Native American Rights Fund

Annual Report • 1977

NATIVE AMERICAN RIGHTS FUND

STEERING COMMITTEE

Executive Committee

David Risling, Jr. (Hoopa), Chairman
Coordinator, Native American Studies, University of California—Davis
California

Val Cordova (Taos Pueblo)*
Educator, San Felipe Day School
New Mexico

Leo LaClair (Muckleshoot)
Attorney, Commercial Fisherman
Washington

LaNada Boyer (Shoshone-Bannock)
Tribal Council Member
Idaho

Committee Members

Robert Bojorcas (Klamath)
Director of CETA Manpower Program
Oregon

Chief Curtis L. Custalow, Sr. (Mattaponi)
Mattaponi Chief
Virginia

Lucille Dawson (Narragansett)
Program Specialist, Administration for Native Americans
Washington D.C.

Renee Howell (Oglala Sioux)
Paralegal
South Dakota

Louis LaRose (Winnebago)
Chairman, Winnebago Tribe of Nebraska
Nebraska

Leroy Logan (Osage)
Rancher
Oklahoma

Janet McCloud (Tulalip)
Washington

Jerry Running Foxe (Coquille)
Chairman of Coquille Tribe
Oregon

John Stevens (Passamaquoddy)
Governor of the Passamaquoddy Tribe
Maine

*Until October, 1977

CORPORATE OFFICERS

Executive Director	John E. Echohawk (Pawnee)
Secretary	Lorraine P. Edmo (Shoshone-Bannock)
Treasurer	James A. Laurie

STAFF ATTORNEYS*

Lawrence A. Aschenbrenner
Kurt V. Blue Dog (Sisseton-Wahpeton Sioux)
Richard B. Collins
Raymond Cross (Mandan-Gros Ventre)
Sharon K. Eads (Cherokee)
Walter R. Echo-Hawk (Pawnee)
Daniel H. Israel
Yvonne T. Knight (Ponca-Creek)
Timothy A. LaFrance (Turtle Mountain Chippewa)
Arlinda F. Locklear (Lumbee)
Don B. Miller
Dennis M. Montgomery
Robert S. Pelcyger
Thomas N. Tureen
A. John Wabaunsee (Prairie Band Potawatomi)
Jeanne S. Whiteing (Blackfeet-Cahuilla)

*as of December 31, 1977

Main Office: 1506 Broadway, Boulder, Colorado 80302
Branch Offices: Washington, D.C. and Calais, Maine

DIRECTOR'S REPORT

When we started the Native American Rights Fund in 1970, we had high hopes that law would prove to be the vehicle through which the lives and conditions of Native Americans could be improved. Over the past few years, we have had those hopes fulfilled by the many court decisions in favor of Indian rights. These developments have reaffirmed the trust relationship between the United States and Indian tribes. They have confirmed the existence of treaty rights and the status of Indian tribes as sovereigns limited only by Congress. They have recognized and protected Indian rights to natural resources necessary to sustain continued tribal existence.

If there is any remaining doubt about the strong legal position of Indian tribes, it disappears when the tactics of those opposed to tribal interests are analyzed. Although court challenges of Indian rights continue, 1977 marked a shift in the battleground from the courts to the Congress. Being unable to impede Indian progress in the courts, anti-Indian interests were able to introduce legislation in Congress in an effort to eliminate treaty rights and laws vital to Indian existence. Such efforts were anticipated, however, and fortunately these bills have had little success thus far.

1977 also saw a new administration pledged to protect Indian legal rights take office in Washington. It is essential to Indian progress that the federal government take its trust responsibility to Indian people seriously. Federal support and involvement in Indian legal issues in the past few years has been a key element in Indian legal victories. It was an honor for NARF to have NARF Director Tom Fredericks appointed in 1977 as Associate Solicitor for Indian Affairs in the Department of the Interior. In that position he is a key advisor on Indian legal affiars to the Secretary of the Interior, the primary trustee to Indian people. Although we regretted his departure, we are certain that Indian people will benefit from having a person of Tom's knowledge and abilities in an important government position.

The responsibility for the operation of NARF has passed to me again. I served as Director previously from 1973-1975 before resigning in order to give Tom the opportunity and experience. I have remained dedicated to Indian legal rights and reassume these responsibilities with new energies. It is clear to everyone that NARF has been very instrumental in the Indian gains of the 1970's and must continue to be a force in Indian affairs indefinitely. Planning for and securing the

necessary funding for the future existence of NARF is my most important responsibility and is essential, I believe, to Indian survival in this country.

NARF has always been exceptional in the leadership and direction provided by the Steering Committee, the expertise and dedication of its staff, and the sensitivity and support of its funding sources. I look forward with much confidence, enthusiasm, and hope to working with these fine people and many others in 1978 and beyond to insure Indian survival and progress.

John E. Echohawk
March, 1978

NATIVE AMERICAN RIGHTS FUND

Its Purpose and Development

The Native American Rights Fund (NARF) is a national Indian interest law firm whose primary work centers on the preservation and protection of Indian rights and resources. NARF began its work nearly eight years ago as a pilot project of the Ford Foundation and through the years has grown into a reputable and well-respected advocate of Indian interests.

In 1970, the Ford Foundation became interested in establishing a national legal program for Indians. The Foundation chose to sponsor a pilot program with California Indian Legal Services (CILS) since this particular legal service had represented Indian clients successfully on a variety of issues. Foundation representatives met with CILS attorneys and discussed the need to establish a national legal program to serve Indian people since many tribal groups were not being serviced by any sort of legal project. CILS agreed to expand its service to Indian people nationwide and this project became known as the Native American Rights Fund.

In 1971, NARF moved its offices to Boulder, Colorado, because of its central location and accessibility to the University of Colorado's law library. Three of NARF's original incorporators made the move to Colorado - John E. Echohawk, Robert S. Pelcyger and David H. Getches. In a few short years, NARF grew from a three-attorney staff to an eighteen-attorney staff. A Washington, D.C. office was opened which continues to serve as an important link between NARF's clients and federal agencies in the nation's capitol. The Washington, D.C. office works on a variety of matters, including Eastern Indian cases, legislative analyses and archival research. In the fall of 1976, NARF found it necessary to open a temporary office in Calais, Maine, due to the potential impact of land claims actions filed by the Passamaquoddy and Penobscot Indians of Maine. During the fall of 1977, another temporary office was opened in Boston, Massachusetts, in preparation for trial in the case known as Mashpee Wampanoag Tribe v. New Seabury Corporation. Plans are to close the Boston office upon completion of the trial in this case.

NARF's caseload is determined by guidelines which

have been established by an all-Indian Steering Committee. This committee has identified five priority areas of involvement. NARF's policy has always been to pursue cases which will be of major significance to Indians throughout the country. These are cases which affect a large number of persons or which may lead to a change in laws affecting Indians generally.

Over the past seven years, NARF has represented hundreds of tribes, organizations and individuals throughout the nation in legal matters, before congressional committees and in administrative proceedings. NARF has worked extensively with other Indian organizations, legal services and tribal attorneys as well as state and federal officials in seeking solutions to legal problems facing NARF's clients.

NARF Administration and Directorship

A major change occurred last year in the NARF Directorship, a post which had been filled for two years by Thomas W. Fredericks. In June, Mr. Fredericks announced his departure from NARF in order to take a position in the Department of the Interior as Associate Solicitor for Indian Affairs. This post has never before been filled by an Indian attorney and was quite an honor for Mr. Fredericks. NARF's Steering Committee and staff were reluctant to see Tom go, but were glad to see that he would be devoting his talents and knowledge to work on behalf of Indian tribes throughout the country in much the same manner as he had done at NARF.

During the latter part of July the process of recruiting for a new Executive Director began and this position was advertised until September.

In October NARF's Steering Committee met and named Mr. John E. Echohawk as NARF's Executive Director. Mr. Echohawk had previously served as Executive Director from 1973-75 and had served as Vice-Executive Director since that time.

Legislative Liaison Hired

During the early part of 1977 it became increasingly evident that Congress may be the forum for resolution of several of the Eastern Indian claims. In March, NARF hired Ms. Suzan Shown Harjo, a former administrative assistant to the National Congress of American Indians, as its Legislative

Liaison. In this capacity, Ms. Harjo served as a congressional advocate for NARF's client interests. In this position she served to educate the new administration, federal agencies, congressional committees, and the non-Indian public as to the nature and background of legal claims made by Indian people. Ms. Harjo, a Cheyenne-Creek, was hired because of her experience in advocating Indian rights and her knowledge of congressional processes affecting Indians. Ms. Harjo pursued a number of important tasks throughout the year. She was most instrumental in securing passage of a bill for extension of the deadline for filing of Indian damage claims under a statute of limitations which was due to expire on July 18, 1977. She worked closely with NARF attorneys in trying to secure settlements in many of the tribes' claims, at the same time keeping abreast of important legislation which had been and would be introduced affecting the lives of all Native Americans. Her work was made possible through a grant from the Akbar Fund and the Ann Maytag Foundation.

1977 - A Crucial Year for Indians

1977 was a rather crucial time for American Indians witnessed by a rising tide of anti-Indian sentiment and the introduction in Congress of several bills which would, if enacted, severly limit or destroy the powers and rights of Indian tribes.

At the beginning of the year, a new administration took office and Indian people waited to see if President Carter would implement his pre-election commitments to American Indians. President Carter had promised to recognize the unique relationship between the federal government and Native Americans, as well as their historic, legal and moral rights, in the formulation of government policies. He also had promised to conduct a complete review of federal programs designed for Indian people as part of the plan to reorganize the government. This review would eventually determine the best manner by which the trust responsibility should be assured and maintained.

Prior to taking office, President Carter had appointed former Idaho Governor Cecil Andrus as his Secretary of Interior. This appointment was important to Indians because many of the decisions affecting their land and resources are made by the Department of the Interior. Secretary Andrus assured tribal leaders that he would consult with them prior to making key appointments and decisions relating to the delivery of government services to Indians.

One such key appointment in 1977 was for the newly-created post of Assistant Secretary for Indian Affairs. For the first time in history of the Interior Department, the position of Commissioner for the Bureau of Indian Affairs was being elevated to a policy-level role. Interior Secretary Andrus consulted with over 250 Indian leaders across the country prior to nominating Mr. Forrest Gerard, a Blackfeet Indian, to fill the post. Confirmation hearings for Mr. Gerard were held in September when he was sworn in to fill the job.

Prior to the appointment of Mr. Gerard, another important position had been filled by an Indian attorney. Former NARF Director Thomas W. Fredericks, a Mandan-Hidatsa Indian from Fort Berthold, North Dakota was recruited by the Interior Solicitor's Office to fill the post of Associate Solicitor for Indian Affairs. This appointment represented another first in that an Indian lawyer would be advising other Interior officials about matters involving Indian tribes.

NARF's Eastern Indian tribal involvements continued to draw public attention through 1977. Although much of NARF's efforts have been directed to the assertion of tribal claims in the western United States through the past several years, NARF began investigating land claims of a number of Eastern Indian tribes nearly six years ago. The legal victories that NARF has been able to secure in the last two years have greatly solidified Eastern Indian land claims. By far, the most attention in 1977 was focused on the Passamaquoddy and Penobscot's claim to 12.5 million acres in the state of Maine. In addition, the Mashpee Wampanoags' claim to more than 13,000 acres in the town of Mashpee drew much attention. Both of these claims as well as those of the Oneidas, the Catawbas, the Western Pequot, the Schaghticoke, Narragansett, and Shinnecock are based on the 1790 Indian Nonintercourse Act. This act nullifies any land transactions which the states may have had with Indians unless those transactions had been approved by the federal government.

