over a complex of six coal-fired power plants on or near Indian lands in the Southwest. The FPC held that it only had jurisdiction

over hydroelectric plants and dismissed the petition. On appeal, the Federal Court of Appeals in the District of Columbia disagreed. Although it was held that not all coal-fired plants had to be licensed, it did hold that those plants using surplus water from behind government dams had to be licensed by the FPC. The FPC petitioned the Supreme Court for review and the Court reversed, holding that the FPC had no jurisdiction over these coal-fired power facilities.

Cheyenne-Arapaho Tribes of Oklahoma v. Oklahoma,
United States District Court, Western District of
Oklahoma (filed September 1975)

The Cheyenne-Arapaho Tribes of Oklahoma are seeking to establish their hunting and fishing rights within their original reservation boundaries, and NARF is representing them in this effort. The Tribes assert that their members have the right to hunt and fish within their original reservation boundaries subject only to regulation by the Tribes based upon their treaties and an executive order establishing their reservation, and that these rights have never been abrogated. Preliminary motions are before the court.

City of Fallon v. Kleppe, United States
District Court, District of Nevada

This case was brought by the City of Fallon and others against the Secretary of the Interior challenging the Secretary's new regulations governing the operation of the Newlands Reclamation Project on the grounds that the Secretary failed to file an impact statement allegedly required under the National Environmental Policy Act. The Secretary's new regulations severely limit the amount of water that can be diverted to the project from the Truckee River which feed Pyramid Lake and, therefore, will result in a great increase in water to the Lake, which is owned by the Pyramid Lake Paiute Tribe. The Tribe, represented by NARF and the tribal attorney, has intervened in the case against the City of Fallon and the other plaintiffs in order to support the validity of the Secretary's new and favorable regulation. The case is inactive pending the decision in T.C.I.D. v. Kleppe, a related case. In the interim, the Department of the Interior has initiated the preparation of an environmental impact statement.

Council of Energy Resource Tribes (CERT)

NARF has provided technical assistance in organizing CERT, a coalition of tribes owning substantial production or reserves

in fossil and nuclear fuels or having known geothermal areas. The tribes will be reviewing federal energy policies as they effect Indian tribes.

Crow Tribe - Shell Oil Company Coal Lease

Subsequent to NARF's representation during 1974 of the Crow Tribe in the renegotiation of the Westmoreland Resources off-reservation coal leases, NARF worked with the Crow Tribal Coal Research Office in developing technical advice and material for the Tribe with regard to its on-reservation Shell Oil Company lease. Subsequent to this work, the Crow Tribe initiated litigation seeking to set aside all of its on-reservation permits and leases. NARF is not involved in that litigation.

Crow Tribe of Indians - Enforcement of Section 2 of the Crow Allotment Act of 1920

The Crow Tribe seeks enforcement of Section 2 of the Crow Allotment Act of 1920, which prohibits substantial non-Indian land holdings within the reservation. NARF is requesting the United States to undertake a case to eject non-Indians from thousands of acres of land on the Crow Reservation who have violated the federal law prohibitions on excess acreage ownership by non-Indians contained in Section 2 of the Crow Allotment Act. If the United States commences this litigation, NARF will represent the Crow Tribe in a parallel case.

Eastern Cherokee Fishing License Dispute

NARF is assisting local attorneys for the Eastern Cherokee Band of Indians to resolve a jurisdictional dispute with the State of North Carolina. The Tribe maintains an expensive and sophisticated fish resource program and issues licenses to sportsmen from all over the East. To date, the State of North Carolina has insisted that these sportsmen also acquire North Carolina resident and non-resident licenses when fishing on the Eastern Cherokee Reservation. Because of the economic and jurisdictional interests of Tribe, negotiations are underway to limit state involvement.

Edwardsen v. Morton

In Edwardsen v. Morton, a 1973 federal court case, Artic Slope Eskimos, represented by a Seattle law firm, established that the Alaska Native Claims Settlement Act did not extinguish Eskimo claims for pre-settlement act trespasses committed by

large oil companies in search for North Slope oil. During 1975, the oil companies and the state of Alaska sought to have Congress enact legislation which would have relieved the oil companies and the state of liability for their trespasses. NARF assisted the attorneys for the North Slope Natives in stopping the enactment of the proposed legislation.

Escondido Mutual Water Co. - Project No. 176
before the Federal Power Commission

The Rincon, La Jolla, San Pasqual, Pala and Pauma Bands of Mission Indians, represented by NARF, California Indian Legal Services, and a private attorney, are opposing a water company's renewal of its Federal Power Commission license for facilities which divert the flow of the San Luis Rey River from their Reservations in Southern California. The Bands assert that the water contracts involved are defective and that the original FPC license has been violated by the water company. The Bands, supported by the Secretary of the Interior, are also seeking a non-power license to take over the facilities that had previously been licensed to the water company. If they are successful, the Bands would regain control of their water rights. Over sixteen weeks of hearings have been held in the last two years. Final hearings are scheduled for early 1976, and a decision from the FPC Administrative law judge hearing the case is expected some time thereafter. The case involves the application of a number of provisions of the Federal Power Act that are designed to insure the protection of the Indian Reservations.

Fort Berthold Coal Lease Dispute

The Three Affiliated Tribes of the Fort Berthold Reservation, through the Bureau of Indian Affairs, entered into a prospecting agreement granted with Consolidated Coal Company. The prospecting agreement granted Consolidated Coal Company the exclusive option to lease the lands permitted provided these lands so requested had coal-bearing rock in sufficient quantities to economically mine the coal. Prior to the expiration of the prospecting agreement, Consolidated Coal Company notified the Superintendent of the Bureau of Indian Affairs of their intention to lease a substantial portion of the permitted area pursuant to its exclusive option contained in the prospecting agreement. The Tribes have decided against developing their coal reserves at this time and opposed the coal company's efforts to lease reservation land. NARF has continued to advise the Tribes in their efforts to prevent Consolidated Coal Company from obtaining a lease. NARF submitted extensive research as to why Consolidated Coal Company's

request for lease should be denied. The BIA Superintendent of the Fort Berthold Agency agreed and denied Consolidated's request for lease. Consolidated Coal Company has appealed the Superintendent's decision and the Area Director at the Aberdeen Area Office has it under advisement at the present time.

Fort Berthold Natural Resources Development

NARF has assisted the Three Affiliated Tribes of the Fort Berthold Reservation in developing a management plan for the development of oil and gas on Fort Berthold. NARF, the Bureau of Indian Affairs, the Tribal Council, and a private oil and gas consultant have worked hand-in-hand in developing a management plan which all feel will benefit the Tribes at Fort Berthold. At the present time, the Tribe has advertised three areas of the reservation which have been determined to have a high potential for oil and gas. Because this is the initial advertisement in the development plan, all of these efforts were to cause the operator to explore these areas by drilling test holes. Therefore, the Tribes, with NARF's assistance were successful in having the BIA approve a royalty rate of 12 1/2% to the landowners with a 2 1/2% to the landowners with a 2 1/2% overriding royalty to the Tribe for a fund to develop its natural resources. The BIA also approved a drilling requirement whereby the operator must commence drilling within six months and test down to the lowest known producing formation in the Antelope Field in the Williston Basin in North Dakota.

Fort McDowell-Central Arizona Project

NARF represents the Fort McDowell Mohave-Apache Indian Tribe in their effort to obtain a firm source of water supply. The Fort McDowell Tribe together with the other four central Arizona tribes have joined forces in an effort to convince the Secretary of the Interior that the five central Arizona tribes are entitled to sufficient water to irrigate the irrigable acreage on each of the five reservations from the waters of the Central Arizona Project. The Secretary of the Interior issued a proposed order allocating the water from the Central Arizona Project. The Secretary in his proposed order designated no water for Fort McDowell and substantially cut the amounts of water for the other four tribes. The Secretary of the Interior further proposed to order that the tribes would have a firm source of water supply only to the year 2005 which means that any water development by the tribes would not be economically feasible. The five central tribes are not attempting to find a legislative solution.

Fort McDowell - Orme Dam

NARF represents the Mohave-Apache Indian Tribe in their negotiations with the federal government concerning the proposed Orme Dam and Reservoir on the Fort McDowell Indian Reservation. Orme Dam as proposed would be the terminal reservoir which would store Central Arizona Project water that is transported from the Colorado River into central Arizona. NARF has assisted the Fort McDowell people in their review of the Project's impact on the Reservation as they formulate a tribal position on the matter. Once all of the studies have been completed and the information and facts gathered, the Tribal Council has proposed that a number of informational meetings will be held to disseminate the facts. After that, the Tribal Council, with the assistance of the Bureau of Indian Affairs, will hold a referendum vote on the issue of whether the Fort McDowell Mohave-Apache Indian Tribe wants Orme Dam at its proposed location.

Helix Irrigation District v. the Capitan Grande Band of Mission Indians, United States Court of Appeals for the Ninth Circuit

NARF attorneys, in conjunction with California Indian Legal Services, represent this band of Mission Indians in Southern California who have challenged the prior use of their lands by a water company on the grounds that that use was unauthorized. The Band filed a suit asking the court to declare Helix' use of their lands to be in trespass and also asked for damages. An important procedural issue concerning the applicability of California state law was challenged by NARF attorneys and ultimately won in the Court of Appeals for the Ninth Circuit in 1975. The water company has indicated its willingness to settle after their loss in the Court of Appeals and an advantageous settlement is being negotiated at this time.

Jicarilla Apache Tribe v. Environmental Protection Agency, Goodman v. Environmental Protection Agency (filed March 1973), Jicarilla Tribe v. Environmental Protection Agency (filed April 1974), Gillis v. Environmental Protection Agency (filed June 1974), United States Court of Appeals, Tenth Circuit

NARF attorneys challenged Environmental Protection Agency's air quality implementation plan requiring only seventy percent removal of sulphur oxides emitted from two large coal burning electric generating stations located on an Indian reservation in the southwestern United States. The power companies also

challenged the EPA standard on the grounds that the seventy percent removal requirement was too high. Before the case could be briefed and argued, EPA followed the State of New Mexico's lead and agreed to require an even higher standard of removal -- eighty percent -- and therefore the case will be dismissed from the Tenth Circuit.

Lac Courte Oreilles Band of Lake Superior
Chippewa Indians v. Federal Power Commission,
United States Court of Appeals, District of
Columbia (filed October 1973)

A Wisconsin power company is seeking to renew its Federal Power Commission license to operate a project which uses Lac Courte Oreilles tribal land for reservoir purposes. On behalf of the Band and in association with tribal attorneys, NARF intervened in the FPC relicensing proceeding challenging the jurisdiction of the FPC to issue any license over the Band's veto under its tribal powers. When the FPC rejected the jurisdictional challenge, the decision was taken to the federal appeals court for review. The Court of Appeals held that while the recapture/re-licensing proceedings were still underway, the FPC had authority to issue interim licenses to the power company. The court made no finding as to whether the FPC had the authority to grant a permanent license, over the objection of the tribe, holding that question not ripe for review. That question will soon be decided by the FPC and will be subject to judicial review.

Lac Courte Oreilles Band of Lake Superior
Chippewa Indians -- Federal Power Commission
Project No. 108

The Lac Courte Oreilles Band, represented by NARF as co-counsel with a private attorney, has intervened in the FPC re-licensing proceedings for Northern States Power Company's operation of the Chippewa Flowage, a non-power producing reservoir and dam located partially on tribal lands. In addition to opposing re-licensing the Band, joined by the Secretaries of Agriculture and Interior, is seeking recapture of the project by Congress in order that they may operate the project. Alternatively, it is asserted that any new license issued must include protections of the Band's treaty rights to grow and gather wild rice. In February 1974, the FPC reopened the record for the purpose of receiving into evidence a comprehensive joint management plan to be prepared by the Band, Interior, and Agriculture. The plan was submitted in October 1975 and the Administrative Law Judge then ordered the preparation of a supplemental environmental impact statement on the proposed

management plan to be completed by August 1976. A prehearing conference on the proposed management plan and supplemental EIS is scheduled for mid August 1976, hearings to commence September 1976.

Muckleshoot Tribe - Federal Power Commission
Project No. 2494

The Muckleshoot Tribe of Washington, represented by NARF and Seattle-King County Legal Services, has intervened in Federal Power Commission re-licensing proceedings affecting a Washington power company's operation of a hydroelectric project on the White River. The power company is asserting that a new license is not required. The Tribe is supporting retention of the FPC jurisdiction, since a re-licensing proceeding will allow the Tribe to present its claims that its fishing rights have been impaired by diversions of the power company's upstream facilities. If successful, the Tribe would force certain water release conditions on Puget Power in its license in order to protect its downstream fishery. The case has been tried and briefed and is now awaiting the initial decision of the FPC's Administrative law judge.

Muckleshoot Tribe v. Puget Sound Power and
Light Co., United States District Court,
Western District of Washington (filed June 1972)

This action was filed on behalf of the Muckleshoot Tribe to protect its fishery and water rights on the White River. The defendant power company operates upstream hydroelectric power facilities which divert significant quantities of water out of the river and away from the Reservation. The Tribe seeks a release of sufficient waters to maintain its fish runs and for other beneficial purposes, and also seeks damages. The Tribe is represented by NARF and Seattle-King County Legal Services. The case has been inactive pending the outcome of related proceedings before the Federal Power Commission.

Narragansett Tribe v. Southern Rhode Island
Development Corporation, Narragansett Tribe v.
Murphy, United States District Court, District
of Rhode Island (filed January 1975)

In these two actions the Narragansett Tribe of Rhode Island seeks return of approximately 3,000 acres from the state of Rhode Island and 35 individual and corporate land owners. The land in issue was part of the Narragansett reservation, which was terminated by the State in 1880. It is asserted

that this state action is void as a violation of the Non-Intercourse Act of 1790, which requires federal approval of any Indian land transactions. Since federal approval was absent in 1880, the Tribe asserts a claim to the land. NARF is assisting Pine Tree Legal Assistance and a private firm in Providence, R.I., in these cases. Several motions are before the court at this time.

National Indian Cattlemen's Association

NARF has assisted the National Indian Cattlemen's Association during its formative stages. The Association is organized to conduct, engage in, and carry on activities and programs necessary for the betterment of the Indian Cattlemen Industry in the United States. NARF has also assisted the Association in obtaining \$3,000,000 in disaster funds from the Economic Development Administration to assist the Indian cattle operators in the states of North Dakota, South Dakota, and Montana to replace Indian cattle losses from the spring storms of 1975.

Native American Natural Resource Development Federation

During 1975 NARF has continued to provide organizational and technical assistance to the 26 tribes of the Northern Great Plains area in their attempts at making informed decisions on the development of their coal, water and other natural resources. During the past year the Federation was able to secure a \$100,000 contract to inventory all of the existing information on the mineral resources of the tribes in the area. That study is not completed and the Federation will be seeking more funds to establish a central office and to continue to gather information and data for evaluation. Once the information is complete, the tribes will be able to develop their respective management plans for their natural resources. The member tribes of the Federation have now determined to incorporate under the laws of the District of Columbia. NARF will continue to assist the Federation in its development of an infra structure to develop a strong administrative arm for the Federation.

New Mexico v. United States, New Mexico State Court and Federal District Court in New Mexico

This case was brought by the State of New Mexico against the United States to adjudicate the rights of the United States and three Indian tribes, the Navajo, the Ute Mountain Ute,

and the Jicarilla Apache Tribe to the San Juan River in northwestern New Mexico. The suit was brought in state court. The United States sought removal to the United States Federal District Court in Albuquerque, but the federal district court remanded the case back to the state court. A second removal petition is now pending. The United States has also sought dismissal of the Indian claims. NARF is currently in consultation with the Ute Mountain Ute Tribe to determine the best course of action with regard to the Ute's rights. The Tribe will certainly oppose adjudication of its water rights in state court.

Northern Cheyenne Tribe v. Adsit, United States
District Court, District of Columbia

This is an action filed by the Northern Cheyenne Tribe to adjudicate its water rights in the Tongue River and Rosebud Creek, which border on or flow through the reservation. Defendants in the case are some 1,000 non-Indian water users in these two drainages. The Tribe seeks sufficient water for present and future uses with a priority date of at least 1851, when the first treaty was made with the Cheyennes. NARF undertook representation of the Northern Cheyenne Tribe after the suit had been filed. The suit has now been consolidated with a similar case filed by the United States as trustee on behalf of the Tribe, and action is stayed pending a decision by the Supreme Court in United v. Akin on the question of whether or not Indian water rights are to be adjudicated in state or federal court.

Oneida Nation v. Oneida and Madison Counties,
United States District Court, Northern District
of New York

The Oneida Nation brought a suit in the nature of a possessory action asserting that transactions dating back to 1795, by which most of their lands were lost to the State of New York, violated the Indian Trade and Intercourse Act of 1790 and 1793 requiring federal approval of such transactions. NARF, on its own behalf, supported the Oneida petition to the Supreme Court with an amicus curiae brief when the lower federal courts dismissed the case on jurisdictional grounds holding there was no federal question presented. When the petition was granted, NARF assisted the Oneida Nation attorneys with their brief and, in conjunction with the Association of American Indian Affairs and several tribes, filed an amicus curiae brief on its own behalf. The Supreme Court reversed, holding that federal jurisdiction existed and remanded the case for trial. The case was tried in November 1975 and decision is expected in May 1976.

NARF aided the Nation's attorneys on an of-counsel basis providing both technical and research assistance for the trial and the post trial brief.

Oneida Indian Nation v. Williams, United
States District Court, Northern District
of New York (filed April 1974)

This case is similar to the action described previously. Here the Oneida Indian Nation of New York, represented by NARF, seeks to regain possession of 750 acres of reservation lands now occupied by 25 non-Indian defendants. The Nation asserts that the lands passed out of Oneida possession in violation of the Indian Nonintercourse Act of 1790 which prohibits acquiring any interest in Indian lands without the consent and participation of the United States. This is the first case in which an Indian Tribe is seeking to regain actual possession of lands under the 1790 Act. Discovery is currently underway following a conference held in December 1974. A trial is expected before mid-1976.

Otoe-Missouri Tribe v. Oklahoma Gas & Electric,
Federal Power Commission (filed May 1974)

This action was filed by the Otoe-Missouri Tribe with the Federal Power Commission seeking to institute an FPC licensing proceeding for a coal-fired generating plant to be built on the Otoe Reservation. As a result of the adverse decision in Chemehuevi Tribe v. FPC, a related NARF case, by the Supreme Court, the FPC dismissed the petition in April 1975 on the grounds that a power plant such as the OG&E plant did not require FPC license. NARF attorneys are now working with the Tribe to minimize the environmental impact of the power plant on the Tribe.

Pamunkey Indian Reservation - Right-of-way Matter

The Southern Railway is, and has been for over 100 years, maintaining a railway right-of-way across the northern portion of the Pamunkey Indian Reservation in Virginia without the consent of the Tribe or the federal government. The Southern Railway maintains the regulations promulgated for rights-of-way over Indian lands (25 C.F.R. 161, et seq.) are not applicable as the Pamunks are not federally-recognized, but are "state reservation" Indians. NARF was preparing to file suit in the United States District Court when Southern Railway indicated their preference for resuming negotiations for a settlement, due in large part to the recent affirmance of

another NARF case Passamaquoddy v. Morton in the First Circuit Court of Appeals. NARF is presently representing the Pamunkey Tribe in those negotiations.

Pamunkey Indian Tribe - Jurisdictional Matter

During 1975, the Pamunkey Tribal Council requested NARF's aid in restructuring their tribal court system, and representing them in preliminary negotiations and meetings with the Commonwealth of Virginia's Attorney General regarding the extent and scope of state jurisdiction over their lands and internal affairs. NARF is presently providing the Pamunkey Tribe with technical and research assistance in these areas.

Pit River Tribe of Indians - Federal Power Commission Project No. 233

NARF attorneys, under a special grant made by the Laras Foundation, were assisting the Pit River Tribe in northeastern California in its efforts to acquire the right to operate three hydroelectric facilities on the Pit River, currently licensed to Pacific Gas and Electric Company by the Federal Power Commission. Under the Federal Power Act, as licensee, PG&E had the right to operate these facilities, but only for a 50 year period. The license expired in 1973 and the Tribe was considering competing for the right to obtain a new license, it planned to join with one or more California cities who own and operate their own electric systems and who need their own generating capacity. Despite several difficult legal issues in the case, NARF attorneys believed the ultimate likelihood of prevailing against PG&E was good. Nonetheless, NARF representation of the Tribe ceased in 1975 because of the lack of interest on the part of the Tribal Council and because of substantial internal tribal disputes which preoccupied tribal members and prevented them from devoting the kind of time and energy needed to successfully compete for the license.

Pit River Tribe - Tribal Organization

The Pit River Tribe, a small traditional group of Indians in northeastern California, has attempted to regain control of a 9,000 acre reservation which the Bureau of Indian Affairs has deprived them of for the benefit of one Pit River family. In 1975 the Secretary of the Interior, following a protracted hearing in which the Pit River Tribe was represented by California Indian Legal Services attorneys, awarded the reservation to the Tribe. NARF is now assisting the Tribe in its efforts to organize and to resist the BIA's requirement that

the organization take place under the Indian Reorganization Act.

Pyramid Lake Paiute - Peigh Ranch Matter

The Pyramid Lake Paiute Tribe requested assistance in securing restoration of a parcel of land strategic to the Tribe's development plans which was illegally patented to non-Indians under the authority of a 1924 act of Congress. The act allowed those who had occupied reservation lands for 21 years, in good faith, to obtain patents for the lands claimed by them. NARF prepared a litigation report which describes both the factual and legal basis for challenging the validity of the particular patent. The report has been turned over to the federal government with a request that litigation be initiated by the federal trustee to invalidate the patent and restore the land to the Tribe.

Pyramid Lake Paiute Tribe of Indians v. Morton, United States District Court for the District of Columbia (Attorneys Fees)

This suit on behalf of the Pyramid Lake Paiute Tribe was successful in establishing a violation of the Secretary of the Interior's trust responsibility to the Tribe in allowing excessive diversions of water to a Reclamation project. The excessive diversions from the Truckee River took water away from the Tribe's primary asset, Pyramid Lake. Over the years, these diversions had reduced the level of Pyramid Lake and were threatening its existence as well as the Tribe's. NARF, in association with the tribal attorney, was also successful in obtaining an order for attorneys fees and expenses against the government in the district court in excess of \$100,000. However, the award of attorneys fees was appealed by the government and reversed by the Court of Appeals for the District of Columbia on the grounds that it was beyond the court's jurisdiction. In 1975, the Tribe's petition for a writ of certiorari to the United States Supreme Court was denied.

Pyramid Lake v. Sierra Pacific, before the Federal Power Commission (Filed July 1975)

In July 1975, NARF filed a complaint and petition for declaratory order with the Federal Power Commission on behalf of the Pyramid Lake Paiute Tribe in which the Tribe complained that Sierra Pacific Power Company is illegally operating four hydroelectric power plants on the Truckee River. The basis of the Tribe's complaint is that the Truckee River is a navigable

stream and that Sierra Pacific's hydroelectric power plants are therefore required to obtain a license from the Federal Power Commission in order to operate the plants on the Truckee River. The Tribe is requesting the Federal Power Commission to direct Sierra Pacific to apply for a license and to order the power plants to cease operation pending a decision on the license issue. The Tribe has filed this complaint because the current method of the power plants has a detrimental effect on the Pyramid Lake and Truckee River fisheries. Several motions are currently before the FPC.

Rincon and La Jolla Bands of Mission Indians
v. Escondido Mutual Water Co., United States
District Court for the Southern District of
California

This suit originally filed by California Indian Legal Services on behalf of two Bands of Mission Indians seeks damages and the invalidation of contracts for the use of Indian water from the San Luis Rey River in Southern California. NARF assumed major responsibility for the case in 1971, and in 1972 the government also filed suit on behalf of the Bands. Proceedings in the case have been informally stayed during the pendency of the related case before the Federal Power Commission involving the license for operating hydroelectric project which diverts the Indians water from the San Luis Rey River (see Escondido Mutual Water Company -- Federal Power Commission Project No. 176 in this section).

Shoalwater Bay Indian Tribe

In 1866 President Andrew Johnson signed an executive order creating a small reservation for the Shoalwater Bay Indian Tribe. The order itself did not mention the tidelands in front of the Reservation, but the Indians at Shoalwater Bay always considered the tidelands to be their property. In 1962, the Portland Area Solicitor for the Department of the Interior ruled that the tidelands were not a part of the reservation, although he confessed that his judgment was based upon "meager information." NARF recently submitted a petition on behalf of the Shoalwater Bay Indian Tribe to the Office of the Solicitor in Washington, D.C., asking that the 1962 ruling be set aside and the tidelands held to be a part of the Reservation. The petition contained extensive documentation, showing the history of the executive order and the dependence of the Tribe upon marine animals at the time the Reservation was created. The Tribe claims that the President intended to include the tidelands in the Reservation although he did not say so in so many words. The Solicitor's Office has not yet answered the petition.

Skokomish Indian Tribe v. General Services
Administration, United States District Court,
Western District of Washington

The General Services Administration ignored a Bureau of Indian Affairs application for use of excess federal property for the benefit of the Skokomish Tribe and proceeded to assign property to another federal agency for disposal to a state agency of surplus government property. The Tribe, represented by Seattle-King County Legal Services and NARF, filed suit against the GSA. The case challenges GSA's position that the BIA and the Tribe are ineligible for excess federal property under federal law and asserts that GSA's position breaches certain statutory requirements and the trust responsibility of the United States. The case has been pre-tried and some additional depositions are to be taken in the near future. The case will be ready for trial by mid-1976.