In January the Interior Department issued its litigation report to the Justice Department urging them to seek return of the land claimed by the Tribes in Maine. The Interior Department confirmed that the Tribes did have a valid claim to more than 10 million acres of land and trespass damages in the billions of dollars. On the last day of February, the Justice Department filed its findings with the court and said that if an out-of-court settlement could not be reached by June 1, 1977, it would proceed first

against the state and a few large landowners.

The Justice Department indicated that the cases were potentially the most complex effort to hit the federal courts and had serious economic and social impact. The Department indicated that a negotiated settlement would be far preferable to litigation. In March, President Carter became involved in the land claims controversy and responded to the Justice Department's request by appointing his personal friend, William B. Gunter (Georgia Supreme Court, Rtd.), to review the entire situation and recommend a solution.

After evaluating the situation, Judge Gunter found that the cases had sufficient merit to warrant an out-of-court settlement and that the burden in such a settlement should fall on the state of Maine and the federal government. On July 15, 1977, Judge Gunter announced his proposed settlement which called for a $25 million payment to the Indians, plus an award of 100,000 acres from the state, and options on 400,000 more acres. Justice Gunter recommended that most of the Tribes' claim be extinguished if the defendants did not agree to it, without compensation and litigation proceed on the remainder. Tribal representatives were outraged at the nature of Judge Gunter's proposal and they were joined in their position by over 75 prominent Indian and non-Indian people across the country. Tribal representatives and their supporters sent a telegram to President Carter outlining their reasons for rejecting Justice Gunter's proposed settlement.

By September, the President took a new approach to the Maine land claims controversy and appointed a Presidential level working group to seek a consensual settlement with the Tribes. The members of the committee are Leo Krulitz, Solicitor of the Interior Department, Elliot Cutler, Director of the Natural Resources Division of the Office of Management and Budget and Steve Clay, a law partner of Judge Gunter, who assisted in preparing Judge Gunter's report. This group held several meetings prior to the end of 1977 in an effort to review substantive proposals for resolution of the Tribal claims. At the end of the year, however, a negotiated settlement still was not announced.

To the south of Maine, in Boston, attention was focused on the case of the Mashpee Wampanoag Tribe v. New Seabury Corporation. Justice Gunter had been asked to investigate and report on this claim as well as the Maine claim by President Carter. The Massachusetts congressional delegation, however, specifically asked that Justice Gunter

serve as mediator for the Mashpee dispute. Unfortunately, after reviewing materials submitted by both sides in this dispute, Justice Gunter announced in September that he was not able to provide a recommendation for resolution of the case. Settlement efforts which had been underway prior to Justice Gunter's announcement were destroyed since subsequest talks were impossible--a trial date of October 17 had already been set in the Mashpee case and there wasn't enough time to negotiate and prepare for trial as well.

The trial was scheduled to decide whether the Mashpee Wampanoags are and have been a Tribe of Indians as that term is used in the Nonintercourse Act. The trial would decide also whether the land being claimed by the Indians belonged to them at the time it was taken in violation of the federal act. When the trial did open, the Tribe presented its case in 22 days of testimony. This case has been termed one of the longest and most complex in which NARF has ever been involved. As the year drew to an end the trial was not yet over and it was not expected to end until well into the new year.

Although NARF's Eastern Indian cases generated much publicity and public controversy in 1977 there were other important case developments and occurrences which were equally important to the future of Indian tribes.

In April, the United States Supreme Court ruled that three-fourths of the original Rosebud Sioux Reservation in South Dakota is not part of the present reservation. The Tribe had requested a judicial declaration that the reservation boundaries established by Congress in 1889 had not been diminished by subsequent acts passed in 1904, 1907, and 1910, which opened up three areas to non-Indian settlement. However, the Supreme Court concluded that the acts clearly indicated a congressional intent not only to open the areas to non-Indian settlement, but to remove them from reservation status and to diminish the boundaries accordingly. This case had immediate impact on the Rosebud Sioux Tribe. However, there are other tribes which face similar issues affecting their reservations. NARF did not represent the Rosebud Sioux Tribe in this case but did file a friend of the court brief on behalf of several Northern Great Plains tribes and the National Congress of American Indians. This case was indeed a setback for tribes and will affect plans for expansion of tribal powers.

Some interesting developments occurred during the summer of 1977 which warrant some review.

On July 12, 1977, U. S. District Court Judge Edmund Port, Northern District of New York, issued a favorable decision in the Oneida Tribe's test case against Oneida and Madison counties in New York. NARF has been assisting the Oneida Indian Nation in the prosecution of this Indian Nonintercourse Act test case to recover lands presently claimed by Oneida and Madison counties. These lands in question were ceded by the Oneidas to the state of New York in 1795 without the consent of federal government as required by the 1790 Act. Judge Port's decision constitutes a favorable precedent for the Oneidas to establish ownership to all the lands, some 246,000 acres, which they lost after 1790.

Following Judge Port's issuance of his 47-page decision, both the Department of Interior and Justice, at NARF's urging, agreed to bring suit on behalf of the Oneidas to recover the entire 246,000 acres, plus trespass damages. Although there is potential for a negotiated settlement on this claim, the United States government is committed to bring such litigation.

During July, NARF also received word from the Law Enforcement Assistance Administration that it had awarded a grant to NARF for development of an Operations Manual for the Swift Bird Project. NARF correctional staff has been working on development of an alternative to incarceration model for Indian inmates for at least five years and this grant would enable NARF and its subcontractors to pull together the finishing touches on the Swift Bird model. This six-month grant award enabled NARF to hire the core staff for the Swift Bird Project, which will be located on the Cheyenne River Sioux Reservation in South Dakota, and to begin drafting the guidelines and internal operating mechanisms for the project. By the end of the year, the initial draft of the operations manual had been forwarded to LEAA and members of the Swift Bird Advisory Board.

August was an eventful month for Indian tribes and their advocates. On August 15, an amendment to the statute of limitations provisions for filing damage claims by the United States on behalf of Indian tribes was signed into law as Public Law 95-103. The new law extended until April 1, 1980 the deadline for filing of claims. This signing marked the end of four months of congressional deliberations on the subject.

In another Eastern case development, the Interior Department announced in August that it would recommend to the Justice Department that the United States institute

suit on behalf of the Catawba Tribe seeking return of the entire reservation which the Tribe was seeking. The Catawba Tribe is claiming the right to possession of some 140,000 acres around Rock Hill, South Carolina. This claim is also based on the 1790 Indian Nonintercourse Act and a 1763 treaty between the British Crown and the Tribe. During the year, the Catawba Tribe, who is represented by NARF, as lead counsel, developed a "settlement package" which could be enacted by Congress rather than seeking a remedy through the courts. Congressional leaders and staff members have also developed a comprehensive land use plan in anticipation of securing the proposed reservation.

As the summer drew to a close, activity in Congress also began to pick up. By mid-September Indian fears were renewed by the introduction of a new "terminationist" bill. Rep. John Cunningham (R. Wash.) introduced H.R. 9054, designed to "abrogate all treaties entered into by the United States and Indian tribes in order to accomplish the purposes of recognizing that in the United States no individual or group possesses subordinate or special rights, providing full citizenship and equality under the law to Native Americans, protecting an equal opportunity to all citizens to fish and hunt in the United States, and terminating federal supervision over the property and members of Indian tribes." This bill was not taken seriously by many people, but the fear lies in the fact that it could be used as a compromise or trade off measure to severely diminish the self-governmental powers of Indian tribes.

Rep. Cunningham also introduced H.R. 9175, "The Washington State Fishing and Hunting Equal Rights Act of 1977." This bill would provide the state of Washington control of all Indian hunting and fishing off reservations, He also introduced H.R. 9736, "The Steelhead Trout Protection Act," to prohibit commercial sale of steelhead trout by Indians across the United States.

In November, Rep. Cunningham's senior colleague, Rep. Lloyd Meeds (D. Wash.), introduced two more bills aimed at limiting tribal powers. The first, H.R. 9050, he termed the "Omnibus Indian Jurisdiction Act of 1977." It would limit tribal jurisdictional powers while increasing that of the states. Rep. Meeds claimed that it was intended to resolve those issues which the courts are making decisions and forming law apart from the input of Congress, its principal purpose being to have Congress legislate on the extent of Indian jurisdiction over non-Indians.

The other bill, H.R. 9951, he called the "Quantification of Federal Reserved Water Rights for Indian Reservations Act." This particular bill would establish that the maximum amount of water used for five years ending January 1, 1977, be the ceiling amount to which a tribe would be entitled in the future. Federal case law presently provides that Tribes have a right to sufficient water to meet their present and future needs.

Early in the year, Rep. Meeds had introduced HJR 1, aimed at establishing a Northwest Indian Off-Reservation Treaty Fishing Rights Commission, which would seriously undercut the implementation of the 1974 Boldt decision, which guaranteed Indian treaty rights to 50 per cent of the catch in their ancestral fishing grounds.

Any of these bill, if enacted, would have serious impact on Indian tribal governments.

During the final months of 1977, NARF received some favorable rulings in the courts and in Congress on behalf of its clients. In eastern Oregon, the Umatilla Confederated Tribes received a good ruling from District Court Judge Robert C. Belloni in a case in which the Tribe had opposed construction of a dam across Catherine Creek. The Judge said the Tribe's treaty rights to fish, hunt and gather food in the construction site would be seriously impaired by the construction on the dam. In making his ruling, the Judge said the Corps of Engineers lacked the necessary express congressional authority to take the Tribe's treaty rights. Judge Belloni issued his opinion on November 10th.

In a related Oregon development, only eight days following the issuance of Judge Belloni's decision in the Umatilla case, President Carter signed Public Law 95-195, a bill that restored federal status to the terminated Siletz Tribes of western Oregon. This law is only the second restoration act ever enacted by Congress; the first was on behalf of the Menominee Tribe of Wisconsin in 1973. The restoration act means that the trust relationship between the Siletz Tribe and the federal government would be restored. The Siletz were one of many tribes terminated by the 1954 Termination Act. The Siletz bill did not restore any new hunting, fishing and trapping rights to the Siletz due to strong opposition from commercial and sport fishing interests as well as from the Oregon Fish and Game Department. However, if the Siletz' pre-termination hunting and fishing rights were not extinguished by the 1954 Termination Act, the Siletz would retain those rights today. The law

also did not provide for establishment of a reservation, but rather requires that the Secretary of the Interior negotiate with the Tribe and draw up a reservation plan within two years of the Act's passage and submit the plan to the appropriate committees in each house of Congress.

In December a couple of important water developments occurred for NARF's clients in Utah and Nevada. During the past year, NARF has been assisting the Ute Tribe of the Uintah and Ouray Reservation in Utah in efforts to reevaluate and revise the Tribe's water resource plans with regard to the Central Utah Project. NARF worked with the Ute Business Committee, its Tribal attorney and a water resources consultant in this evaluation. As a result, the Ute Tribe announced a program for restructuring of its water resources plans with respect to the Central Utah Project. For the first time in the history of the Project and the Tribe's involvement in it, the Tribe spelled out in great detail the terms upon which the continued diversion of Indian water for the Project would turn. The Tribe in particular is interested in seeking additional storage facilities under the Project and wants to obtain federal and state agreements as to the Tribe's overall water entitlement without resorting to litigation. Currently negotiations are underway in an effort to inform federal, state and government officials and other water users of these new terms and conditions. It is expected that these negotiations will result in congressional and state legislation authorizing a restructuring of the Project.

In the neighboring state of Nevada, the Pyramid Lake Paiute Tribe's struggle for maintenance of its fishery and water resources continues. In December, District Court Judge J. Blaine Anderson issued his decision in the case known as United States v. Truckee Carson Irrigation District. The Judge found in favor of the defendants and against the United States and the Pyramid Lake Paiute Tribe. It held that any right that the Tribe had to water from the Truckee River for fishery purposes was taken by the United States under authority of the Reclamation Act in order to provide water for the Newlands Reclamation Project. It also found that the failure of the United States to assert a water right for fishery purposes in previous water rights litigation in 1944 prevented the United States and the Tribe from now claiming any right to Truckee River water for that purpose. The court was saying, in effect, that the Tribe's rights had been extinguished. This case was filed by the United States, at NARF's urging, on behalf of the Tribe and names over 15,000 defendants, all of whom use the waters of the Truckee River or hold rights to the use of the water.

The Tribe is claiming a water right with a 1859 priority date to maintain the level of Pyramid Lake and to permit natural spawning in the River. Since the opinion was issued both the government and the Tribe have appealed to the Ninth Circuit Court of Appeals in San Francisco.

The Pyramid Lake water rights controversy has been a part of NARF's docket since the program began. This case is of immense importance to the Pyramid Lake Indians and encompasses several critical issues of Indian law which are important for all tribes.

In retrospect, the year 1977 was indeed critical for Indian tribes in their quest for self-determination and the development of self-sustaining tribal governments. As the decade of the 70's draws to a close it appears even more apparent that Indian people must have the best possible advocates to assert their interests in assuring that true Indian self-determination becomes a reality.

About NARF's Governing Board

The Native American Rights Fund is governed by a 13-member Steering Committee, made up of prominent Indian individuals from throughout the country. This Steering Committee meets twice a year in the Boulder office and the meetings are always held in the spring and fall. The meetings are held for purposes of deciding NARF's overall policy, hearing attorney case reports, deciding on major administrative issues and directing future courses of action for NARF to follow.

The Committee members have always tried to keep NARF as non-political as possible and to concentrate on deciding policy which will lead to an orderly development of law which will be relevant now and in the future for Native American people.

The Steering Committee has established from within its membership an Executive Committee which meets at least four times a year and often conducts additional business by conference call. This Committee meets to consider and recommend policy changes and action on finances, to review fund raising efforts, and to consider whether to take on a particularly controversial case. The Executive Committee is appointed as the finance committee and their actions are later ratified by the Steering Committee.

New Steering Committee members are nominated and elected by the Steering Committee itself. The terms for the members last two years and usually there are at least three expiring terms at each regular meeting. During this past year there were six expiring terms on the Steering Committee. Those individuals whose terms expired and who were reelected to two-year terms were Chief Curtis Custalow, LaNada Boyer, John Stevens, Leroy Logan, Val Cordova and David Risling.

Several of the Committee members have served since the program began and they have helped newer members become acquainted with the organizational policies and have guided them through difficult decisions which had to be made on behalf of the organization. The Steering Committee members are not paid for their service on the board and many of them must take leave from their jobs in order to attend NARF meetings. The NARF staff would like to extend its appreciation for the many hours of service which the members of the Committee contribute toward policy making for the Native American Rights Fund.

Status of Attorney Staff

During the past year there were several changes which occurred in NARF's attorney staff. Several new faces were added and several staff attorneys decided to leave in order to work in other aspects of Indian law.

In February two staff attorneys left the organization. Ms. Sally Willett, Cherokee, went to work for the Office of Trust Responsibility with the Bureau of Indian Affairs in Washington, D.C. She had been with NARF since 1975. Mr. Charles Lohah, Osage, left to take a position with the Shoshone-Bannock Tribes in Idaho. He is serving as Tribal Court Administrator.

In March, Mr. Lawrence A. Aschenbrenner joined the staff of the Washington, D.C. office as senior staff attorney. Mr. Aschenbrenner left a position with the Interior Department where he had served as Acting Associate Solicitor for Indian Affairs. He possesses over 20 years litigating experience.

Another addition was made to the Washington, D.C. office in April when Arlinda Locklear transferred from Boulder. Arlinda had requested the transfer in order to have an opportunity to work more closely with legal problems of Eastern Indians. She is a member of the Lumbee Tribe and

has been with NARF since the summer of 1976. During that same month, staff attorney Bruce Greene departed in order to set up private practice in Boulder with NARF's founding Director, David Getches. Both Bruce and David are called upon from time to time to do contract work in their specific areas of expertise. Bruce devoted an extensive amount of time in 1977 in preparation for trial in an important Michigan treaty fishing rights case.

Karl Funke, one of NARF's newer attorneys, left in order to take a position with the Senate's Temporary Select Committee on Indian Affairs. Karl had been with NARF since November, 1976. He is a member of the Keweenaw Bay Chippewa Community of Michigan.

As mentioned previously, NARF's Executive Director, Thomas W. Fredericks, was recruited in July to take a position with the Interior Department as Associate Solicitor for Indian Affairs. Tom had been with NARF since 1972, first as staff attorney and later as Director.

In August, two new Indian attorneys joined the Boulder staff--Kurt V. Blue Dog, a Sisseton-Wahpeton Sioux, and Timothy A. LaFrance, Turtle-Mountain Chippewa. Kurt received word in October that he had passed the Minnesota Bar exam and in December, Tim was notified he had passed the California exam.

In October, staff attorney Don Miller transferred back to the Boulder office from Washington, D.C., where he had served as supervising attorney for almost three years. During this same month, John E. Echohawk was selected to fill the post of Executive Director by the Steering Committee.

A Word About NARF's Major Contributors

NARF's work on behalf of its Indian clients would be impossible without the help of its major foundation and federal agency contributors. Since NARF's services are provided without fee, operational costs must be raised through fund raising efforts. This can be a difficult task, but one which is made easier by the special friendships that have developed with particular funding sources through the years.

Throughout 1977, the Ford Foundation continued to provide funds for general support of NARF activities. These

general support dollars have been a mainstay for NARF and are a very valuable part of the budget. We are indeed thankful for the support of all the Ford Foundation staff, in particular, Mr. R. Harcourt Dodds, Program Officer for the Division of National Affairs; Ms. Nancy Boggs, Administrative Officer in the Office of Reports; Mr. Ralph Bohrson, Program Officer for the Office of Education; and Ms. Arlene Feder, Administrative Officer.

The Lilly Endowment is another valuable contributor to the NARF program. The Endowment has provided support for NARF's Eastern Indian Legal Support Project. Special thanks are due Mr. Will H. Hays, Program Officer and Mr. Charles Johnson, Senior Counselor, who has assisted NARF in developing a comprehensive fund raising plan.

Mr. Phillip Jessup of the William H. Donner Foundation was especially helpful in securing a three-and-one-half year grant for NARF's "Tribal Sovereignty and Resource Protection Project."

NARF would like to extend special thanks again to the Field Foundation for its support of a water litigation component. NARF was sorry to learn of the temporary departure of Mr. Leslie Dunbar, but we wish him well and thank him for his support through the past several years. We welcome a new friendship with Mr. Richard Boone and look forward to working with him the in the future.

NARF extends its gratitude to Mr. John Folk-Williams, Program Officer for the Akbar Fund and the Ann Maytag Foundation. Mr. Folk-Williams was most instrumental in securing funding for the Legislative Liaison Project.

The Carnegie Corporation of New York continued to support NARF's Legal Intern Program through 1977. We would like to extend our appreciation to Mr. Eli Evans, former Executive Associate with the Corporation, for his continued support through the past several years. The Carnegie Corporation was the original funding source for the National Indian Law Library.

In October NARF submitted a refunding request to the Legal Services Corporation for operation of the Indian Law Support Center. In this capacity, NARF provides assistance to those legal service programs that work with Indian clients. Near the end of the year, we were delighted to hear that the refunding request was granted for calendar year 1978. The Legal Services Corporation co-sponsored an

Indian Law Seminar at NARF's Boulder office during the first week of June.

In August, NARF received the good news that its refunding request had been approved by the Office of Native American Programs (ONAP) in the Department of Health, Education and Welfare. During the fall of 1977, ONAP underwent a name change and is now known as the Administration for Native Americans (ANA). ANA is providing funds for the operation of the National Indian Law Library as well as a project for the protection of natural resources and a component to strengthen and facilitate tribal governments. We extend our sincere appreciation to Mr. Jerry Bathke, our ANA Program Officer, who has been most helpful in securing this grant.

The Law Enforcement Assistance Administration (LEAA) awarded NARF a grant in July to complete an Operations Manual for the Swift Bird Project. This project is being developed on the Cheyenne River Sioux Reservation and will serve as an alternative incarceration system for Indian inmates in a five-state area. We would like to thank LEAA and Mr. Dale Wing, Coordinator of Indian Programs, for their assistance.

Last fall NARF received a grant award from the Muskiwinni Foundation of New York. We would like to especially thank Ms. Maureen Angliss for her assistance in securing this award.

The Bureau of Indian Affairs continued to provide funds for the hiring of expert witnesses and consultants which are desperately needed by many of our client tribes when preparing for trial.

Although it would be difficult to mention each and every NARF donor we would like to thank them all for their continued financial and moral support.