Stray Calf v. Scott Land & Livestock Company,
Ninth Circuit Court of Appeals (appeal filed
April 1975).

NARF is representing a group of Crow allottees in an effort to halt an illegal leasing practice of Indian land on the Crow Reservation. The United States District Court for the District of Montana granted the defendants' Motion to Dismiss, ____ F. Supp. ____ (D.Mont. 1975), on the grounds that the leasing practice did not violate the Crow Allotment Act. The plaintiff appealed to the United States Court of Appeals for the Ninth Circuit and the case was argued on January 5, 1976.

Swinomish Tidelands

The Swinomish Tribal Community of Western Washington has been experiencing numerous problems involving various instances of corporations and individuals who are presently occupying or crossing tidelands which the Tribe claims as tribal lands. NARF has been assisting the Swinomish Tribal Community in negotiating rights-of-way for several of the trespassers and in establishing the Tribe's legal ownership to the tidelands.

Taos Pueblo Boundary

An apparent error in an old government survey covering the northeast boundary of Taos Pueblo was recently discovered. NARF, in conjunction with the Taos Pueblo's tribal attorney, is investigating the survey error and the methods by which it might be corrected. A correction in the boundary would return

to the Pueblo several hundred acres of mountainous land including a lake which has religious significance to the Taos Indians.

Taylor v. Bangor Hydro-Electric Co., United
States District Court, District of Maine
(filed July 1972)

In association with Pine Tree Legal Assistance, NARF is representing several Penobscot Indian land owners who are challenging the validity of easements for flooding issued by the State of Maine to a power company. The suit asserts that the State's action affecting Indian property interests violates the 1790 Non-intercourse Act which prohibits Indian land transactions without federal approval. The case is stayed pending the final outcome of Joint Tribal Council of the Passamaquoddy Tribe v. Morton.

Truckee-Carson Irrigation District v. Kleppe,
United States District Court for the District
of Nevada (filed March 1974)

In 1973 as a result of a court order obtained by NARF in Pyramid Lake Paiute Tribe of Indians v. Morton, the Secretary of the Interior issued new regulations limiting the amount of Truckee River water which could be diverted to the Newlands Reclamation Project, thereby increasing the flow of Truckee River water into Pyramid Lake on the Pyramid Lake Indian Reservation. Later that year, when the operators (Truckee-Carson Irrigation District) of the Reclamation Project refused to comply with the new regulations, the Secretary terminated their contract to operate the Project. TCID then sued the Secretary in March 1974 to set aside his regulations and to enjoin him from terminating the contract. The Pyramid Lake Paiute Tribe, represented by NARF and its local tribal attorney, intervened on the side of the Secretary of the Interior. This case does not present any issue of Indian law, but it is important for the Pyramid Lake Tribe in securing the water decreed to it in the prior case of Pyramid Lake Paiute Tribe of Indians v. Morton. In December 1974, the motion of the Secretary of the Interior, joined by the Tribe, for summary judgment was briefed and argued to the court. The court had not rendered a decision on this motion by December of 1975.

United States, et al. v. City of Tucson, et al.
United States District Court for the District
of Arizona (filed March 1975)

In March 1975, after more than 12 months of investigation, a complaint was filed on behalf of the Papago Tribe by NARF in federal district court seeking declaratory and injunctive relief against the State of Arizona, the City of Tucson, and seven mining and agricultural companies. NARF alleged that each of the defendants, except the State of Arizona, is infringing upon the water rights of the Papago Tribe, and that their activities are causing an accelerated lowering and depletion of the groundwater table underlying the San Xavier portion of the Papago Reservation thereby depriving the Tribe of waters which were secured to them by the federal government at the time the reservation was established. Although all defendants moved to dismiss on October 16, 1975, the court denied the defendants' motions. The court did order the joinder, as parties defendant, of all water users in the basin. The court also granted NARF's motion to consolidate the suit with one brought by the United States, prior to service of process on the estimated 3,500 basin water users. NARF and the U.S. government are currently in the process of identifying the persons to be joined, and it seems likely that it will be several months before service or process can be effectuated. The case is expected to go to trial in early 1977.

United States v. 79.31 Acres of land, United
States District Court for the District of
Massachusetts (filed September 1975)

In the process of establishing the Cape Cod National Sea Shore, the federal government has brought an action to condemn a parcel of land in the Town of Wellfleet, Massachusetts, which was an Indian reservation until 1839 when it was alienated in violation of the Non-Intercourse Act. NARF has filed a petition for compensation on behalf of the Wampanoag Tribe of Mashpee, and the case is awaiting trial in the United States District Court for the District of Massachusetts.

United States v. Truckee-Carson Irrigation
District, United States District Court for
the District of Nevada

This case was filed by the United States in the federal district court in Nevada in December 1973 as a sequel to the case that the United States filed against Nevada and California in the original jurisdiction of the Supreme Court, but which the Supreme Court refused to exercise its original jurisdiction

over in June 1973. It then took eight months for the government to complete service on the approximately 13,000 individually-named defendants. NARF represents the Pyramid Lake Paiute Tribe of Indians in the case as plaintiff-intervenors. In February 1975 the court entered an order bifurcating the case and limiting the first trial to the issues of res judicata and collateral estoppel that were raised by the defendants as affirmative defenses. Extensive discovery took place between February 1975 and October 1975. In November 1975, the trial on these affirmative defenses began and is scheduled to be completed in the late winter or early spring of 1976.

The broad issue in this case is whether the Pyramid Lake Tribe enjoys a right, with an 1859 priority, to sufficient water from the Truckee River to maintain and preserve the fisheries in Pyramid Lake and the Truckee River. The narrower issue in the res judicata and collateral estoppel phase of the case is whether the United States and the Tribe are barred from asserting a right to water to maintain the Pyramid Lake and Truckee River fisheries by virtue of the prior case adjudicating water rights on the Truckee River, United States v. Orr Water Ditch Co. In the Orr Water Ditch Co. case, the United States represented both the Pyramid Lake Tribe of Indians (asserting only a right to water for irrigation purposes) as well as the Tribe's major adversary, the Newlands Reclamation Project. The principal claim of the Tribe and the United States in the res judicata-collateral estoppel phase of the case is that the government's conflict of interest in the Orr Water Ditch case deprived the Tribe of a full and fair opportunity to be heard and that the application of res judicata and collateral estoppel in these circumstances would deny the Tribe due process of law. NARF, the Tribe's local attorney and the attorneys for the Justice Department are cooperating very closely in the trial of the case.

Walker River Paiute Tribe v. Southern Pacific
Railroad, United States Court of Appeals,
Ninth Circuit (filed July 1972)

This suit, filed in 1972 by NARF on behalf of the Walker River Paiute Tribe and individual allottees, seeks to invalidate Southern Pacific's purported right-of-way across the Walker River Reservation and to have damages assessed for trespass. The suit claims that the 1882 agreement between the Indians and the Railroad for the right-of-way was never ratified by the Congress as required by federal law. The Federal District Court held that the right-of-way was invalid, but that the Railroad had a revocable license and, therefore, the Tribe cross-appealed the issue of damages. Oral argument was held before the Ninth Circuit Court of Appeals on September 8, 1975. The case is now under advisement by the Ninth Circuit.

Wampanoag Tribe of Gay Head v. Town of Gay Head,
United States District Court, District of
Massachusetts (filed November 1974)

This is an action by the Wampanoag Tribe of Gay Head against the Town of Gay Head to recover 250 acres of the Tribe's prior reservation from the Town. The land was conveyed to the Town by the State pursuant to an 1870 Act of the State Legislature which purported to terminate both the Tribe and its reservation. The suit contends that the 1870 transaction is void under the Indian Nonintercourse Act of 1790. The defendants moved to dismiss the action on the grounds that the Tribe was required to sue all the private individuals who derived title from the 1870 Act, and also moved for a more definite statement. After being briefed and argued these motions were both denied in July, 1975, and at Judge J. Arthur Garrity's request the parties have filed memoranda on a jurisdictional issue and have prepared proposed stipulated statements of facts. A pretrial conference will be held in early 1976. NARF has lead responsibility for this case, and is being assisted by Pine Tree Legal Assistance and by Palmer and Dodge of Boston, Massachusetts.

HUMAN RIGHTS

Summaries of Major Cases and Activities

American Indian Higher Education Consortium

The American Indian Higher Education Consortium is an association of Indian controlled colleges organized for the purpose of providing research, training and services that will strengthen and develop the member institutions. The member colleges are Hehaka Sapa College, Lakota Higher Education Center, Navajo Community College, Sinte Gleska Community College, Turtle Mountain Community College, Sisseton-Wahpeton Community College, Cheyenne River Community College, American Indian Satellite Community College, and Fort Berthold Community College. In addition to providing direct legal assistance to some of these colleges, NARF has been advising the Consortium on matters relating to its operation and funding since its inception in 1973.

Blackbird v. Weinberger, Matovich v. Matthews, United States District Court of Montana

These companion cases are suits against the Department of Health, Education and Welfare seeking a declaration that Indian tribal members residing near reservations are entitled to contract care health services. The suits, in effect, seek to impose a duty on the Indian Health Service to give health benefits to Indians who reside near the reservation. Currently, the Indian Health Services provides contract care services only to Indians who reside on the reservation. NARF is co-counsel in these cases with Montana Legal Services. A motion for summary judgment is before the court.

Broken Arrow, Oklahoma Title IV Program

The Title IV Indian Parent Committee at Broken Arrow, Oklahoma, has had difficulties in coming to an agreement with the Superintendent and Board of Education regarding a Title IV program which would be acceptable to all concerned and which would allow some participation by the Indian Parent Committee in the operation of the program. NARF was contacted to assist in resolving some of these problems along with the Coalition of Indian Controlled School Boards. In December 1975, the Board of Education voted to not accept the Title IV program for the school year 1975-1976 and 1976-1977. Since that time NARF has been attempting to get the Board of Education and Parent Committee to agree to discuss their problems through the process of mediation.

Bureau of Indian Affairs Indian Offender Contracts

The Bureau of Indian Affairs entered into agreements with certain states wherein various rehabilitation services and planning for eligible Indian prisoners are made available. These agreements reduced to a document entitled Joint Statement Of Principles Of Cooperation. Although this is an agreement between state correctional agencies and the Bureau of Indian Affairs, there generally has been no prisoner representation in these contracts. NARF undertook to represent California Indian inmates and ex-offender groups in negotiations between the Bureau of Indian Affairs and the California Department of Corrections to improve the Joint Statement Of Principles Of Cooperation agreement. In late 1975 the parties reached agreements and have forwarded their recommendations to the Commissioner of Indian Affairs for his review and approval. No action has been taken yet.

California Prison Reform Matter

NARF was retained by several Indian inmates and Indian ex-offender programs in the spring of 1975 to represent them with regard to the rehabilitation and conditions of confinement of Indian prisoners if the California Department of Corrections has agreed to do the following: reinstate culture groups in all prisons in California; rescind the hair length rule in all institutions; permit Indian inmates access to their religion; and, cooperate with NARF in revising its affirmative action hiring plan to effectively recruit and hire Indian employees.

Cheyenne River - Eagle Butte School

NARF was contacted in the spring of 1975 by Indian members of the Cheyenne River - Eagle Butte Cooperative School Board and others to assist them in restructuring the cooperative agreement between the Bureau of Indian Affairs and the Eagle Butte public school district. Under the agreement Indian and non-Indian children are educated in the BIA facility at Eagle Butte with both entities sharing the costs for educational services. No provision in the agreement was made for the participation of the Tribe in the administration and operation of the school. NARF attended meetings of the Cooperative Board to discuss revision of the agreement to provide for tribal participation. A new agreement was drafted and submitted to the Board for comments and changes. The revised agreement was finalized and accepted by the Cooperative Board. Shortly following the acceptance of the new agreement, newly elected members of the district component of the Cooperative Board

were seated causing a disruption in the implementation of the new agreement. NARF is presently assisting the Cooperative Board in renegotiating and revising a new cooperative agreement for the 1976-77 school year.

Crowe v. Erickson, United States District
Court, District of South Dakota (filed
December 1972)

NARF is representing Indian inmates in the South Dakota State Prison where Indians constitute one-third of the inmate population. The suit was filed against state prison officials attacking their mail censorship practices, the lack of due process in disciplinary matters, the lack of adequate medical care, employment discrimination in the prison, and a lack of Indian rehabilitation programs. Interim relief has been obtained against arbitrary disciplinary procedures and mail censorship practices. Relief has also been sought against prison rules restricting Indians from wearing their hair in long traditional style. Trial has been set for August 1976 and the parties are conducting settlement negotiations.