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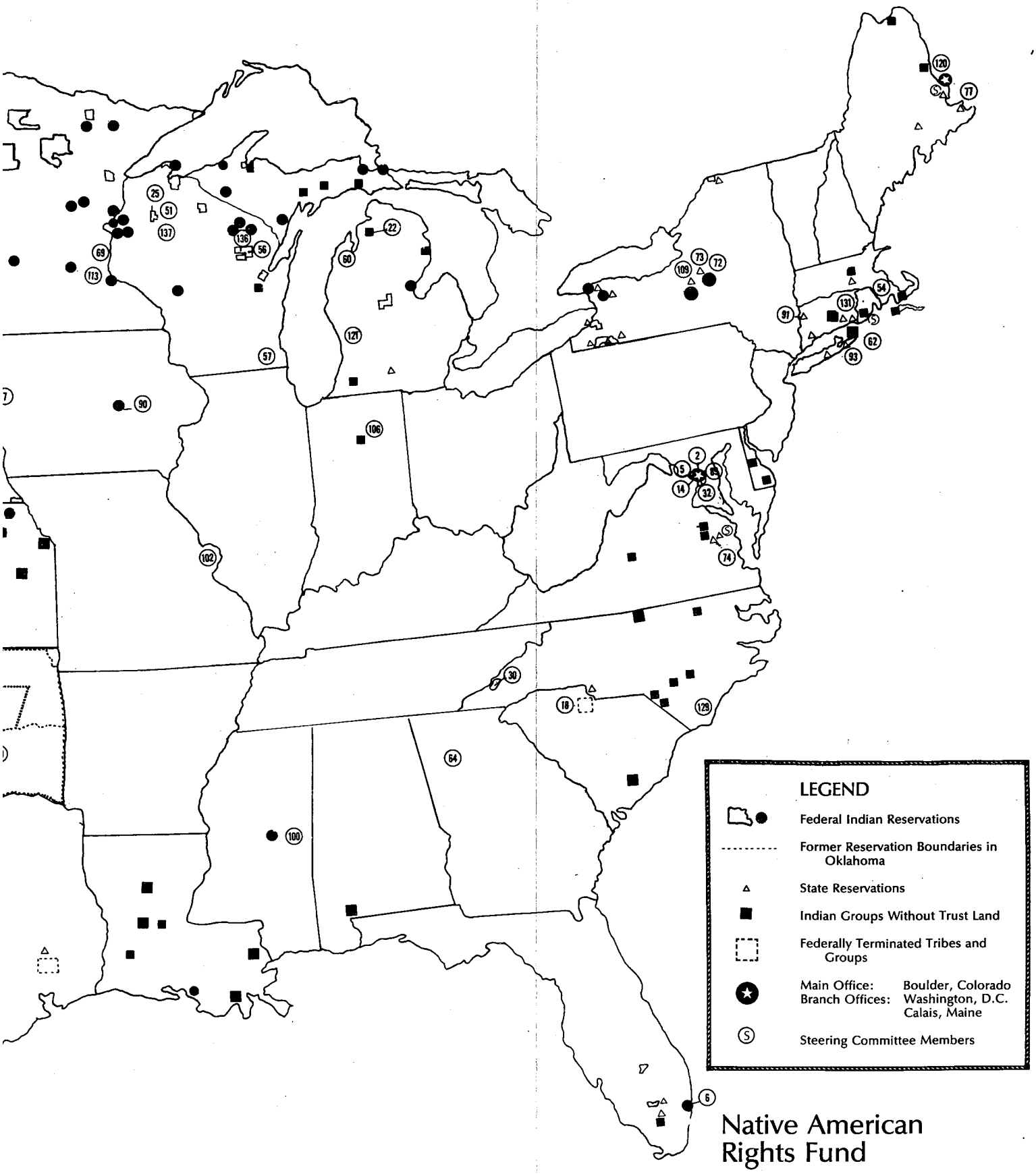
* This map only reflects those cases and matters which have consumed more than 20 hours of attorney time.



Native American Rights Fund

1977 Major Involvements

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.

TRIBAL EXISTENCE

Summaries of Major Cases and Activities

Askew v. Seminole Tribe, No. 76-17413 (Cir. Court of the 17th Judicial Dist. of Florida).

In August, 1975, the State of Florida sued the incorporated Seminole Tribe, in state court, seeking a declaratory judgment that the corporation must pay sales taxes on certain on-reservation business activities of the corporation. The Tribe's attorney filed a motion to dismiss and asked NARF's assistance in March, 1976. NARF is now co-counsel with the Tribal attorney.

Hearing was held on the motion to dismiss in August, 1977. Because of some procedural irregularities, the Judge did not rule on the motion to dismiss but invited the corporation to file an answer, agree on stipulated facts with the State, and move for summary judgment. An answer has been filed and a motion for summary judgment has been drafted, awaiting a response from the state on the corporation's proposed stipulations. The motion for summary judgment will be filed in early 1978.

Big Spring v. Blackfeet Tribe of Indians, Supreme Court of Montana, No. 13570.

This case involves a dispute between a member of the Blackfeet Tribe, Mr. Big Spring, and the Blackfeet Tribal Government. The dispute arose over the granting of the zoning law variance to Mr. Big Spring which the Tribe later revoked. Based on the letter of revocation, Mr. Big Spring filed suit against the Tribe, claiming the letter was defamatory and sought $100,000 in damages. The suit was filed in the State District Court for Glacier County, Montana. Mr. Big Spring and his wife obtained a default judgment of $20,000 from the district court. The Tribe then appealed the case to the Montana Supreme Court and NARF assisted the Tribe's attorney in preparation of the brief and oral argument on appeal.

Two primary issues were presented to the State Supreme Court: Whether the default judgment was proper; and whether the Montana District Court had jurisdiction over an action of this kind. The former issue was important from the standpoint of the money involved. The latter issue is important in terms of the Tribe's sovereignty and of the amenability of tribes to suits for damages in state courts.

During 1977, the appeal before the Supreme Court of Montana was fully briefed, argued, and in December, decided by the Court in favor of the Tribe. The Court decided in favor of the Tribe on the default judgment issue and did not reach the sovereignty issue. The case was remanded to the trial court to make the initial determination of the sovereignty issue. This case was not filed by NARF attorneys; however, staff attorneys assisted with the research and writing of the brief and with the preparation of oral argument.

Blackfeet Tribe - Duck Lake

The Blackfeet Tribe asked NARF to assist in enforcing its zoning ordinance on the reservation. The Tribe is particularly concerned about a housing subdivision being planned around Duck Lake which is located on the reservation. Duck Lake is of special concern because of the lake's fragile environment. To date the developers have made no effort to comply with the Tribe's zoning ordinance regarding permitted uses and protected areas.

The developers have obtained approval from the state and county. Construction has not gone ahead, however, because the state imposed conditions on their approval which the developers are not expected to meet.

Blackfeet Tribe - Oil and Gas Tax Matter

The Blackfeet Tribe, in cooperation with the United States Government, is undertaking a broad and comprehensive scheme of governmental responsibility over its own reservation. In addition, the Tribe is realizing that it does not exercise its full sovereign powers as far as internal tribal taxation is concerned. There is valuable oil and gas production on the Blackfeet Reservation which is currently subject to state taxation, but not to Tribal taxation.

An important principle has evolved out of recent Indian cases -- namely that state laws, including state tax laws, may not apply to non-Indians on a reservation if the application of such state laws would significantly interfere with the right of the reservation Indians to govern themselves. This imposition of state taxation could be proven to interfere with effective exercise of tribal self-government. As a result, NARF has drafted and the Blackfeet Tribal Council has approved a comprehensive oil and gas tax scheme which adopts three of the four state taxes imposed against oil and gas production on the reservation.

This taxing ordinance, by the terms of the Blackfeet Constitution, requires the Secretary of the Interior's approval. During 1977, the tax ordinance was submitted through the proper channels and the requisite approvals were obtained from the Secretary of Interior. A Blackfeet Tribal Tax Commission has been established. It is composed of two Blackfeet Tribal members and one non-Indian. A case has been filed in Federal District Court in New Mexico with similar facts and issues, Amoco Oil Company v. Jicarilla Apache Indian Tribe. The Jicarilla suit is challenging the validity of an oil production tax imposed by the Jicarilla Apache Tribe. The trial in this case was completed in October, and NARF is awaiting decision in this case before proceeding further with the Blackfeet Oil and Gas Tax.

California v. Quechan Tribe of Indians, United States Court of Appeals for the Ninth Circuit, No. 77-1500.

NARF represents the Quechan Tribe of California in this appeal before the Ninth Circuit; both the State of California and the Quechan Tribe appealed from a lower court decision. The trial court had ruled that California game laws could apply to non-Indians hunting on the Quechan Reservation, but the State had no authority to enforce those laws on the reservation.

On appeal, the Quechan Tribe has moved to dismiss the case asserting its sovereign immunity. In addition, the Tribe has moved for remand to allow the district court to determine the applicability of California state game laws in light of a newly enacted and comprehensive Tribal game ordinance. Finally, the Quechan Tribe has contended that the United States has authorized Indian tribes, if they so choose, to enact comprehensive governing ordinances for hunting and fishing on their reservations, and when such comprehensive laws are enacted, they preempt any inconsistent or overlapping state jurisdiction.

A decision on the motion to dismiss, or in the alternative, the motion to remand, should be forthcoming from the Ninth Circuit.

Chinook Federal Recognition

The Small Tribes Organization of Western Washington (STOWW) requested NARF's assistance in researching the aboriginal claims of the Chinook Band of Indians in Washington. The Chinooks were seeking recognition of their aboriginal hunting and fishing rights over ancestral lands.

NARF concluded from its research that the aboriginal claims of the Chinook were effectively extinguished based on the following reasons: (1) The lands that the Chinooks had originally occupied had been open for settlement by federal acts such as the Homestead Act; (2) The Chinooks participated in a Court of Claims settlement for the taking of aboriginal lands; and (3) Even assuming that the aboriginal claims had not been extinguished, the argument that aboriginal rights encompassed a compensable right to hunt and fish has been rejected by federal courts.

The Chinooks were advised that NARF could not participate in legal action asserting their aboriginal rights.

Confederated Tribes of Siletz - Restoration.

In 1954, Congress terminated the trust relationship between the Siletz Tribe and the United States. Pursuant to that act, the Siletz reservation was liquidated, Siletz Indians became ineligible for federal Indian services, and tribal members were no longer recognized by the federal government as Indians. The Siletz Termination Act was one of fourteen such acts passed by Congress during the 1950's. The devastating social and economic impact of this ill-conceived policy upon its tribal victims is now well documented, and both Congress and the Administration have rejected termination in favor of self-determination. In 1973 the Menominee Tribe, also represented by NARF, was restored to full federal status.

In 1974 the Siletz, represented by NARF, drafted legislation which would restore the Tribe to its status prior to the enactment of the termination act. In November, 1977, after more than two and one-half years of congressional hearings and bitter opposition from commercial and sports fishermen and the Oregon Game and Fish Department, President Carter signed into law the Siletz Restoration Act, restoring the Siletz Tribe as a federally recognized, sovereign Indian tribe. NARF served as lead counsel in the case, assisting the Tribe at all levels of the legislative process.

Confederated Tribes of Umatilla Reservation v. Clifford L. Alexander, Jr., et al., Civ. No. 74-991, decided November 10, 1977.

In November, 1977, United States District Court Judge Robert C. Belloni issued a decision in this case involving the fishing rights of the Umatilla Indians, located near Pendleton, Oregon. NARF had filed suit on behalf of the Umatilla Tribe in December, 1974, opposing the construction of a dam by the

Army Corps of Engineers across Catherine Creek, near the Umatilla Reservation. NARF claimed that the construction of the dam would impair the exercise of the Tribe's treaty rights to fish, hunt and gather traditional foods in the area. The Tribe further claimed that the Corps lacked express congressional authority to abrogate the Tribe's treaty rights in construction of the dam.

In making his ruling in the case, Judge Belloni said the Confederated Umatilla Tribes have usual and accustomed fishing stations on Catherine Creek, reserved by the Treaty of June 9, 1855, and that those usual and accustomed stations would be flooded and destroyed by the reservoir created by the proposed Catherine Creek dam.

Furthermore, the proposed flooding would deprive the Indians of their right to occupy the fishing stations and their right of access for fishing purposes. Finally, the Judge stated that the steelhead fishery would be eliminated entirely at all stations upstream from the dam. The Judge concluded that congressional authority is specifically needed by the Corps for construction of the dam. The confederated Tribes are awaiting a decision by the Army Corps of Engineers as to whether or not they will appeal the decision.

Eastern Band of Cherokee Indians v. North Carolina, No. 76-2161 (United States Court of Appeals for the Fourth Circuit).

In April, 1977, oral arguments were presented in this case before the Fourth Circuit Court of Appeals in Columbia, South Carolina. The State of North Carolina appealed a lower court decision which said the State could not impose its license fees on non-Indians fishing on the Eastern Cherokee Reservation because to do so would interfere with the lawful exercise of Tribal self-government.

The Eastern Cherokees were able to demonstrate to the appellate court that they had undertaken a long and successful program for the management, regulation and enforcement of fishing on the Eastern Cherokee Reservation. The Tribe also showed that fishing was an integral part of the economy of the reservation and that the imposition of overlapping state fees resulted in a decline of visitors to the reservation. The United States filed an amicus brief on behalf of the Eastern Band. A decision is expected in the case in the near future.

English Bay - Tribal Sovereignty.

NARF was asked to research the issue of the Alaskan Natives' subsistence hunting and fishing rights over their aboriginal areas. Possessory rights of the Alaskan Natives

in the lands they have occupied since time immemorial had been recognized by federal act. However, the Alaska Native Claims Settlement Act, 42 U.S.C. §§ 1601, et seq. extinguished all native claims based on aboriginal title. During the congressional hearings on the bills which later became the Settlement Act, a plan was proposed which would have specifically preserved the Natives' subsistence hunting and fishing over national forest lands. This proposal was rejected. Based on this research and the clear language of the Act, NARF concluded that a suit based on aboriginal hunting and fishing rights would not be successful.

Godfroy (Swimming Turtle) v. Miami County Comm'rs, Civ. No. S-74-98 (U.S.D.C Ind., Aug. 25, 1977).

An Indiana Federal District Court Judge ruled in August, 1977, that the great-grandson of a Miami Indian war chief did not have to pay state taxes on his land. District Judge Allen Sharp ruled that Swimming Turtle, whose non-Indian name is Oliver Godfroy, did not have to pay taxes on 79 acres of land in Miami County and is entitled to recover about $1,000 in taxes he paid since 1959. The land in question was a portion of the property which had been reserved for Francis Godfroy, the Chief of the Miami Indians. Chief Godfroy was permitted to remain in Indiana with his children after the remainder of his Tribe was removed West by federal act, and the land is now held by his great-grandson.

The Godfroy case was filed to assert the validity of the tradition of Indian tax-exemption for reservation property against state taxation for an Eastern tribe.

In making his ruling in this case, the Judge consulted the Northwest Ordinance, originally passed by the Continental Congress in 1787 and approved for the second time in 1789 by the first United States Congress under the Constitution. Judge Sharp said Swimming Turtle was right in insisting his land should be tax exempt according to Article 3 of the Ordinance. The Judge went on to rule that the descendants of Swimming Turtle's great grandfather, War Chief Francis Godfroy, had owned the land since the federal government released the title in 1849 in accordance with the Treaty of 1838.

McConnell v. Fort Belknap Indian Community, Civ. No. 75-120-H-G, (U.S.D.C., Montana).

This is an action for damages filed by a member of the Fort Belknap Tribe against the Tribe based on alleged brutality

by Tribal policemen. The primary issue in the case is whether the federal district court has jurisdiction to award damages against a tribe pursuant to the Indian Civil Rights Act of 1968. The question whether there is federal court jurisdiction to obtain damage awards against Indian tribes under the Civil Rights Act has not been addressed by a federal appellate court and is an open question. The range of circumstances where such awards can be sought is very broad, so the issue has great significance to Indian tribal governments.

This case was filed by Mr. McConnell in 1976. Counsel for the Fort Belknap Indian Community filed motions to dismiss. During 1977, NARF attorneys assisted counsel for the Tribal Community in briefing the motions to dismiss, particularly the issue of tribal immunity from suit and jurisdiction to grant damage awards against tribes. The motion had not been ruled on as of December 31, 1977.

Menominee Constitution and Bylaws.

NARF spent a vast number of hours over several months in research and providing technical assistance to the Menominee Restoration Committee regarding the development of a Menominee Constitution and Bylaws. This effort resulted from the Menominee Restoration Act which required the Tribe to establish its own Tribal government pursuant to its own Constitution. In December of 1976, the Menominee Constitution and Bylaws was adopted following a Secretarial election held earlier in November. With the adoption of this document, the final major step pursuant to the dictates of the Menominee Restoration Act will have been completed and NARF's role in assisting the Menominee Tribe in carrying out all the major steps dictated in the Act will also have been completed.

Michigan United Conservation Club v. Anthony, (U.S.D.C. in Michigan).

MUCC v. Anthony originated in 1970 when the plaintiff, a statewide sports fishermen's organization in Michigan, filed suit against the Bay Mills Indian Community and several individual Indian fishermen seeking a declaration that the state's environmental laws would be violated if Indian treaty fishermen were allowed to fish in violation of state law.

MUCC was successful in securing a ruling in its favor at the district court level. Thereafter, Bay Mills and the Indian fishermen moved the court for a new trial. That motion was pending for well over five years. After the Michigan Supreme Court decided People v. LeBlanc, 28 N.W.2d 199 (1976), a treaty

fishing rights case successfully handled by NARF, the judge in MUCC v. Anthony issued a modified ruling, but nonetheless adverse to the interests of Bay Mills and the Indian fishermen. The trial court held that the Indians could not fish in contravention to state laws, and that all state laws could apply to them because they were enacted for legitimate conservation purposes.

During the summer of 1977, NARF attorneys devoted time to the preparation of a brief for the Court of Appeals for the State of Michigan. The trial court brief was filed in September. In its brief, Bay Mills urged reversal on several grounds. First, the principles enunciated in People v. LeBlanc were not followed by the trial court. Second, Bay Mills enjoys sovereign immunity and, like the United States, cannot be sued without its consent. Third, the defendants were treated as representing the class of all Indian fishermen fishing in violation of state law, but none of the standards for proper class were satisfied. In the future NARF expects to assist in preparation of a reply brief.

Montana v. Stenson, No. 13871, Supreme Court of Montana.

NARF was requested by the Blackfeet Tribal attorney to submit a brief amicus curiae on behalf of the Blackfeet Indian Tribe in the above-captioned matter which is pending before the Montana Supreme Court. The case involves the admissibility of evidence in a state court proceeding against a non-Indian defendant which was obtained pursuant to a Tribal search warrant, issued by a Blackfeet Tribal Judge, to search the premises of an enrolled member of the Tribe. The lower court granted a motion to suppress the evidence on the basis that Montana law had not been observed in the issuance of the search warrant. The brief addressed the question of the authority of the Blackfeet Tribe to issue search warrants; the validity of which should be judged by the Tribal legal requirements as limited by the Fourth and Fifth amendments, codified at 25 U.S.C. §§ 1301-1303, and not by state requirements. In the alternative, it was argued that federal law requires that the Tribe's laws must be accorded full faith and credit. The case has been argued and is awaiting decision.

Pascua Yaqui Association v. Asta, (Civ. No. 76-228 TUC WCF, D. Ariz.).

This is an action by the Pascua Yaqui Association for declaratory and injunctive relief. The Association is seeking a declaration that the County of Pima has no jurisdiction to enforce its building code regulations on the land conveyed to the Association by federal statute. 78 Stat. 1196. That land consists of 202 acres and is owned by the Association in fee

simple subject to restraints on alienation imposed on it by federal law. Its use is limited to the purposes of the Association. The major purpose as described in its charter of incorporation of the Association is to promote and enhance the Yaqui culture. The Association is to achieve this purpose by providing a secure and safe homeland for the Pascua Yaqui people where they would flourish and grow.

The Association's motion for preliminary injunction was denied by the court on the grounds that the Section 4 of the federal statute conveying the land specifically precluded application of federal Indian law in this case. In addition, the court held that because of Section 4 the land conveyed to the Yaqui Indians did not constitute a federal Indian reservation.

Subsequent to the denial of the motion for preliminary injunction, NARF met with the Pima County attorneys and they agreed to accept the federal regulations regarding construction of the houses on the land as a substitute for the county regulation if certain health problems were solved. Presently NARF is working with the Pima County Health authorities to try to meet the requirements for a safe sewage disposal system. If that is done then there is a possibility of agreement that will end the suit. If no agreement results soon the case will proceed to a trial on the merits.

Puyallup Tribe v. Department of Game, United States Supreme Court.

NARF's role in this case involving the Puyallup Tribe of Western Washington has been purely advisory. This case was decided by the United States Supreme Court in 1977 on its third round in that court. The Supreme Court ruled that the State of Washington has authority to regulate fishing on the Puyallup River even though the Ninth Circuit Court of Appeals had earlier decided that the river is on the reservation. The Supreme Court found that notwithstanding the Court of Appeals ruling, the state had a right to regulate the river.

Rincon Land Use Control.

During the fall of 1977 the Rincon-San Luiseno Band of Mission Indians asked NARF's assistance in developing a system of land use control to counteract increasing land development within the reservation boundaries. A number of zoning schemes were discussed with the Tribe, but, it was discovered that the Tribe has problems with enforcement since it lacks a Tribal Court system.

The Tribe is considering enactment of an interim growth control ordinance pending the completion of its comprehensive plan. Until a Tribal Court is formed, the Tribe is seeking alternative enforcement techniques such as contracting or negotiating with the county for such services. The land use control ordinance is still in the planning stage.

Rincon Water Ordinance.

The Rincon-San Luiseno Band is also having difficulty in enforcement of its water ordinance which governs the use and fees for water from a Tribally-owned system. Several non-Tribal members and Tribal members have consistently violated the ordinance with illegal water hook-ups and by not paying the monthly water fee. Since the Band does not have a Tribal Court or a police force it is difficult to enforce this ordinance. Attempts in seeking voluntary compliance with the ordinance failed last year and violators ignored the Tribe's authority.

During the summer of 1977, NARF requested the United States as trustee for the Tribe to file suit on behalf of the Band in federal court. In December, 1977, the Field Solicitor for the Department of Interior recommended that the Associate Solicitor for Indian Affairs file suit on behalf of the Band. The Solicitor's office is now seeking to involve the United States Attorney in San Diego in the filing of such a suit against the violators.

Rosebud Sioux Tribe v. Kneip, No. 75-562, 51 L.Ed.2d 660 (U.S. Supreme Court, April 4, 1977).

NARF's clients in this case were the National Congress of American Indians (NCAI) and six northern plains tribes who asked NARF to file a friend of the court brief in support of the Rosebud Sioux Tribe.

At issue in the case is whether three federal statutes passed in 1904, 1907, and 1910 caused the diminishment of the boundaries of the Rosebud Sioux Indian Reservation in South Dakota. The case was filed several years ago and reached the Supreme Court in 1976. The Court decided the case in April against the Tribe. This adverse decision will have significant impact on the scope of Rosebud Tribal self-government. Moreover, the issues in the case resemble those affecting other tribes on other Indian reservations. During 1977, NARF performed a number of follow-up tasks in connection with the decision.

Sac and Fox v. Licklider, No. 77-1595, United States Court of Appeals for the Eighth Circuit (filed June, 1974).

This is an action to determine whether Congress has conferred the requisite jurisdiction on the State of Iowa to regulate hunting, fishing, and trapping on the Sac and Fox Reservation in Iowa. The United States filed a similar action on behalf of the Tribe against the State of Iowa and the two cases were consolidated. The matter was tried in the United States District Court for the Northern District of Iowa in November, 1976, and in May, 1977, the Court held that the State could regulate hunting, fishing and trapping on the reservation. The decision has been appealed to the Eighth Circuit and will be argued in February, 1978.

Shoalwater Bay Tidelands Petition.