Hawaiian Coalition of Native Claims Corporation

After receiving several requests for assistance from Hawaiian Natives concerning the protection of their remaining land base, NARF undertook a review of the legal status and problems of Hawaiian Natives. Meetings were held in Hawaii with several Hawaiian Native organizations and their land problems were assessed. As a result, NARF has assisted in organizing and obtaining initial funding from the William H. Donner Foundation for the Hawaiian Coalition of Native Claims Corporation, a legal research project controlled by Hawaiians to protect their land rights. Fund raising and program development assistance continues to be provided. NARF is also helping with HCNC's research of selected questions concerning the rights of Native Americans in Hawaii.

Inmates of the Nebraska Penitentiary v. Green-
holtz, United States District Court, District
of Nebraska

Minority inmates in the Nebraska State Penitentiary filed pro se petitions with the federal court against the parole board and prison officials charging, among other things, parole discrimination against minority prisoners. In 1975 NARF undertook representation of the class of prisoners, Indian and Mexican-American, charging the denial of parole for racially

discriminatory reasons. The issue is whether, under the Fourteenth Amendment, the state may evaluate all persons alike, regardless of cultural differences, when that evaluation results in racially disparate treatment. The trial was held in the fall of 1975 and additional proceedings are scheduled for 1976.

Indian Inmates of the Nebraska Penitentiary
v. Vitek, United States District Court,
District of Nebraska

Indian inmates in the Nebraska State Penitentiary also filed petitions with the federal court charging state prison officials with widespread discrimination. In 1975, like in the previous case, NARF undertook representation of the inmates and began negotiations with the prison officials. The case was settled by a consent decree in October 1975. Indian inmates now are entitled to wear their hair in long traditional style, have access to Indian religious leaders in the prison at state expense, and to maintain Indian cultural clubs. An affirmative action hiring plan for Indian and the implementation of Indian studies courses were also obtained. Subsequent to the filing of the consent decree, a dispute arose as to whether the court's order required the defendants to provide a sweat lodge to the Indian inmates for their religious use. The parties are now negotiating a supplemental decree to provide for a sweat lodge at the prison.

Kansas State Prison Indian Reform Matter

NARF was retained by Indian inmates at the Kansas State Penitentiary during 1975 to represent them in negotiations with the Department of Corrections regarding a meaningful program for rehabilitation and religion. After negotiations, the Kansas Department of Corrections agreed to do the following: to permit inmate access to a medicine man or spiritual leader for religious purposes; to permit Indian cultural and Arts & Crafts courses; and, to permit Indian sports activities.

Kinale v. Dowe, United States District Court,
Southern District of California (filed September
1973)

NARF filed this suit in conjunction with California Indian Legal Services on behalf of the Indian inmates in the Imperial County jail against jail officials. In 1975, injunctive relief was obtained prohibiting unreasonable mail censorship, disciplinary procedures without certain due process requirements, incarceration

of pre-trial detainees with those already convicted, and allowing attorneys access to the jail to interview inmates and inspect the facilities. The issues of crowded and unsanitary conditions, the lack of adequate rehabilitation programs, and employment discrimination are awaiting trial. The pre-trial conference has been set for early 1976. NARF is acting as co-counsel primarily in a back-up capacity.

Kinsman Indian School

NARF has previously provided assistance to the Kinsman Indian School in the form of drafting incorporation papers and other documents for its all-Indian school board. NARF was requested, after the school's Title IV and Johnson-O'Malley Act applications for monies were turned down, to aid them in preparing more adequate grant proposals. Previously the school had been denied funds because of excessive allocations under the proposals for non-academic but educationally necessary functions. The School has been supported to date exclusively by contributions of money, supplies and services from the community, parents of school children, and the Native American Indian Mission. Action on the revised proposals is expected soon.

Navajo Communications Company v. Apache County, Federal District Court, District of Arizona, Kerr-McGee Corporation v. Chinle School District No. 24, Maricopa County Superior Court

A number of Arizona public school districts on the Navajo Indian Reservation have experienced a slowly building crisis over their funding. The crisis erupted last autumn for the Chinle District, the largest in area in Arizona where 92% of its children are Indian. The local tax rate for the Chinle District paid by commercial and industrial lessees on the Reservation, was very high and seven taxpayers filed coordinated suits in state and federal courts against the School Board. The plaintiffs included such industrial firms as El Paso Natural Gas Company and Kerr-McGee Corporation, a large oil company. The suits claimed that the tax rate is unlawfully high and that the legal responsibility for Indian education is solely federal, so that any state tax to support Indian education is illegal. Because of the importance of the questions raised, especially the latter, NARF undertook the representation of the Chinle School District and four other districts on the Navajo Reservation. The size of the tax rate was struck down by the federal court as confiscatory. On the responsibility for Indian education, NARF has sought to establish state responsibility, as well as federal, and the indications are that the courts will rule in favor of this position. Appeals are likely on both questions. The cases have

generated a state legislative examination of the other funding sources which failed Chinle, causing over-reliance on local taxes. The state aid formula appears to short-change Indian districts, and Public Law 874 ("Impact Aid") has been under used in Arizona. NARF is also working toward improving funding from both these sources for all the Indian reservation districts in Arizona.

New Mexico Inmate Culture Group Matter

NARF was retained by Indian inmates in 1975 to represent them with regard to certain alleged discriminatory policies and programs maintained by the New Mexico State Penitentiary. NARF has investigated the issues and met with the Department of Corrections regarding the prison's failure to hire Indian employees, refusal to recognize an Indian culture club, and lack of any cultural or religious programs. The state is now considering these issues and a preliminary response is expected.

New York Corrections Issue

NARF was requested by the Onondaga Neighborhood Legal Services to assist in representing Indian inmates with regard to the enforcement of the New York Department of Corrections' hair length rule against Native American prisoners. NARF investigated the matter and successfully assisted in obtaining an exemption of the rule for Indian inmates, based upon their cultural and spiritual beliefs.

Norfolk Prison Religion Issue

Indian inmates in Massachusetts wished to practice their native religion by worshipping in a sweat lodge. NARF, along with the Prisoners' Rights Project, undertook to represent these inmates. After negotiations, the Massachusetts Department of Corrections agreed to permit the use of a sweat lodge. The parties are now in the process of working out the details, along with a Medicine Man, for constructing a sweat lodge at the prison.

Ojibwa Indian School

The Ojibwa Indian School in Belcourt, North Dakota, with NARF's assistance and legal advice, made the transition from a parochial school to an Indian community controlled school. It is now eligible to receive financial assistance from the Bureau of Indian Affairs. In 1975, NARF assisted the School in negotiating a contract with the Bureau of Indian Affairs for

the operation of the school and NARF has continued to provide legal advice to the School regarding eligibility requirements for the various kinds of federal education financial assistance.

Oklahoma State Prison Investigation

NARF was retained by a large number of Indian inmates at the Oklahoma State Penitentiary in 1975 to investigate their conditions of confinement. Since that date NARF has been co-operating with the Justice Department in forwarding evidence for use in its pending litigation, Battle v. Anderson. Lines of communication have been opened and NARF is now negotiating with the Department of Corrections for a special program for Indian rehabilitation.

Sinajini v. San Juan School District, United States District Court, District of Utah (filed November 1974)

NARF filed this action on behalf of Navajo students, their parents, and the Oljalto and Red Mesa Chapters of the Navajo Tribe against a Utah school district which includes a portion of the Navajo Reservation. The relief sought was the construction of two new high schools in Indian communities on the reservation, to reallocate operational and instructional expenditures, to halt the misuse of various federal funds, and to reevaluate and reform the district's bilingual education program. As a result of depositions taken, the school district decided to enter into serious settlement negotiations and a comprehensive consent decree was signed on August 15, 1975. The decree provided for the construction of two new high schools on the reservation; reallocation of funds for operation, maintenance, books, materials, and supplies; and the restructuring of the district's bilingual program. The construction of the two new high schools were subject to a bond issue to be approved by the voters in the district. On November 4, 1975, Indian voters overwhelmingly supported the bond issue in the face of non-Indian opposition. It is expected that the two new high schools will be completed in time for the beginning of the 1977-78 school years. NARF was assisted in the case by DNA, the legal services programs on the Navajo Reservation.

South Dakota Alternatives to Incarceration Project

Because of the general dehumanizing effect of incarceration, the disproportionate number of Indians in prisons, and the lack of rehabilitation programs geared to the special needs of

Indians, NARF has been exploring alternatives to incarceration of Indians in prisons. In 1975 at NARF's request, the Cheyenne River Sioux tribal government in South Dakota agreed to operate such a program and to provide the facilities in the form of an unused job corps center. Discussions are now being held with federal agencies, including the Bureau of Indian Affairs, concerning possible federal funding for the Project and funding commitments has been made by LEAA to the tribe to conduct a feasibility study.

Teterud v. Gillman, United States Court of Appeals, Eighth Circuit

Iowa State Prison inmates filed a petition in federal court to invalidate the prison's regulations which prevent Indians from wearing their hair in the long traditional style. In 1974 NARF began to represent the inmates in association with their local attorney. After an extensive trial which included testimony from Indian religious leaders and anthropologists, the court upheld the right of the Indian inmates to wear long hair. The decision was based upon the free exercise of religion guaranteed in the First Amendment and specifically recognized the Indian religious beliefs of the inmate involved in the case. The decision was affirmed by the Eighth Circuit on appeal in 1975.

Wilbur v. Board of Education, United States District Court, Western District of Wisconsin (filed June 1972)

NARF brought this action on behalf of Menominee Indian students and parents charging widespread discrimination against Indian students in the Shawano public school in Shawano, Wisconsin. Relief is being sought against excessive suspensions and expulsions, a discriminatory "tracking" system, the inequality in educational facilities, employment discrimination in the system, and curriculum reform. These claims substantiated by the Department of Health, Education and Welfare and settlement negotiations have been underway for several months.

ACCOUNTABILITY

Summaries of Major Cases and Activities

Alaska Native Association of Oregon v. Morton, United States District Court, District of Columbia (filed November 1973)

NARF filed this action on behalf of non-resident Alaskan Natives challenging the decision of the Secretary of the Interior against the creation of a thirteenth regional corporation pursuant to the Alaskan Native Claims Settlement Act. Shortly after NARF filed, another group of non-resident Natives also filed suit. The Act required a vote on the issue of the creation of a corporation for non-resident Alaskan Natives, and the Secretary of the Interior certified that a majority of non-resident Alaskan Natives had voted against the creation of a thirteenth regional corporation to handle a share of the assets the Natives were awarded by the Act. NARF's non-resident clients challenged the conduct of the election and the court reversed the Secretary's decision. The issue then became how the incorporators, who were to become the initial board of directors, were to be selected. The second group of non-resident Alaskan Natives felt they should be allowed to name the incorporators. NARF clients' position was that the incorporators should be selected by the non-resident shareholders, and that the powers of the initial incorporators-directors should be severely circumscribed. The court entered a comprehensive order providing for the election of the incorporators and a strict timetable for steps to be taken in order to get the thirteenth regional corporation underway.

Grogun v. Cook, Grogun v. Boots, Supreme Court of the State of New York, Appellate Division

NARF and Pine Tree Legal Assistance of Maine represent three Indians on the St. Regis Mohawk Reservation who were sued in state court legal proceedings instituted by the elected chiefs of the reservation in an effort to have the three removed from the reservation. Although the three Indians were attempting to live on land they have purchased, the chiefs asserted that they were intruders. The state trial court ordered the three removed from the St. Regis Mohawk Reservation before NARF and Pine Tree undertook the case. On appeal, the New York Supreme Court, Appellate Division, vacated the trial court's order, and remanded the case for further proceedings. At this

point, it appears doubtful that the elected chiefs will pursue a new trial.

Hopi Housing Project Lands

The Hopi Housing Authority planned to build a project on lands claimed by two different Hopi villages, one supporting the project and the other opposing it. The Hopi Constitution acknowledges the authority of individual villages over their traditional holdings, and the Housing Authority recognized Sipaulavi village as owning the land which was the village which supported the housing project. Strong protests were made by Shungopavy village, which also claimed the land but which was opposed to the project. NARF assisted Shungopavy village before the Hopi Tribal Council in asserting its traditional ownership of this land, but following a hearing, the Council ruled the lands belonged to Sipaulavi village and the project could be built.

Logan v. Kleppe, United States District Court, Northern District of Oklahoma (filed July 1974)

The Osage Tribal Council of Oklahoma is elected by Osages and non-Osages who own shares in the tribal mineral estate. However, not all Osages own mineral estate shares, and those who do not are not included in the electorate. Although the Tribal Council's functions were limited to the administration of the mineral estate, it now administers some general reservation programs for all Osages even though it does not represent all members of the Tribe. After unsuccessful negotiations to limit the Tribal Council to its mineral estate function and create a new Tribal Council to represent all Osages, NARF filed suit on behalf of a group of Osages against the federal government and the Tribal Council alleging violations of voting rights and that the Tribal Council is acting beyond its authority in managing the reservation-wide programs. The parties are now conducting settlement negotiations.