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 to the south 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 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.

By letter, dated January 25, 1977, the Deputy Solicitor informed NARF that the 1962 Regional Solicitor's opinion was reversed and it was determined that the Shoalwater Bay Indian reservation includes the tidelands to the south of the reservation and that the southern boundary is located at the low water mark of those tidelands.

Shoshone-Bannock Tribe Zoning Ordinance.

NARF was contacted in the fall of 1977 by the Shoshone-Bannock Tribe of eastern Idaho to assist in several problems regarding a newly-enacted land use zoning ordinance. One problem in particular was the lack of acceptance of the ordinance by reservation people. Public meetings were scheduled

and a NARF attorney assisted the Land Use Commission in developing a format for presentation and discussion of the ordinance. There appeared to be a greater acceptance of the ordinance after it was explained that the law was intended to control the increasing non-Indian development on the reservation which had previously gone unchecked.

Another problem involved the interpretation of the ordinance as it applied to particular non-Indian development proposals. NARF advised the Commission that the ordinance should be construed to apply to each of those development proposals.

Smith John v. Mississippi, No. 77-575 and United States v. Smith John, No. 77-836, Supreme Court of the United States.

NARF's clients in these companion cases are Smith John and Harry Smith John, enrolled members of the Mississippi Band of Choctaw Indians. In October, 1977, NARF filed an appeal in the Smith John case before the United States Supreme Court. In the second case, the United States Government filed a petition for review with the Supreme Court in December, and NARF represents the respondents.

Smith John and Harry Smith John allegedly committed an assault in 1975 within the Choctaw Reservation. They were indicted by a federal grand jury and tried in federal court under the Major Crimes Act in December, 1975. The federal grand jury acquitted them of felony assault but convicted them of simple assault. In 1976, a state prosecution was begun and the two men were convicted of felony assault under state law. The basic issue in the case is whether there is federal jurisdiction over the Mississippi Band of Choctaw Indians and their reservation in east central Mississippi. Although the Tribal status of the Choctaws may not be directly at issue in this case, both the lower courts ruled that the Mississippi Choctaws are not lawfully an Indian Tribe and that their land is not legally a reservation. As a result of these decisions, the Choctaw Tribal Court has been unable to function and Tribal self-government is at stake.

A secondary issue is: if there was federal jurisdiction, did it exclude or bar the state prosecution? On appeal from the state conviction, the Mississippi Supreme Court ruled that state court jurisdiction over the offense is exclusive of federal jurisdiction. The federal court of appeals on appeal from the federal conviction made a similar ruling.

During 1977, both appeals were decided against the Mississippi Choctaw position. In both of these cases, the parties requesting the Supreme Court to hear the case suggested

that the two be consolidated for review. The Supreme Court agreed to hear the two cases, after consolidation, and set a schedule for briefing in 1978.

The two men have been represented from the beginning of their cases by the Choctaw Legal Defense Association of Philadelphia, Mississippi. NARF attorneys have assisted the Association in both cases and is serving as co-counsel.

Smoak Chevrolet Company v. Henderson, No. 77-1188, New Mexico District Court for San Juan County.

This is a suit by an automobile company against Mrs. Henderson (who purchased a car from the company), her husband, two Navajo Tribal policemen, and a Navajo couple who served as Mrs. Henderson's advisors in a Tribal Court matter related to this case. The theory of the action is that the defendants conspired to deprive the car company of its property and they caused the imprisonment or detention of an employee of the car company.

A basic issue in the case is whether the state court has any jurisdiction over it, because the main events occurred within the boundaries of the Navajo Reservation. The issue, thus, has importance for tribal self-government.

This action was filed by the automobile company in 1977; however, some of the events leading to the case took place in 1976. During the latter part of 1977, motions to dismiss were filed and depositions taken in the case.

NARF is working in cooperation with DNA Legal Services in Shiprock, New Mexico.

State of Idaho v. Coffee, Idaho Supreme Court.

In a criminal case in which NARF represented the Indian defendant, the Idaho Supreme Court ruled in 1976 that the Kootenai Tribe of Idaho held an aboriginal right to hunt on open and unclaimed lands within their aboriginal area and were not subject to state game laws. In 1977 NARF assisted the Tribe in analyzing and implementing the decision.

Stillaguamish Tribe of Indians v. Kleppe, et al.

In 1974, NARF prepared and submitted a petition for recognition to the Secretary of the Interior on behalf of the Stillaguamish Tribe of Western Washington. NARF asked the

Secretary to acknowledge the Tribe's status as a federally recognized body based upon its treaty relations with the federal government, subsequent acts of Congress, and continuing contacts with the Bureau of Indian Affairs. Because no action was taken on the petition, this suit was filed in 1975 and alleged that the Secretary's failure to acknowledge the Tribe's status was arbitrary and capricious.

A motion for summary judgment was filed in May, 1976. In a memorandum opinion issued August 24, 1976, the District Court for the District of Columbia, ordered the Secretary to act upon the Tribe's petition for recognition within 30 days. By letter from the Secretary of the Interior, dated October 27, 1976, NARF was informed that the Interior Department had determined that the federal government had a trust responsibility to the Stillaguamish Tribe for treaty fishing purposes and that the Stillaguamish Tribe is eligible for various federal services. The Secretary, however, refused to take land willed to the Tribe in trust for them. The action was then dismissed by the court.

NARF has now been monitoring the Tribe's progress in obtaining federal services and assistance, and NARF has assisted in this process when necessary. There is a final question pending before the Secretary of the Interior regarding reconsideration of his decision not to take land in trust for the Tribe.

Swinomish Allotments.

In the 1855 treaty which set aside the Swinomish Reservation, article 6 authorized the reservation to be surveyed into lots for assignment to members of the Tribe. Several restrictions, including unique restrictions on alienability, were placed on the assignments. In conjunction with several attorneys representing other Western Washington tribes, NARF has been researching the question of whether all restrictions in article 6 were complied with and whether the assignments were properly alienated.

Swinomish Boundary Case.

When the Swinomish Reservation was set aside by treaty in 1855, the reservation was designated as the southeastern end of Perry's Island. Since that time, the exact boundaries of the reservation have never been defined. The Tribe contends that its boundaries extend to low water mark or beyond, which includes all tidelands surrounding the reservation. As a result of the ambiguity in the treaty, however, the Tribe has experienced numerous trespass problems on Tribal tidelands. One such trespass case is now being litigated by NARF, and negotiations are underway with other trespassers.

NARF has been preparing a case which will seek to establish the definite boundaries of the reservation. A major part of the case concerns the understanding of the Tribe and the United States at the time of the treaty. Extensive research has been done on this portion of the case by an ethnohistorian. A major study has also been completed which identifies the relevant sea boundaries such as low water, high water, and the line of vegetation. These marks were determined at the time of the treaty and at present. NARF will use this information to request a Solicitor's Opinion on the Swinomish boundaries and to initiate litigation to judicially establish the boundaries.

Topash v. Commissioner of Revenue, No. 47458, Minnesota Supreme Court.

This is a tax refund case brought by Mr. Topash (a member of the Tulalip Tribe of Western Washington) to recover Minnesota State income taxes assessed against him while he was employed on the Red Lake Indian Reservation. The case is based on a period when he resided on the Red Lake Reservation as a BIA employee.

At issue in the case is whether non-member Indians are entitled to the same exemption from state taxes as member Indians.

Prior to 1977, Mr. Topash filed for a tax refund in Minnesota for some of the years in which he was employed on the Red Lake Reservation. The Minnesota Tax Commission ruled against him, and the decision was appealed to the Minnesota Tax Court. NARF entered the case in the midst of the appeal and assisted him in briefing the case before the State Tax Court. In December, 1976, the State Tax Court ruled against Mr. Topash and NARF was informed by local counsel in Minnesota that there were 60 days to appeal the decision to the State's Supreme Court.

In January, 1977, it was learned that the actual appeal time was 20 days and that the appeal period had probably expired. NARF contested the question before the Minnesota Supreme Court through local counsel but lost. However, Mr. Topash had not sought a refund for the last year he resided in Minnesota. Another refund claim was filed in order to begin the process again. That claim is still pending before the tax commission.

NARF serves as co-counsel in this action with a St. Paul, Minnesota attorney.

Tribal Recognition Cases.

Several Indian groups have requested NARF's assistance in seeking formal recognition as Indian tribes by the federal government. These groups include the Tiwa Indians in New Mexico, the Little Shell Band of Chippewa Indians in Montana, the Snohomish Indians in Washington, and the Chinook Indians in Oregon. Preliminary work has been done on each of the groups to assess the information available and the information needed to demonstrate to the Interior Department that the groups are tribes.

In June, 1977, the Department of Interior published proposed regulations concerning federal recognition of Indian tribes. The regulations provide a procedure for petitioning for recognition and criteria on which recognition is to be based. NARF commented on these regulations in July, 1977. Final regulations are expected to be published soon. At that time, final assessments of each of the groups will be made based upon the criteria contained in the regulations, and either petitions for recognition will be submitted, or alternative methods of seeking recognition will be determined.

United States v. Michigan, Civil No. M-26-73, United States District Court, Western District of Michigan.

This case was originally filed in 1973 by the United States against the State of Michigan on behalf of the Bay Mills Indian Community asserting treaty protected rights to fish in certain waters of Lake Superior. Thereafter, the Bay Mills Indian Community intervened in its own right and has been represented by NARF for approximately the last four years. The Bay Mills Indian Community sought to expand the scope of the litigation by claiming treaty rights in approximately half of Lake Michigan, the eastern half of Lake Superior and the northwestern quarter of Lake Huron, including the St. Mary's River. The United States agreed to this expansion of the scope of the lawsuit.

Much of 1977 was spent in preparing for trial, which is scheduled to begin during the last week of February, 1978. Trial preparation included extensive depositions of all witnesses who will be testifying at trial. Those witnesses included an ethnohistorian retained by the United States to support the plaintiffs' interpretation of the 1836 and 1855 treaties; a paleozoologist and archeologist employed by the Indian tribes in support of the treaty's interpretation; the Chairman of the Bay Mills Indian Community and the Chairman of the Sault Ste. Marie Tribe of Chippewa Indians; the head of the Great Lakes Fishery Division within the Michigan Department of Natural Resources, his assistant, and the Deputy Director of the Michigan Department of Natural Resources. Actual time required for these depositions was approximately four weeks.

At the same time NARF was preparing for trial, the Department of Natural Resources took certain action which greatly changed the existing circumstances. First, in July, the head of the Department's law enforcement division wrote to all state licensed wholesale fish buyers prohibiting them from purchasing any Indian caught fish. It was necessary for NARF attorneys to obtain a preliminary injunction restraining the State from prohibiting such purchases. Later in the summer of '77, and in the height of the fishing season, the Department of Natural Resources, without benefit of search warrant and despite the protestation of the Indians that they were fishing under their treaty rights, seized a large Indian operated boat together with a substantial quantity of equipment, gear, and catch. In the latter occasion, it was also necessary to obtain temporary and preliminary injunctive relief forcing the Department to return the confiscated boat and equipment.

In addition, several important motions were brought on by both sides in the lawsuit in an effort to shorten its now lengthy proceedings. The plaintiffs sought to prevent the state from relitigating certain issues which it had lost before the Michigan Supreme Court in a companion case handled by NARF. In addition, the State brought two motions for partial summary judgment hoping to dispose of the lawsuit, but both of those were denied by the presiding district court judge.

The balance of the year was spent in trial preparation which included preparing witnesses, the preparation of summaries of depositions and reports of expert witnesses, the gathering of documents, and the preparation of various displays such as maps and the like for purposes of trial.

United States v. Washington, United States District Court for the Western District of Washington.

This case was originally filed in August of 1971. The district court's favorable decision is reported at 384 F.Supp. 312 (W.D. Wash. 1974), affirmed, 520 F.2d 676 (9th Cir. 1975), cert. denied, 423 U.S. 1086.

NARF represents the Muckleshoot, Skokomish, Stillaguamish, Sauk-Suiattle, Nisqually, and Squaxin Island Tribes. The case has become a landmark in the field of Indian treaty rights because of its thorough analysis of treaty purpose and intent in arriving at a decision that Indians are entitled to an opportunity to catch one-half of the fish destined for their usual and accustomed off-reservation fishing places; that they are entitled to regulate the exercise of their members' right at those locations; and that they are exempt from state regulation of fishing laws except to the extent that their practices have proven to be inconsistent with the goal of preserving and maintaining the fishery.

Since the Ninth Circuit's affirmance of the case in 1975 and the Supreme Court's denial of certiorari, NARF has ceased playing the lead counsel role. NARF attorneys are aiding local counsel with the numerous matters which arise in implementation and enforcement of the district court's decree, and with defending the result in related state court actions which seek to attack it collaterally. NARF's support role is expected to continue as problems connected with this case continue to arise.

United States v. Washington (Phase II), U.S. District Court for the Western District of Washington.

When this fishing rights case was originally filed, certain issues were severed out for trial at a later date. One such question was whether the Tribe's entitlement extended to fish which are artificially propagated in hatcheries. This important issue has also arisen in litigation in state courts and has been decided adversely to the Indians. NARF is attempting to have that issue determined in federal court since the state court ruling applied to only one river, one tribe, and one species of fish. A second issue that was severed out for subsequent trial is whether the state may authorize or allow action by its agencies and private citizens which has an adverse effect on the quality and quantity of the fishery. It is the Tribe's position that their treaty right to fish cannot be rendered worthless by the State's destruction of the resource.

Both of these issues have been the subject of extensive discovery during the past year. The case is now scheduled to go to trial in the summer of 1978. NARF attorneys have served in a backup role to the government and Indian attorneys in western Washington and have helped to brief some of the major legal issues. It is anticipated that this role will continue during the next year.

United States v. 687.30 Acres of Land, U.S. District Court, District of Nebraska.

The United States filed this suit in 1970 to condemn certain Winnebago Reservation lands and non-Indian lands along the Missouri River for an Army Corps of Engineers project. Indian land was located on both the Iowa and Nebraska sides of the Missouri River. In a similar case filed by the United States in Iowa, NARF on behalf of the Winnebago Tribe argued that the corps did not have the specific congressional authority necessary to abrogate the Tribe's 1865 treaty which guaranteed the Tribe its land forever. The Iowa District Court rejected the argument, but was reversed by the Eighth Circuit Court of Appeals in 1976. The Court of Appeals held that Congress had not specifically abrogated the Winnebago treaty and that the

Corps could not take the Tribe's land without specific congressional consent. Based on that decision, in 1977 the Tribe asked for a judgment against the United States in the Nebraska case and it was granted.

Upper Umpqua Tribe - Hunting and Fishing Rights.

NARF was contacted by the Upper Umpqua Indian Council in early 1977 regarding the feasibility of securing treaty exemptions from state hunting and fishing regulations. The Upper Umpqua Indian Council is an organization consisting of descendants of the Upper Umpqua Tribe who originally lived in the southern Oregon region. In the 1850's the Upper Umpqua Tribe agreed by treaty to move to the Grand Ronde Reservation in Northern Oregon, where the Tribe was terminated in the 1950's. The Upper Umpqua Council members are the descendants of those Umpquas who did not move to the Grand Ronde and those Umpquas who returned to Southern Oregon after arriving at Grand Ronde.

NARF encountered several problems in trying to secure hunting and fishing rights for these descendants. Perhaps the greatest impediment was the fact that they are not a recognized tribe by federal government standards. Also, there was no continual Indian occupancy of the original reservation site. Although there was a possibility of a hunting and fishing right at the Grand Ronde site, adverse legislative history of the Termination Act and the fact of non-recognition posed problems there as well.

During 1977 a great deal of attorney time was spent trying to circumvent these problems, but it became quite evident that the chances of prevailing in litigation were very slim. Accordingly, NARF apprised the Council of its alternatives and recommended non-litigation solutions, including securing recognition and initiating restoration negotiations with the State. NARF acted as lead counsel and the Urban Indian Council of Portland, Oregon, acted in a support capacity. The Council is now pursuing a recognition bill.

Ute Mountain Ute Hunting Case.

This is a major hunting and fishing case involving over 4 million acres of land in southwestern Colorado. This land had been ceded by the Confederated Bands of Ute Indians in 1874 pursuant to the Brunot Cession Agreement, 18 Stat. 36, with the United States. However, that agreement reserved to the Utes the right to hunt over that land as long as the Indians were at peace with the whites and the game lasted. Based on that agreement, the Ute Mountain Tribe told attorneys for the

State of Colorado, the Department of Natural Resources, Division of Wildlife, that it would commence a suit in federal court shortly unless some agreement could be reached on the rights of the Ute Mountain Tribal members to hunt in that area free of state regulation.

Over the past year NARF has been negotiating with the Division of Wildlife to reach an agreement that would be set forth in a consent decree and that would recognize the Indians' right to hunt in that area.

At the end of 1977, the Tribe and the State of Colorado had not reached any formal agreement on the matter.

White Mountain Apache Tribe v. Arizona, U.S. District Court for the District of Arizona (filed December, 1977).

In December of 1977, the White Mountain Apache Tribe filed suit against the State of Arizona seeking a declaration that Arizona could not impose its hunting and fishing laws on non-Indians hunting and fishing in the White Mountain Reservation. The White Mountain Reservation is located in a scenic area in the mountains of Arizona which has plentiful fish and game. Over the years the Tribe has developed an extensive and sophisticated conservation program which emphasizes big game trophy hunting. People come from all over the United States and from Canada to hunt trophy elk. The Tribe provides all regulation, management, and enforcement of the game and fish program on the reservation.

Notwithstanding this, the State of Arizona insists that the reservation is part of the State and therefore non-residents must also obtain state hunting and fishing licenses and comply with state hunting seasons and other restrictions. The White Mountain Apache Tribe in its lawsuit has argued that Congress has authorized the Tribe to manage and regulate all aspects of wildlife conservation, that the Tribe has so acted, and that federal law prohibits overlapping state conservation regulation. A trial has not yet been set in this matter. NARF is serving as co-counsel.

Yerington Paiute Tax Matter.

The Yerington Paiute Tribe requested NARF's assistance in resisting attempts by the State of Nevada to tax sales of cigarettes to non-Indians on the reservation by a tribally owned smoke shop. NARF assisted the Tribe in preparing testimony to be presented to the State Legislative Committee considering a bill which purported to implement the decision in Moe

v. Confederated Salish and Kootenai Tribes by taxing sales of cigarettes to non-Indians by smoke shops on the reservation. The Tribal testimony focused on distinguishing smoke shops on reservation, owned and operated by tribes, from smoke shops on reservations owned and operated by private entrepreneurs. Finally, the State of Nevada passed a law which exempted the tribally-owned smoke shops on reservations from having to collect State cigarette taxes on sales to non-Indians on reservations if the tribe had enacted its own tax on such sales which was equal to or greater than that of the state.

In conjunction with the foregoing assistance to the Tribe, NARF also drafted a Tribal tax code intended to provide a sound legal basis upon which the Tribe might successfully resist the state's efforts to force it to collect the state sales tax from non-Indian customers on the reservation. The Tribe is currently considering the adoption of the code.

At the end of 1977, the State Tax Commission was preparing regulations to implement the above-mentioned Act. NARF maintained close contact with Nevada Indian Legal Services which, on behalf of several Nevada tribes, presented testimony before the Commission urging it to adopt regulations which would totally exempt tribes from the burdensome reporting system set up in preliminary drafts of the regulations as to the number of cigarette cartons sold to non-Indians under the Act. NARF is continuing to monitor the progress of the promulgation of those regulations.

Zaste v. North Dakota, et al., U.S. District Court for the District of North Dakota (filed November, 1974).

NARF filed this case on behalf of Alex Zaste, an enrolled member of the Turtle Mountain Band of Chippewa Indians, in order to establish that state liquor laws are not applicable within the Turtle Mountain Reservation. Zaste possesses a valid Tribal liquor license, but wholesalers have refused to sell to him because he does not have state and county liquor licenses as required by North Dakota law. A motion for summary judgment was filed on May 2, 1977.

An order was issued on May 24, 1977, in which the court granted NARF's motion for summary judgment. In the judgment which was subsequently entered on June 21, 1977, the court found that Zaste is entitled to retail liquor within the Turtle Mountain Reservation on the basis of his Tribal liquor license and without obtaining state or county liquor licenses. The court also found that the state liquor licensing law conflicts with federal law and North Dakota cannot forbid wholesale liquor dealers from selling to Zaste.

Summaries of Major Cases and Activities

Arizona v. California
373 U. S. 340 (1963)

In 1963, the United States Supreme Court issued its Opinion and in 1964 its Decree, which adjudicated the water rights of the Five Colorado River Tribes. The Court, however, retained jurisdiction to amend this Decree if warranted. Irrigable lands have been added to the five Indian reservations since 1964 as a result of the resolution of boundary disputes by which the respective tribes are entitled to additional water. The Native American Rights Fund will shortly be moving to intervene in this case to seek additional water for the Cocopah Tribe on this ground and object to certain provisions in a proposed Supplemental Decree submitted by the States of Arizona, California, and Nevada, which may adversely effect the previously decreed water rights of the Cocopahs.

Arkansas Riverbed Matter

The Arkansas River Trust Authority (ARTA) is an association of five Oklahoma tribes formed to protect their rights to water and the bed of the Arkansas River and its tributaries. Originally, the Arkansas River Trust Authority was composed of seven tribes. However, two of the tribes have decided to pursue their claims independent of the Arkansas River Trust Authority. The five remaining member tribes include the Kaw, Ponca, Tonkawa, Pawnee and Otoe tribes. NARF represents the Ponca Tribe with regard to the claims in question.

The member tribes of ARTA have each retained their own tribal attorney to research each tribe's claim to the riverbed, as the first matter of priority of the Trust Authority. In 1977, tribal attorneys continued to map out a litigation plan whereby the tribal claims to the riverbed may best be asserted. Some meetings were held with the Solicitor's Office of the Department of the Interior to ascertain the role which the legal offices of the United States might play in such potential litigation.

NARF attorneys have drafted a skeleton complaint intended to form the basis for discussion among the various tribal attorneys as to the best strategy for potential litigation. Moreover, NARF has, in light of discussions with the Solicitor's Office of the Department of the Interior, begun to develop a comprehensive report on all the major aspects of a potential lawsuit, including expert reports needed and the strategy of asserting the various claims involved. The report will from the basis of a tribal request that the United States file a suit on behalf of the Ponca Tribe; the other tribes will presumably do the same.