Susenkewa v. Kleppe, United States Supreme Court (filed May 1971)

Hopi traditional and religious leaders filed suit against the Secretary of the Interior and a coal company seeking to set aside the Secretary's approval of a coal strip-mining lease by the Hopi Tribal Council. The suit is based on violations of the tribal constitution, including the lack of leasing authority and the lack of duly constituted tribal council. The Federal District Court in Arizona and the Ninth Circuit

Court of Appeals dismissed the suit for failure to join indispensable parties, particularly the Hopi Tribal Council which was not subject to suit. The case has been submitted to the United States Supreme Court for review.

Wopsock v. Kleppe, United States District
Court, District of Utah (filed August 1975)

NARF represents a group of Ute Indians opposed to the Tribe's 1965 agreement to waive the exercise of its water rights until the year 2005 in favor of the Central Utah Project for insufficient consideration. After the signing of the Ute Indian Water Resources Planning Agreement of 1974, which allowed for further negotiations, NARF continued to negotiate with the Bureau of Reclamation, state and tribal officials on behalf of individual Ute Indians, who include three of the six persons on the tribal business committee. When no settlement was reached, an action was filed to enjoin any further construction on the Strawberry Aquaduct of the Central Utah Project and to declare the Secretary of the Interior's approval of the Ute Indian Deferral Agreement of 1965 void. A temporary restraining order against any further construction was granted but a preliminary injunction was denied. As a result, an amended complaint has been filed joining the Ute Tribe and the three opposing members of the business committee as defendants. All defendants have filed a motion to dismiss and NARF's clients have filed a motion for summary judgment. Both motions are still before the court.

INDIAN LAW DEVELOPMENT

Summary of Major Activities

National Indian Law Library

NARF's National Indian Law Library is a repository and clearinghouse for Indian legal materials and resources. It is an invaluable resource for those interested in Indian legal affairs. NILL's holdings are accessible through NARF's comprehensive General Index to Indian Law which covers nearly 400 subject headings. During 1975, the NILL staff added approximately 1,600 documents to the collection, bringing the total number of documents to 7,600 which are catalogued in 1,900 files. In 1975, NILL responded to approximately 3,335 requests for materials and information from every state in the Union, from Canada and from several European countries.

Work on the first cumulative edition of the National Indian Law Library Catalogue began in 1975 and publication is scheduled for the spring of 1976. As with Volumes I and II of the Catalogue, copies will be distributed without charge to Indian tribes, Indian organizations and Indian legal services programs. Copies will be available to individual users and libraries at a cost of \$20, which includes quarterly supplements.

During 1975, NILL printed and distributed eight more volumes of the Decisions of the Indian Claims Commission (Volumes 28 through 35). Work on the 1975 cumulative supplement to the Index to the Indian Claims Commission Decisions was completed and distribution will be made during February, 1976 to libraries, law firms, and other research units across the country.

Indian Law Backup Center

NARF receives a grant from the federal government to serve as the Indian Law Backup Center for government funded legal services programs who have Indian clients. NARF, in its role as the Center, provides litigation assistance to legal services attorneys in programs sponsored by the federal Legal Services Corporation. In this capacity, NARF has continued to provide research assistance and advice to over 30 legal services programs with cases involving Indian legal questions. This general assistance is in addition to NARF's role as co-counsel or lead counsel with legal services in much of this litigation. In order to keep attorneys in these programs abreast of current

developments in Indian law, NARF prepares and distributes an advance sheet publication known as "Directions" on a periodic basis. The Backup Center, which has always provided services beyond the federal grant funds available, responded to 558 requests for assistance from legal services lawyers in 1975.

Conferences and Organizational Assistance

During 1975 NARF provided information and assistance to several Indian organizations and made presentations at Indian law related conferences and meetings. Among those assisted were the National Congress of American Indians, National Tribal Chairmen's Association, Americans for Indian Opportunity, American Indian Lawyers Training Program, Coalition of Eastern Native Americans, and the National Indian Cattlemen's Association.

NARF attorneys made presentations at meetings of the Federal Bar Association and the Rocky Mountain Mineral Law Institute and at universities, including Harvard, U.C.L.A., Denison and Northeastern Oklahoma State.

Legislation and Regulations

In addition to the small amount of client-centered work on legislation and regulations mentioned above, NARF's expertise in Indian legal affairs has been sought with other problems. Two NARF attorneys are serving as task force members with the American Indian Policy Review Commission, a congressionally-created body conducting an extensive survey of Indian affairs and making recommendations to Congress for major changes in Indian affairs. NARF has also commented on legislation to create an Indian Trust Counsel Authority to provide legal representation to Indians and a bill which would repeal Public Law 280, the 1953 act of Congress which extended statutory jurisdiction over some Indian tribes. NARF has also monitored the development of regulations to implement Indian preference employment in the Bureau of Indian Affairs and the Indian Health Service.

Tribal Codes

In addition to drafting the Menominee Constitution and By-laws, technical assistance in tribal government matters has been provided to the Mississippi Band of Choctaws in the development of a tribal legal code and to the Lower Sioux Indian Community with a tribal constitution and by-laws.

Teaching and Publications

NARF has continued to teach the Indian Law course at the University of Colorado Law School on a reimbursable basis. Participation in the clinical law program at Antioch Law School was also continued by NARF's Washington office. An extensive law review article co-authored by a NARF attorney was published in the University of California Law Review. The article stresses the continuing validity of Indian treaties absent an express abrogation of those rights by Congress.

In September 1975 NARF conducted a five-day training course in Boulder for persons who had been nominated by the Steering Committee and who act as resource people for their tribes and reservations. Topics covered were the structures and functions of the U.S. government departments and agencies, sources of Indian law, the legislative process in the House and Senate, the administrative process and procedure, public and private organizations related to Indians, freedom of information laws and regulations, tribal government, criminal law and process and civil rights. NARF staff attorneys and outside experts acted as the trainers. Later, the curriculum was adapted for VISTA workers assigned to the Nebraska Indian Commission who came to NARF's office in Boulder to take the course.

SECRETARY - TREASURER'S REPORT

Overview

Corporate and Program Management

NARF is governed by a volunteer, unpaid Steering Committee which met twice during 1975. Day-to-day management of the Corporation was under the supervision of the four-man Executive Committee which met five times and consulted by conference call an additional ten times during 1975. A listing of the Steering Committee members is shown in the frontispiece of this report.

There were major changes in NARF's corporate and program management during 1975. Thomas W. Fredericks, a Mandan-Hidatsa Indian from the Three Affiliated Tribes of Fort Berthold, was appointed Executive Director of the Corporation and Director of the program on June 1, 1975. Mr. Fredericks succeeded John E. Echohawk, a Pawnee Indian, who had held these positions since April 1, 1973.

Mr. Echohawk resigned his position as Executive Director in order to return to litigation work on a full-time basis as a NARF staff attorney. In the interest of program continuity he agreed to accept appointment as Vice-Executive Director of the Corporation. The position of Deputy Director of the program has been vacant since June 1, 1976. Both of these positions were previously held by Mr. Fredericks.

On October 31, 1975, the Steering Committee amended the by-laws of the Corporation dividing the office of Secretary-Treasurer. This was done in conjunction with a similar division in the program area, whereby the duties of the Assistant to the Director were evaluated and two separate positions were established — those of Office Manager and Controller/Technical Writer.

Peri M. Bateman, a member of the Oglala Sioux Tribe, was selected to fill the position of Office Manager effective June 1, 1976, and on October 31, 1975, the Steering Committee appointed Ms. Bateman as Secretary of the Corporation. Joan C. Lieberman, who had held the positions of Secretary-Treasurer of the Corporation and Assistant to the Director since the program was incorporated, continued as Treasurer of the Corporation. Ms. Lieberman also assumed the responsibilities of Controller/Technical Writer for the program on June 1, 1975.

Two positions in the National Indian Law Library, that of Librarian and Research Assistant, were classified as professional positions in January, 1975. The position of Head Bookkeeper was also classified as a professional staff position on October 31, 1975. These changes at the Corporate and the program levels are shown on the organizational chart on page 99.

Policy Changes

This year, at the request of the Steering Committee, the Executive Committee, the Corporate officers and three NARF staff members worked together as a special Committee on Fees and Personnel Policies to evaluate existing personnel policies and to make recommendations to the full Steering Committee with regard to changes which could be made which would encourage longevity among NARF staff members.

The Committee on Fees and Personnel Policies, which met on four occasions over a six-month period, recommended several major changes. The first change related to NARF's provision of free services to clients, including the payment of cost appeal bonds, litigation expenses, and other out-of-pocket costs. Recognizing the need to build a significant base of financial support for NARF's work so as to ensure that there will be no interruption of services as foundation grants and government contracts expire, the full Steering Committee passed the following resolution on November 1, 1975 with regard to payment of out-of-pocket costs by its clients:

That effective November 1, 1975, the following procedures shall be instituted with regard to out-of-pocket expenses incurred by Native American Rights Fund attorneys while providing legal representation to Indian tribes and individuals.

All individual clients and client groups will be notified that in the event they are able and willing, that NARF will accept reimbursement for the following out-of-pocket expenses:

Travel, including airfare; personal auto use or car rentals; taxi, bus and parking expenses; as well as expenses for lodging and meals.

Litigation, including expenses for depositions and transcripts; document reproduction; expert witnesses; filing, docket and service fees; printing costs of briefs and petitions; and payment of court-required cost bonds.

That in no event shall representation to NARF clients be refused on the basis of the inability or unwillingness of such clients to pay any or all of the above expenses incurred in relation to NARF's representation of them.

That all such monies recovered or received from NARF clients in the above manner shall be set aside for use in providing Indian client representation in the future.

Because of NARF's unique caseload and the complexity of the litigation undertaken on behalf of Indian clients, the Steering Committee was concerned that it provide an employee benefit program which encouraged longevity and stability particularly among the professional staff. As a result the Committee called for the establishment of a money purchase pension plan whereby NARF would contribute an amount equivalent to five percent of the gross salaries of each employee. Such a plan was adopted and has been submitted to the Internal Revenue Service for their final approval. NARF has been making contributions on behalf of employees in the interim period. A sabbatical plan for staff attorneys was also established by the Committee. Under this plan, after five years of full employment six months of paid leave is available provided the attorney's caseload can be managed and staffing can be arranged to cover commitments during that period. The sabbatical plan will be financed by forfeitures from the money purchase pension plan by those employees who leave the program prior to the time that they become fully vested.

Major revisions were made in the salary scale for both professional and support staff employees. On October 31, 1975 the base salary for NARF attorneys was raised from \$13,000 per annum to \$15,000 per annum. A restructuring of the job categories and salary levels for support staff employees was made in such a manner as to provide more adequate compensation for those Indian employees who came to work for the program as inexperienced personnel at lower salary levels. Under the new program, such employees are eligible to move into an experienced job category after six months provided they have made sufficient growth on the job. An intensive on-the-job training program to upgrade the skill levels was also established.

Although the Steering Committee recognizes that NARF's salary levels cannot compete with government standards or with the private sector, they nonetheless believe that they have done what they can to provide an atmosphere which will permit NARF's staff members to adequately provide for their families while working for the program.

Staffing

Including Mr. Fredericks and Mr. Echohawk, 18 Staff Attorneys were on board during 1975. Eleven of these 18 attorneys were Native Americans. Five additional professional staff members assisted during 1975, including the Office Manager, the Controller/Technical Writer, the Head Bookkeeper, the NILL Librarian and the NILL Research Assistant. Three of these five non-attorney professional staff members were Native Americans.

While 15 attorneys worked out of NARF's headquarters in Boulder, a second attorney position was added to NARF's Washington office in June, 1975. NARF also continued its full-time Of Counsel arrangement with an attorney located in Calais, Maine in conjunction with NARF's Eastern Indian Legal Support Project.

Three professional staff members left the program during 1975, these included Staff Attorneys Charles F. Wilkinson, Douglas R. Nash and Scott E. Little. Of the 21 full-time NARF support staff positions during 1975, 15 or 71% were filled by Native Americans. Of the temporary or part-time support staff positions, 51% were filled by Indian people. Nine full-time permanent support staff members left NARF during 1975, a 42% turnover rate.

A listing of all 1975 NARF employees can be found on pages 100 through 108, including the vitae of all staff attorneys.

Fiscal Management

The financial assets of the Native American Rights Fund are maintained under a full-accrual, double entry fund balance accounting system. All expenses are segregated by grantee or fund. The financial management of the corporation is the responsibility of the Treasurer of the corporation.

During Fiscal Year 1975 NARF adopted the recommendation of the American Institute of Certified Public Accountants and revised its financial reporting to reflect functional expenses. Accordingly, NARF retroactively recorded depreciation of fixed assets and classified all expenditures by four categories: (1) Litigation and Client Services, (2) National Indian Law Library, (3) Management and General, and (4) Fund Raising.

In connection with the revised reporting, certain of the expense categories for the year ended September 30, 1974, were reclassified for comparative purposes. The retroactive depreciation provision amounted to \$10,886 in 1974 and \$9,735 for the years prior to 1974. The effect was to reduce the general fixed assets fund balance and total of all funds by \$20,621 as of September 30, 1974.

The report of Price Waterhouse and Co., Independent Certified Public Accountants, on NARF's financial statements, including a statement of revenues, expenditures and changes in fund balance, as well as supplemental notes and information, as of September 30, 1975 is included in this report following page 109.

The operational budget for FY 75 (October 1, 1974 - September 30, 1975) was 15% higher than the operational budget for FY 74. In FY 75 total operational expenditures amounted to \$1,087,416 versus the \$919,566 expended in FY 74. This increase, which was the same as the 15% growth experienced in FY 74, related to the addition to NARF's professional staff of two staff attorneys and the necessary support components, as well as price increases in goods and services which averaged 11.5%.

Private foundations provided 74% of NARF's operational support during FY 75; governmental and public institutions 21%; and the general public 5%. During the previous fiscal year these same categories of support were 76%, 17% and 5% respectively.

A list of all 1975 supporting foundations, public grant sources, corporate contributors, and individual citizens who gave gifts of \$100 or more is included on pages 110 through 115 of this report section.

During FY 75 NARF resources were spent in the following budget areas. Comparative figures for FY 74 are also shown.

BUDGET EXPENSE CATEGORY	FY 75	% OF TOTAL	FY 74	% OF TOTAL
Salaries and wages:				
Professional Staff	\$322,534	30	\$289,850	31
Support Staff	220,930	20	192,020	21
Fringe Benefits	<u>52,512</u>	5	<u>42,805</u>	5
Total Salaries & Related Costs	\$595,976	55	524,675	57
Contract Fees & Consultants	79,682	7	37,770	4
Travel	108,455	10	91,887	10
Space Costs	52,137	5	39,634	4
Office Expenses	194,562	18	177,091	19
Equipment Maintenance & Rental	6,597	1	6,856	1
Litigation Costs	28,819	3	19,015	2
Library Costs	<u>8,709</u>	1	<u>11,752</u>	1
Expenses Before Depreciation	1,074,937		908,680	
Depreciation	<u>12,479</u>		<u>10,886</u>	
Total Expenses	<u>\$1,087,416</u>		<u>\$919,566</u>	

The total of all of NARF's funds at the end of FY 75 was \$382,256. Of this amount \$155,626 was restricted to designated uses by grantors. \$162,427 was unrestricted and \$64,203 was the value of NARF's fixed assets. The net increase in NARF's unrestricted fund balance exclusive of property and equipment between the end of FY 74 and FY 75 was \$56,235.

IRS Classification

NARF is a non-profit, charitable corporation which was incorporated under the laws of the District of Columbia on July 14, 1971. On July 20, 1971, NARF was classified by the Internal Revenue Service as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code. On February 5, 1973, NARF was classified as an organization that is "not a private foundation" as defined in Section 509(a) of the code because it is an organization described in Section 170(b)(1)(A)(VI) and 501(a)(1). This classification, which remains in effect indefinitely unless NARF substantially alters its operation, relieves private foundations of expenditure responsibility for grants they may make to the Native American Rights Fund.

Public Information and Fund Raising Policies

NARF's public information and fund raising staff for public solicitations, foundation, governmental and corporate activities consists of salaried employees. During 1975, NARF retained data management consultants on a limited basis to advise on the maintenance of NARF's donor records and the use of public solicitation lists. No percentage inducements were offered or paid to these individuals. Although NARF engages in direct mail solicitation, it does not send unsolicited merchandise of any kind as an inducement to contribute.

During FY 75, NARF continued to build a broader base of public support. It did so primarily through the operation of a direct mail solicitation program. Over 10,000 individuals responded to NARF's appeals during 1975. Each of these individual contributions, which totals some \$72,000 was recorded and each individual donor received an official receipt for the contribution. NARF retains a permanent record of all such gifts and makes available to the donor upon request a record of his or her individual contributions, including the date and amount of each gift.

Trademark, Publications, and Certificate of Authority

NARF's name and logo is registered with the U.S. Patent Office, and it is NARF's policy to defend its name and logo vigorously against unauthorized use by others.

A complete listing of all NARF's monographs and periodicals begins on page 116. A list of staff publications is shown on pages 118 through 119.

The Native American Rights Fund, Inc. operates under a Certificate of Authority for a Foreign Non-Profit Corporation in the State of Colorado.

Joan C. Lieberman
Treasurer

January, 1976.

NATIVE AMERICAN RIGHTS FUND

ORGANIZATIONAL CHART

STEERING COMMITTEE

EXECUTIVE COMMITTEE

- 1 Chairman
- 2 Vice-Chairman
- 3 Additional Member
- 4 Additional Member

CORPORATE OFFICERS

- 1 Executive Director
- 2 Vice-Exec. Director
- 3 Secretary
- 4 Treasurer

DIRECTOR

DEPUTY DIRECTOR

STAFF
ATTORNEYS

WASHINGTON
STAFF
ATTORNEYS

Legal
Secre.

Law
Clerks

CONTROLLER
TECHNICAL WRITER

Book-
keeper

Asst.
Book-
keepers

NILL
LIBRARIAN

NILL
Research Asst.

NILL
Secretary

OFFICE MANAGER

Xerox
Recept.

Legal
Secres.

Law
Clerks

Records

Maint.
Repair

Press

Effective as of October 31, 1975

STAFF OF NATIVE AMERICAN RIGHTS FUND

Professional Staff

Thomas W. Fredericks is the Director of the Native American Rights Fund. Mr. Fredericks is a Mandan-Hidatsa Indian from the Fort Bethold Reservation in North Dakota. He served as Deputy Director from April, 1974 until his appointment as Director. He has had considerable experience in tribal government and in resource management. He is also currently serving as President of the American Indian Lawyers' Association and Vice-President of the Native American Technical Assistance Corporation.

B.S., Minot State College, 1965; J.D., University of Colorado School of Law, 1972. Teacher, Bowbells High School, Bowbells, North Dakota (1965-1966); Tribal Administrator, Standing Rock Sioux Tribe, Fort Yates, North Dakota (1966-1969); Native American Rights Fund (May, 1972 to present). Member of the Bars of Colorado and North Dakota.

John E. Echohawk is a Pawnee and a past Director of Native American Rights Fund. He was the first graduate of the University of New Mexico's special program to train Indian lawyers and achieved national attention in that capacity. He was a founding member of the American Indian Law Students Association while in law school and has been with NARF since its inception. He was Deputy Director of NARF from March, 1972 until April, 1973 when he was appointed Director. Since June, 1975, he has been serving as a staff attorney and Vice-Executive Director of the corporation.

B.A., University of New Mexico, 1967; J.D., University of New Mexico Law School, 1970. Reginald Heber Smith Fellow (1970-1972). Native American Rights Fund (August, 1970 to present). Member of the Bar of Colorado.

David H. Getches was NARF's Founding Director from July, 1970, until April, 1973. He carried the primary responsibility for the initial development of NARF, and is well known for his legal work in the areas of fishing, hunting, and other treaty rights. From April, 1973 to July, 1973, he was a full-time staff attorney. During 1975, he worked on a half-time basis.

A.B., Occidental College, 1964; J.D. University of Southern California, 1967 (staff member, University of Southern California Law Review). Associate, Luce, Forward, Hamilton & Scripps, San Diego (1967-1968); Staff Attorney, California Indian Legal Services (1968-1970);

Native American Rights Fund (July, 1970 to present).
Member of the Bars of Colorado and California.

Richard B. Collins joined NARF as a staff attorney November, 1975. Mr. Collins has had extensive experience in Indian law trial and appellate work. He has worked in Indian legal services programs since 1967, and has done a great deal during this time.

B.S., cum laude Yale, 1960; LL.B., Harvard Law School, 1966; Law Clerk, U.S. Court of Appeals, San Francisco, California (1966-1967); Associate Attorney/Deputy Director, California Indian Legal Services, Santa Rosa and Oakland, California (1967-1971); Director of Litigation, DNA Legal Services, Window Rock, Arizona (1971-1975); Native American Rights Fund (November, 1975 to present). Member of the Bars of California, Arizona, and New Mexico.

Raymond Cross joined NARF as a staff attorney in the Boulder office in November, 1975. He came to NARF after two years of experience in Indian Law with California Indian Legal Services. He has been practicing in the area of Indian Civil Rights including sales, consumer law and domestic law. Mr. Cross is a Mandan-Gros Ventre Indian from North Dakota.

B.A., Stanford University, 1970; J.D., Yale University, 1973. California Indian Legal Services (August, 1973 to October, 1975). Native American Rights Fund (November, 1975 to present). Member of the Bar of California.

Sharon K. Eads joined NARF in July, 1975 as a staff attorney in the Washington office. Ms. Eads is a Cherokee Indian from Oklahoma. She is presently concentrating on her work on NARF's Eastern Indian Legal Support Project, particularly the claims of Eastern Indians to lands illegally taken from them 150 years ago.

B.S., University of Oklahoma, 1972; J.D., University of Oklahoma 1975. Native American Rights Fund (July, 1975 to present). Member of the Bars of Oklahoma and the District of Columbia.

Walter R. Echo-Hawk, Jr., a staff attorney in the Boulder office, is a Pawnee Indian from Oklahoma. While he was in law school, Mr. Echo-Hawk worked extensively in the Northern Oklahoma area with the Pawnee Indians and served as a consultant of the United States Civil Rights Commission through a contract with the National Indian Youth Council.

For the past two and one-half years, he has concentrated his work at NARF in the field of Indian corrections.

B.A., Oklahoma State University, 1970; J.D., University of New Mexico Law School, 1973. Native American Rights Fund (June, 1973 to present). Member of the Bar of Colorado.

Bruce R. Greene returned to NARF in January, 1975 following a two year period with California Indian Legal Services. Mr. Greene is a staff attorney and Director of the Indian Law Back Up Center at NARF, and in this capacity advises and assists legal services programs across the country on a wide variety of Indian law issues. He has acquired extensive experience in the areas of administrative and environmental law.

B.S., University of California, 1964; J.D., University of California's Hastings College of the Law, 1967. Attorney-Advisor to Commissioner of Federal Power Commission, Washington, D.C. (1967-1969); Associate, Feldman, Waldman and Kline, San Francisco (1970); Staff Attorney, Native American Rights Fund, Boulder, Colorado (1971-1972); Director, California Indian Legal Services, Oakland, California (1972-1974). Member of the Bar of California.

Roy S. Haber was a full-time staff attorney in the Boulder office until March, 1975, and continued to assist NARF on an on-call basis through the end of 1975. He is well-known for his work in prison reform and constitutional rights.

A.B., Syracuse University, 1962; J.D., New York University School of Law, 1965. Diploma in Comparative Law, Faculte Internationale Pur L'Enseignement Du Droit Compare', 1966; Clerk for Judge Morris Ploscowe (1967-1970); Staff Attorney, Lawyers' Committee for Civil Rights Under Law, Jackson, Mississippi (1970-1972); Native American Rights Fund (October, 1972 to present). Member of the Bar of New York.

Daniel H. Israel is a staff attorney in the Boulder office. Since joining the NARF staff, Mr. Israel has specialized in tax, jurisdictional disputes, coal, water and other natural resource problems.

A.B., Amherst College, 1963; M.A., University of Pennsylvania, 1964; J.D., University of Michigan, 1967. Instructor, University of Washington Law School (1967-1968); Associate, Roberts and Holland, New York (1969-1970); Staff Attorney, Colorado Rural Legal Services, Boulder (1970-1971); Native American Rights Fund

(July, 1972 to present). Member of the Bars of New York and Colorado.

James F. King, Jr. joined NARF as a staff attorney in the Boulder office in October, 1975. He has had extensive experience in Indian civil rights, jurisdiction, treaty rights and termination problems.

B.A., cum laude University of California, 1964; J.D., University of California-Berkeley, 1967; Vista Volunteer Attorney, Urban Law Program, University of Detroit (1967-1968); Staff Attorney, Legal Aid Society of Sacramento County (1968-1972); Staff Attorney, Legal Services Foundation of Mendocino County (1972); Staff Attorney, California Indian Legal Services (1972-1975). Member of the Bar of California.

Yvonne T. Knight, a Boulder staff attorney, is a member of the Ponca Tribe and the first Indian woman law school graduate from the University of New Mexico's Indian law program. She is a founding member of the Board of Directors of AILSA. Since joining NARF's staff, she has worked in the fields of education and jurisdiction, as well as on the Menominee Restoration Act. During 1975, she spent the majority of her time drafting the Menominee Constitution.

B.S., University of Kansas, 1965; J.D. University of New Mexico Law School, 1971; High School teacher, Kansas City, Kansas (1966-1968); she was a Reginald Heber Smith Fellow from August, 1971 until July, 1974; Native American Rights Fund (1971 to present). Member of the Bar of Colorado.

Scott E. Little worked as a full-time staff attorney in NARF's Boulder office until July, 1975. Prior to joining NARF, Mr. Little was a partner with the firm of Lewis and Roca in Phoenix. He has had an extensive background in corporate law and federal court practice, and assisted NARF in a variety of areas including education and tax law.

A.B., Dartmouth College, 1963; J.D., University of Colorado Law School, 1966. Associate and partner, Lewis and Roca, Phoenix, Arizona (1966-1971); Native American Rights Fund (September, 1972 to July, 1975). Member of the Bars of Colorado and Arizona.

Charles H. Lohah joined NARF's Boulder staff as an attorney in September, 1975. Since then he has been the Legal Advisor to the National Indian Law Library as well as providing technical assistance to several tribes on tribal constitution and tribal court problems. Mr. Lohah is an Osage Indian from

Oklahoma and was Chairman of the Native American Rights Fund Steering Committee from October, 1971 until October, 1973.

B.A., Benedictine Heights College, Tulsa, Oklahoma, 1959; J.D., University of Tulsa School of Law, 1963; County and District Court Judge, Oklahoma (1967-1970); Assistant Professor, Baltimore-Washington Campus of Antioch College in charge of the Indian Studies Program (1971-1973); Director, Indian Educational Opportunity Program, University of Colorado (1973-1975); Native American Rights Fund (September, 1975 to present). Member of the Bar of Oklahoma.

Don B. Miller is a staff attorney in the Washington, D.C. office of the Native American Rights Fund. In addition to working on the problems of the Eastern Indians, he assists the Boulder office on a wide variety of issues in the Capitol. Prior to coming to NARF, Mr. Miller was the first employee and Director of the Organization of the Forgotten Americans, which provided legal, economic, consumer protection and health services to the Klamath Indians of Oregon.

B.S., University of Colorado, 1969; J.D., University of Colorado, 1972. Executive Director, Organization of Forgotten Americans, Klamath Falls, Oregon (1972-1974); Attorney-Advisor, Office of Solicitor, Division of Indian Affairs, Department of Interior, Washington, D.C. (September, 1974 - December, 1974); Native American Rights Fund (January, 1975 to present). Member of the Bars of Colorado and the District of Columbia.

Douglas R. Nash, a Nez Perce Indian from Idaho, was a staff attorney in the Boulder office until June, 1975. Mr. Nash is past Executive Director of the American Indian Law Students Association, and is now Secretary-Treasurer of the American Indian Lawyers' Association. His work at NARF was primarily in the area of hunting, fishing rights and other treaty rights of the Northwest tribes. He left NARF to start private practice near Pendleton, Oregon, and is currently assisting NARF as local counsel in several cases.

A.B., University of Idaho, 1969; J.D., University of New Mexico Law School, 1971. Attorney-Advisor, Department of the Interior Indian Civil Rights Task Force (1971-1972); Native American Rights Fund (August, 1972 - June, 1975). Member of the Bar of New Mexico.

Robert S. Pelcyger, a staff attorney in the Boulder office, is well known for his work in the area of water rights.

He also is involved in several proceedings before the Federal Power Commission. Mr. Pelcyger is one of the original NARF staff attorneys having been with NARF since it began as a pilot project in June, 1970.

A.B., cum laude, University of Rochester, 1963;
LL.B., Yale Law School, 1966. Fulbright Fellow (1966-1967). Staff Attorney, DNA Legal Services (1967); Staff Attorney, California Indian Legal Services (1968-1971); Native American Rights Fund (August, 1971 to present). Member of the Bars of California and New York.

Stephen M. Rios joined NARF's staff in August, 1975 as a staff attorney in the Boulder office and was one of two Indian law graduates selected in 1975 to work under NARF's Indian Lawyer Intern Project supported by the Carnegie Corporation of New York. He is a Mission-Juaneno Indian, and while attending law school at Boalt Hall he clerked with California Indian Legal Services in the area of criminal law.

B.A., cum laude, University of California, 1972; J.D., University of California at Berkeley, 1975. Native American Rights Fund (August, 1975 to present).

Thomas N. Tureen is Of Counsel to the Native American Rights Fund on a full-time basis working out of Calais, Maine. Since July, 1973, he has worked with NARF on the problems of recognition, land claims and services for Eastern Indians.

A.B., Princeton University, 1966; J.D., George Washington University, 1969. Reginald Heber Smith fellow (1969-1970); Directing Attorney, Pine Tree Legal Assistance Indian Unit, Calais, Maine (1969 to present). Member of the Bars of Maine and the District of Columbia.

A. John Wabaunsee, a Boulder office staff attorney, is a Prairie Pottawatomie Indian. Since July, 1975, he has headed NARF's Indian Education Legal Support Project, while also working on resource protection and leasing issues.

J.D., DePaul University School of Law, 1973. Mr. Wabaunsee was a Reginald Heber Smith Fellow from August, 1973 until July, 1975. Native American Rights Fund (June, 1973 to present). Member of the Bar of Colorado.

Jeanne S. Whiteing joined the staff of NARF in June, 1975 as a staff attorney in the Boulder office. Mrs. Whiteing, a Blackfeet-Cahuilla Indian, is one of two Indian law graduates selected in 1975 as an Indian Lawyer Intern under a special grant provided by the Carnegie Corporation of New York.

She is presently working on issues involving hunting and fishing, treaty rights, federal recognition and natural resource protection.

B.A., Stanford, 1972; J.D., University of California-Berkeley, 1975. Native American Rights Fund (June, 1975 to present). Member of the Bar of Colorado.

Charles F. Wilkinson was a staff attorney in Boulder until July, 1975. During his last two years with NARF he was in charge of the Native American Rights Fund's Indian Education Legal Support Project. In addition to his work in education law, Mr. Wilkinson spent considerable time on the Menominee Restoration effort. He is currently teaching at the University of Oregon School of Law and assisting NARF on a part-time Of Counsel basis.

A.B., Denison University, 1963; J.D., Stanford University Law School, 1966. Associate, Lewis and Roca, Phoenix (1966-1968); Associate, Bronson, Bronson & McKinnon, San Francisco (1966-1971); Native American Rights Fund (October, 1971 to July, 1975). Member of the Bars of Arizona and California.

Sally N. Willett is a staff attorney in the Boulder office. She is a Cherokee Indian who has been concentrating her efforts on resource problems and education law.

B.A., Washburn University (1968); Instructor, Universidad Industrial de Santander, Bucaramanga, Colombia (1969); M.A., Kansas State Teachers College (1970); Teacher, Santa Fe Trails High School, Overbrook, Kansas (1969-1971); Instructor, Kansas State Teachers College (1971); J.D., UCLA School of Law (1974). Native American Rights Fund (August, 1974 to present). Member of the Bar of California.

Peri M. Bateman, Oglala Sioux, Office Manager and Secretary of the Corporation.

Joan C. Lieberman, Controller/Technical Writer and Treasurer of the Corporation.

Support Staff

Law Clerks -- Summer

Gorden Allen (Choctaw)
Miles D. Frieden
Richard Hoffman (Cherokee)
Alexander Tallchief Skibine (Osage)
Dean Suagee (Cherokee)

Alex Swiderski
Susan Work (Choctaw)

Law Clerks -- School Year

Sheila Barton - until November 1975
Suzanne Carmichael - until December, 1975
Britt Calphan (Omaha) - until August, 1975
Karl Funke (Chippewa-Kerveenaw) - until April, 1975
Ralph Gonzales (Laguna Pueblo)
Jeffrey Kahn
Lawrence Laub
Dennis Montgomery
Jeff Schuster
James Wright - until May, 1975

Legal Secretaries

Elva Arquero (Cochita Pueblo) - until July, 1975
Angela Begay (Navajo)
Gail L. Benoist (Cheyenne River Sioux) - until November, 1975
Gloria Cuny (Oglala Sioux)
Erna Faulkner
Sharon Frause
Jeannette D. Gerber (Navajo) - until August, 1975
Cheryl Greeble
Mary A. Holden (Kiowa)
Carol Kerlinger - until June, 1975
Sigrid Eisberg-Melus
Debbie T. Nelson - until May, 1975
Lucy Preston (Passamaguoddy)
Terry W. Slotnick
Terese M.W. Smith
Maureen Williams (Chippewa) - until July, 1975
Pat Wright - until December, 1975
Lynda Zephier (Cheyenne River Sioux)

Head Bookkeeper

Susan Rosseter Hart

Assistant Bookkeepers

Norma Cuny (Oglala Sioux)
Carmel Lewis (Acoma Pueblo)

Receptionist/Xerox

Alice EchoHawk (Pawnee) - until April, 1975
Ava Hamilton (Arapahoe) - until December, 1975
Sarah S. Pensoneau (Chippewa-Santee Sioux)
Sylvia Sweeney (Chippewa-Ottawa)
Jan Schuldies (Cheyenne River Sioux) - until October, 1975
Ruby Wildcat (Navajo)
Bryce M. Wildcat (Euchee-Pawnee)

Records

Bernadine Quintana (Rosebud Oglala Sioux)

Print Shop

Wesley W. Wildcat (Euchee-Pawnee)

Special Projects

Delmar Hamilton (Kiowa) - until May, 1975

Ralph Nordwall (Pawnee) - until December, 1975

Rick Williams (Oglala Sioux)

Custodian

George D. Tahbone (Kiowa-Comanche)

Temporary Assistance

Susan Andre

Jackie Aucoin

Joan Bober

Cecil Campbell (Pawnee)

John M. Chisholm (Ottawa-Creek)

Mary Doyle

Robert Frazier (Choctaw)

Mathew Johnson (Navajo)

Elizabeth Lohah (Osage)

Mary Miller

Donna Olson (Nez Perce)

Kristin Peterson

George Tahdooahnippah (Comanche)

Otis L. Tahdoohmippah (Comanche)

NATIONAL INDIAN LAW LIBRARY

Librarian

Diana Lim Garry (Acoma Pueblo)

Legal Advisor

David H. Getches - until June, 1975

Robert S. Pelcyger - until September, 1975

Charles H. Lohah (Osage)

Research Associates

Oran La Pointe (Rosebud Sioux)

Secretaries

Jeannette Arquero (Cochita Pueblo) - until October, 1975

Janice C. Bray (Kiowa)

Special Projects - Summer 1975

Kent B. Connally (Choctaw)

Peter Hrobsky

NATIVE AMERICAN RIGHTS FUND, INC.

FINANCIAL STATEMENTS

SEPTEMBER 30, 1975



2300 COLORADO NATIONAL BUILDING
DENVER, COLORADO 80202
303-571-1144

December 3, 1975

To the Steering Committee of
Native American Rights Fund, Inc.

We have examined the balance sheets of Native American Rights Fund, Inc. as of September 30, 1975 and 1974 and the related statements of support, revenue, expenses and changes in fund balances and of functional expenses for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As explained in Note 1, Native American Rights Fund, Inc. has revised its financial reporting, has retroactively recorded depreciation of fixed assets and has reclassified certain expense categories to conform its financial reporting to the requirements of the American Institute of Certified Public Accountants' industry audit guide "Audits of Voluntary Health and Welfare Organizations."

In our opinion the accompanying balance sheets and the related statements of support, revenue, expenses and changes in fund balances and of functional expenses present fairly the financial position of Native American Rights Fund, Inc. at September 30, 1975 and the combined financial position for all funds at September 30, 1974, the results of its operations and changes in fund balances for the year ended September 30, 1975 and such combined results and changes for all funds for the year ended September 30, 1974, in conformity with generally accepted accounting principles applied on a consistent basis after restatement for the change, with which we concur, referred to in the preceding paragraph.

Price Waterhouse & Co.

NATIVE AMERICAN RIGHTS FUND, INC.

BALANCE SHEETS

	September 30, 1975			Total all funds	
	Current funds		General fixed asset fund	September 30, 1975	September 30, 1974 (Note 1)
ASSETS	Unrestricted	Restricted			
Current assets:					
Cash	\$ 3,429			\$ 3,429	\$ 15,001
Marketable securities, at cost (Note 2)	162,910	\$155,626		318,536	136,418
Grants receivable	14,560			14,560	16,575
Other receivables	18,741			18,741	5,021
Prepaid expenses	11,800			11,800	7,045
Total current assets	211,440	155,626		367,066	180,060
Property and equipment, at cost (Notes 1, 3 and 5):					
Land and buildings			\$140,135	140,135	140,135
Improvements to land and buildings			5,915	5,915	1,720
Office equipment and furnishings			67,245	67,245	54,351
Automobile			4,220	4,220	4,220
			217,515	217,515	200,426
Less - Accumulated depreciation			(33,100)	(33,100)	(20,621)
Net property and equipment			184,415	184,415	179,805
Investment in restricted common stock (Note 2)	18,000			18,000	29,200
	<u>\$ 229,440</u>	<u>\$155,626</u>	<u>\$184,415</u>	<u>\$569,481</u>	<u>\$389,065</u>
LIABILITIES AND FUND BALANCES					
Current liabilities:					
Current portion of mortgage payable			\$ 2,960	\$ 2,960	\$ 2,712
Accounts payable	\$ 23,025			23,025	13,582
Accrued expenses (Note 4)	43,988			43,988	24,274
Total current liabilities	67,013		2,960	69,973	40,568
Mortgage payable (Note 3)			117,252	117,252	120,212
	<u>67,013</u>		<u>120,212</u>	<u>187,225</u>	<u>160,780</u>
Fund balance	162,427	\$155,626	64,203	382,256	228,285
	<u>\$ 229,440</u>	<u>\$155,626</u>	<u>\$184,415</u>	<u>\$569,481</u>	<u>\$389,065</u>

See notes to financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENTS OF SUPPORT, REVENUE, EXPENSES AND
CHANGES IN FUND BALANCES

	Year ended September 30, 1975			Total all funds	
	Unrestricted	Current funds Restricted	General fixed asset fund	Year ended September 30, 1975	1974 (Note 1)
Support and revenue:					
Grants received		\$1,110,011		\$1,110,011	\$ 879,607
Contributions	\$ 72,978			72,978	63,213
Other revenue	61,840			61,840	61,138
Total support and revenue	134,818	1,110,011		1,244,829	1,003,958
Expenses:-					
Program services:					
Litigation and client services		816,114	\$ 9,696	825,810	688,735
National Indian Law Library	5,491	57,394	973	63,858	72,607
Total program services	5,491	873,508	10,669	889,668	761,342
Support services:					
Management and general	21,524	99,376	1,460	122,360	96,328
Fund raising	54,166	20,872	350	75,388	61,896
Total support services	75,690	120,248	1,810	197,748	158,224
Total expenses	81,181	993,756	12,479	1,087,416	919,566
Excess (deficiency) of support and revenue over expenses	53,637	116,255	(12,479)	157,413	84,392
Other changes in fund balances:					
Acquisition of fixed assets with restricted funds		(17,088)	17,088		
Returned to grantor		(3,442)		(3,442)	
Reduction in mortgage payable		(2,713)	2,713		
Other transfers	2,598	(2,598)			
	2,598	(25,841)	19,801	(3,442)	
Fund balance, beginning of year, as previously reported	106,192	65,212	77,502	248,906	153,628
Depreciation charge from prior periods (Note 1)			(20,621)	(20,621)	(9,735)
Fund balance, beginning of year, as restated	106,192	65,212	56,881	228,285	143,893
Fund balance, end of year	\$162,427	\$ 155,626	\$ 64,203	\$ 382,256	\$ 228,285

See notes to financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENTS OF FUNCTIONAL EXPENSES

Year ended September 30, 1975								
	Program services			Support services			Total expenses	
	Litigation and client services	National Indian Law Library	Total	Management and general	Fund raising	Total	Year ended September 30, 1975	1974 (Note 1)
Salaries and wages:								
Professional staff	\$273,607	\$18,431	\$292,038	\$ 24,527	\$ 5,969	\$ 30,496	\$ 322,534	\$289,850
Support staff	148,785	23,664	172,449	38,960	9,521	48,481	220,930	192,020
Fringe benefits	45,434	2,103	47,537	4,188	787	4,975	52,512	42,805
Total salaries and related costs	467,826	44,198	512,024	67,675	16,277	83,952	595,976	524,675
Contract fees and consultants	63,303		63,303	8,740	7,639	16,379	79,682	37,770
Travel	95,447	828	96,275	11,410	770	12,180	108,455	91,887
Space costs	29,583	1,913	31,496	19,916	725	20,641	52,137	39,634
Office expenses	117,965	14,339	132,304	12,744	49,514	62,258	194,562	177,091
Equipment maintenance and rental	4,588	1,501	6,089	395	113	508	6,597	6,856
Litigation costs	28,819		28,819				28,819	19,015
Library costs	8,583	106	8,689	20		20	8,709	11,752
Expenses before depreciation	816,114	62,885	878,999	120,900	75,038	195,938	1,074,937	908,680
Depreciation (Note 1)	9,696	973	10,669	1,460	350	1,810	12,479	10,886
Total expenses	<u>\$825,810</u>	<u>\$63,858</u>	<u>\$889,668</u>	<u>\$122,360</u>	<u>\$75,388</u>	<u>\$197,748</u>	<u>\$1,087,416</u>	<u>\$919,566</u>

See notes to financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.

NOTES TO FINANCIAL STATEMENTS

SEPTEMBER 30, 1975

NOTE 1 - ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES:

Organization:

Native American Rights Fund, Inc. (NARF) was organized in 1971 under the non-profit corporation law of the District of Columbia and has a primary objective of providing legal representation, assistance and education to Native American people. NARF derives financial support from private foundations, the United States Government and from public contributions.

NARF is a tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code and as such is subject to federal income taxes only on unrelated business income.

Change in accounting and reporting:

During 1975 NARF adopted the recommendations of an audit guide issued by the American Institute of Certified Public Accountants, "Audits of Voluntary Health and Welfare Organizations." In accordance with the recommendations of such guide, NARF has revised its financial reporting to reflect functional expenses and has retroactively recorded depreciation of fixed assets. In connection with the revised reporting, certain of the expense categories for the year ended September 30, 1974 have been reclassified for comparative purposes. The retroactive depreciation provision amounted to \$10,886 in 1974 and \$9,735 for years prior to 1974 (a total of \$20,621), the effect of which has been to reduce the general fixed asset fund balance and the total all funds balance by \$20,621 at September 30, 1974.

Revenues:

Revenues are recorded when funds are received except for grants which provide for reimbursement of costs expended. Revenues from these grants are recorded when such reimbursable costs are incurred. Contributions of marketable securities or other in-kind contributions are recorded as revenues at their estimated fair market value at the date of contribution. Significant long-term declines in market value which cause the recorded value to exceed market value are recorded as charges against revenue.

Property and equipment:

Purchases of property and equipment and payments on the mortgage liability are expenditures of the current fund. Such expenditures are treated as transfers to the general fixed asset fund and the net additions to such fund consist of the following:

	Year ended September 30,	
	<u>1975</u>	<u>1974</u>
Purchase of office equipment	\$12,893	\$ 8,507
Purchase of automobile		4,220
Principal payments on mortgage	2,713	2,487
Improvements to land and buildings	<u>4,195</u>	<u> </u>
Net increase to general fixed asset fund	<u>\$19,801</u>	<u>\$15,214</u>

Depreciation:

Depreciation is computed over the estimated useful lives of the assets using the straight-line method for buildings and the declining balance method for other property and equipment.

NOTE 2 - MARKETABLE SECURITIES AND
INVESTMENT IN RESTRICTED COMMON STOCK:

Marketable securities consist of certificates of deposit, marketable corporate securities and mutual fund shares. The market value of these investments is approximately \$318,000 and \$132,000 at September 30, 1975 and 1974, respectively.

The investment in restricted common stock consists of 9,000 shares with a market value of \$34,875 at September 30, 1975 and 14,600 shares with a market value of \$31,025 at September 30, 1974 of Elixir Industries common stock which has not been registered under the Securities Act of 1933. The stock is subject to certain restrictions as to sale and at September 30, 1973 was adjusted to its estimated market value of \$40,000 which was based on the market price of registered shares. The value at date of grant of shares held at September 30, 1975 and 1974 was \$90,000 and \$146,000, respectively. The investment in restricted common stock was sold subsequent to September 30, 1975 and a gain of approximately \$18,000 was realized.

NOTE 3 - MORTGAGE PAYABLE:

The mortgage payable is secured by NARF's land and buildings and is payable in equal monthly installments of \$1,113, including interest at 8-3/4%, through May, 1983, with a final principal payment of \$89,49 due in June, 1983.

NOTE 4 - RETIREMENT PLAN:

During 1975 the Steering Committee of NARF authorized the establishment of a retirement plan and a contribution of five percent of gross salaries for the full-time employees of the Fund. Accordingly, \$17,631 was recorded as an expense and liability of NARF for fiscal 1975. No formal plan has been adopted by the Steering Committee and no investment of the contribution has been made.

NOTE 5 - SUBSEQUENT EVENT:

On November 25, 1975 NARF purchased the land and building in which NARF's Washington, D. C. office is located for \$175,000. The property was acquired by a cash payment of \$49,404, the assumption of a 5-1/2% mortgage of \$45,596 due in equal monthly installments of \$482 including principal and interest to March 1, 1985 and the issuance of 9% promissory notes of \$80,000 due in monthly installments of \$720 including principal and interest with the unpaid principal due on November 25, 1985. The mortgage and promissory notes are secured by a first and second deed of trust on the acquired properties.

NATIVE AMERICAN RIGHTS FUND

CONTRIBUTORS 1975

Foundations

American Charitable Trust	General Support
Carnegie Corporation of New York	National Indian Law Library
Carnegie Corporation of New York	Indian Lawyer Intern Project
Field Foundation	Southwest Indian Environmental Project
Ford Foundation	General Support
Donner Foundation	Northern Great Plains Natural Resources Project
Hirsch Foundation	General Support
Irwin-Sweeney-Miller Foundation	Indian Corrections Project
Laras Fund	Pit River Tribe/FPC License Application
Lilly Endowment, Inc.	Eastern Indian Legal Support Project
Phelps Stokes Fund	General Support
Polaroid Foundation	General Support
Tamler Foundation	General Support

Corporations

Equitable Life Assurance Society	General Support
Greyhound Corporation	General Support
McDonald's Corporation	General Support
Textron Charitable Trust	General Support

Tucson Creative Dance Center

Religious, Governmental and
Public Institutions

Bureau of Indian Affairs
Phoenix Solicitors Office

Centerville High School-Council on
Work Affairs, Dayton, Ohio

Department of Health, Education
and Welfare - Office of Native
American Programs

Department of Health, Education
and Welfare - Office of Native
American Programs

Hawaiian Coalition of Native Claims
(Subcontract from the Donner
Foundation)

Howard University (Subcontract
from the Office of Economic
Opportunity)

National Indian Lutheran Board

United Society of Friends Women

University of Colorado
(Subcontract from the Community
Services Administration)

University of Colorado

Individual Contributors over \$100

Ms. Pauline E. Ahl

Mr. David H. Anderson

Mrs. Fanny H. Arnold

Ms. Margaret Tolle Austin

General Support

Purpose

Pyramid Lake Paiute
Peigh Ranch Title
Investigation

General Support

Indian Education Legal
Support Project

National Indian Law
Library and Indian
Technical Assistance
Project

Research and Organiz-
ational Assistance for
Hawaiian Natives

Reginald Heber Smith
Fellowship for A. John
Wabaunsee

Central Utah Project -
Evaluation for the
Tribal Members

General Support

Indian Law Back Up
Center

Indian Law Seminar

Purpose

General Support

General Support

General Support

General Support

<u>Individual Contributors over \$100 (Cont.)</u>	<u>Purpose</u>
Mrs. Helen H. Bacon	General Support
Ms. Elizabeth E. Baker	General Support
Dr. Frank C. Baldwin	General Support
Mrs. Katuna McCormick Barnes	General Support
Mrs. Florence B. Bererford	General Support
Mrs. Louise R. Berman	General Support
Mr. George O. Bird	General Support
Mr. Roger Boone	General Support
Mrs. John W. Bowden	General Support
Ms. Margatet B. Boynton	General Support
Ms. Eugenia Rowe Bradford	General Support
Mrs. Katherine H. Bretnall	General Support
Mrs. Judith M. Buechner	General Support
Mr. J. G. Butterfield	General Support
Ms. Esther S. Byrne	General Support
Mr. James J. Callan	General Support
Mrs. Harding Clegg	General Support
Mrs. Elizabeth B. Conant	General Support
Mr. Robert Cory, Jr.	General Support
Mr. Edward H. Cutler	General Support
Mr. & Mrs. Ed Davis	General Support
Miss A. Delamar	General Support
Mrs. Mary E. Depackh	General Support
Mr. M. M. Devore	General Support
Mrs. Jean B. Donnell	General Support

<u>Individual Contributors over \$100 (Cont.)</u>	<u>Purpose</u>
Mrs. Corinne W. Eldredge	General Support
Mr. & Mrs. W. H. Ferry	General Support
Ms. Elizabeth King Follett	General Support
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