Barta v. Pottawattomie County Board of Adjustment, No. 2-61325, Supreme Court of Iowa (filed July, 1977)

In the small valleys down the Missouri River near Council Bluffs, Iowa, there are Indian burial sites. A company proposed to construct a sanitary landfill in an area in which there was a strong probability there were Indian graves. Two Indians challenged the special zoning permit granted the landfill operators on the grounds that under Iowa law protecting Indian burial sites the permit could not be granted until the Board of Adjustment made sure there were no Indian graves. The Indian petition was dismissed at the trial court level, and the decision has been appealed to the Iowa Supreme Court.

Brooks v. Nez Perce County, No. 2-72-27, U. S. District Court for the District of Idaho, and Graham v. Nez Perce County, No. 75-2359, U. S. Court of Appeals for the Ninth Circuit.

This case involves the attempt to recover an Indian allotment at Lapwai, Idaho, within the boundaries of the Nez Perce Indian Reservation. Clients in the case include two enrolled members of the Nez Perce Tribe and the estate of the clients' deceased mother. Until recently the main issue in the case has been the jurisdiction of the federal courts to entertain it. The federal district court dismissed the original action in 1974, and the dismissal was appealed to the Ninth Circuit Court of Appeals in San Francisco, which reversed and sent the case back to the district court during 1977. Jurisdiction remained at issue until the U.S. Government entered the case on the side of the plaintiffs in late December, 1977. The remaining issues are whether the plaintiffs are entitled to recover the land, which was taken many years

ago for non-payment of real estate taxes; and if they can recover the land, whether they can also recover money damages from Nez Perce County, which took the land; and from the private parties to whom it was then sold.

Following the Circuit Court's reversal of the lower court opinion on the jurisdictional issue, an amended complaint was prepared and filed and answered by private defendants. The U. S. Government was made a party defendant pursuant to a special act. The United States took a rather long time deciding what response to make to the case and finally concluded that it would enter the case on behalf of the plaintiffs. By the end of December the United States had made a commitment to become plaintiffs in the case. NARF is co-counsel with Western Idaho Legal Services in Lewiston.

Carson-Truckee Water Conservancy District v. Andrus, U. S. District Court for the District of Nevada

This case is one involving the Pyramid Lake water rights controversy. The plaintiffs in this case, who include the State of Nevada, do not like the way in which the Secretary of the Interior is operating Stampede Reservoir. Stampede is located in the upper reaches of the Truckee River. It is operated for the benefit of the Pyramid Lake fishery. Suit was brought in October of 1976 against the Secretary of the Interior claiming that the Secretary's use of the water stored in Stampede Reservoir for the benefit of the Pyramid Lake fishery violates the rights of the plaintiffs.

The Pyramid Lake Paiute Tribe intervened as a defendant and NARF, along with the Tribe's local counsel in Reno, represents the Tribe. The case is important to the Tribe because water from Stampede Reservoir is essential for the restoration of the Pyramid Lake fishery. The case also presents important questions concerning the extent to which Indian water rights may be taken or diminished for reclamation purposes.

During the past year, the parties have engaged in extensive discovery. In November, the plaintiffs filed a motion for partial summary judgment. The Tribe has filed a motion to disqualify the judge who is presently assigned to this case and to dismiss the case because basically the same issues are presented in the other Truckee River water rights case that is pending, United States v. Truckee Carson Irrigation District.

Catawba Land Claim

The Catawba Tribe is claiming the right to possession of some 140,000 acres in and around Rock Hill, South Carolina. The Tribe bases its claim upon the 1790 Indian Trade and Intercourse Act and a 1763 Treaty between the British Crown and the Tribe.

The Nonintercourse Act requires the participation and consent of the federal government to alienation of any interest in Indian lands. This rule of law, enacted by the First Congress and reaffirmed by the Supreme Court as recently as 1974, was enacted to protect Indians from the improvident disposition of their lands.

In 1976, the Tribe informed South Carolina Governor Edwards, Senators Thurmond and Hollings and Congressman Holland that it intended to pursue its claim to possession of its 140,000 acre reservation (the 1763 reservation, less the 3,400 acre federal reservation and the 630 acre "old reservation") through federal courts. The Tribe has been willing, however, to first pursue a negotiated, out-of-court settlement and negotiations between the Tribe and the State's Attorney General have been underway since the spring of 1977.

In August, 1977, the Department of the Interior, in response to a litigation request from the Catawba Tribe, announced that it would recommend to the Justice Department that the United States institute suit on behalf of the Catawba Tribe seeking return of the entire reservation. The Solicitor of the Interior Department agreed with the Tribe's contention that the 1763 reservation was lost in violation of the Nonintercourse Act and that federal restrictions have never been lifted from those lands.

Also during the past year, the Tribe has put together a "settlement package" which would be enacted by Congress rather than seek their remedy through the federal courts. Briefly, the Tribe proposes that its Nonintercourse Act claim to 144,000 acres be extinquished in return for the establishment of (1) a 32,000 acre federal reservation on unoccupied lands, (2) a tribal development fund, and (3) full federal status as a recognized tribe.

NARF has informed congressional leaders and committee staff members of the pending legislation. In anticipation of the proposed reservation, a comprehensive land use plan has been prepared and circulated.

Central Utah Project

For the past four years NARF has been assisting the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah in its water resources development. Initially, NARF, with the explicit approval of the Executive Committee, represented a minority of Tribal Council members who sought to prevent the diversion of Ute Indian water under the Central Utah Project (CUP). Litigation was undertaken by this group against the Secretary of the Interior, the Ute Indian Tribe, and the Utah Water Conservancy District. (That litigation was dismissed by a federal district court for procedural reasons). Thereafter, the members of the Ute Tribe, through Tribal Council elections, elected a new majority on the Council which undertook a rather dramatic change in policy in favor of more aggressive protection of water resources and retained NARF to advise the Tribe in this matter.

During the last year, NARF has assisted the Tribal Council, the Tribe's attorney, and a water consultant in re-evaluating and revising the Tribe's water resource priority. As a result of this review the Ute Tribe announced in December, 1977 a program for the restructuring of its water resources with respect to CUP. For the first time in the history of CUP and the Tribe's involvement in that enormous project, the Tribe spelled out in detail and with great precision to federal and state officials the terms upon which its continued diversion of Indian water would turn. Currently, negotiations are being undertaken to inform federal and state government officials and water users of these new terms and conditions. It is expected that these negotiations will result shortly in congressional and state legislation authorizing a restructuring of CUP.

Cheboygan Band Request

The Cheboygan Band of Ottawas, now known as the Burt Lake Band, contacted NARF several months ago about representing them in a land claims case. Essentially, the Band lost approximately 600 acres of land held in trust by the Governor of Michigan for their use by tax foreclosure sales. NARF met with the Band in October, 1977 and the Band authorized staff attorneys to do the necessary legal research to determine if the Band has a viable claim.

Initial research shows two possible causes of action for the Band: (1) a suit against the Governor for breach of trust; and (2) a Nonintercourse Act claim to recover possession of the land. The Band is expected to decide on whether to retain NARF in early 1978.

Cheyenne-Arapaho Tribes of Oklahoma v. The State of Oklahoma, et al., U. S. District Court, Western District of Oklahoma (filed September, 1975)

This action seeks a declaration that members of the Tribes have the right to hunt and fish free from state regulation within the boundaries of their original reservation on tribal and allotted lands, state and federal public lands and private lands where the consent of the owner has been obtained. The suit also seeks a declaration that the Cheyenne-Arapaho Tribes have the exclusive authority to regulate hunting and fishing of its members on the above specified types of land and an injunction against the enforcement of Oklahoma fish and game laws on those lands.

Trial was held in this case in November, 1976, and the District Court took issues in the case under advisement. In November, 1977, the District Judge scheduled additional oral arguments as to the major issues in this case. Following those arguments in November, the NARF attorneys and the State's attorneys filed further briefs, and the District Court again took the case under advisement. A decision is awaited.

County of Trinity v. Cecil Andrus, et al., U. S. District Court, Eastern District of California

NARF represents the Hoopa Tribe in this suit which was brought by the County of Trinity against the Secretary of the Interior and officials of the Bureau of Reclamation regarding the operation of the Trinity River Division of the Central Valley Project in California. One of the claims of the County was that the present operation of the Trinity River Division has a detrimental effect on the Trinity River fishery and that additional water must be released into the River in order to preserve the fishery. Presently 90% of the water from the Trinity River is being diverted to the Central Valley.

The Hoopa Tribe intervened in the suit because of the importance of the fishery in the Trinity for subsistence purposes and the significance of the River for religious purposes. The Tribe is seeking a declaratory judgment that defendants have a duty under the act authorizing the Trinity River Division, and a trust responsibility to the Tribe, to preserve the Trinity River fishery; and that the defendants' duty and responsibility has been violated because the fishery has declined as a result of defendants' operation of the Trinity River Division. The Tribe also claims that it has

a prior and paramount right to sufficient water for the maintenance and preservation of the Trinity River fishery and that defendants' operation of the Trinity River Division has infringed upon that right.

That issue involving the defendants' duty under the Trinity River authorization act was briefed and heard by the court. An opinion was issued on October 12, 1977, in which the court found that it is within the discretion of the Secretary of the Interior to determine what steps need to be taken to preserve the fishery, and that the Secretary has not abused his discretion by the present operation of the Trinity River Division. The Tribe's other claims involving the government's trust responsibility and the Tribe's prior and paramount right to Trinity River water for fishery purposes were dismissed without prejudice. NARF is now in the process of seeking an administrative solution to the Tribe's remaining claims.

Crow Section 2

In January 1974, the Crow Tribe requested NARF's assistance in obtaining enforcement of Section 2 of the Crow Allotment Act of 1920. Section 2 contains a unique restriction on the number of acres non-Indians can own on the Crow Reservation. Although the Act was passed over fifty years ago, there has been no enforcement of the provision. There are many large ranching companies and individuals with land holdings in excess of the acreage limitation. NARF has been working with the Department of Justice during the past three years to prepare a test case for the enforcement of Section 2. The test case would be brought by the United States. A great deal of legal and factual research has been done by NARF and the Department of Justice. NARF continues to push for initiation of the test case. It is hoped that the suit will be filed by the Department of Justice in 1978.

Fort Berthold Hunting and Fishing Case

The Three Affiliated Tribes of the Fort Berthold Indian Reservation in North Dakota had by federal act agreed to cession of a large area of that reservation to the United States for the purpose of building an earthen dam known as the Garrison Reservoir. The act ratifying the cession did not refer to rights of the Indians over that land but simply constituted the taking of the area. Recently, state officials have sought to assume criminal jurisdiction to enforce its laws and regulations since the area is no longer part of the reservation. The State of North Dakota is seeking

to enforce its hunting and fishing code in that reservoir area. Based on lengthy research NARF concluded that the Fort Berthold Tribe of Indians have a continuing right to hunt and fish over the area. However, no litigation is contemplated at this time.

Fort McDowell - Orme Dam - Water Rights.

The Fort McDowell Mohave-Apache Indian Community, with the assistance of the Native American Rights Fund, has, at least for the present, succeeded in convincing the new Administration to halt the Bureau of Reclamation's plans to construct Orme Dam and Reservoir, which would have inundated up to two-thirds of their reservation.

The Tribe is now in the process of developing plans to utilize its water rights, including possible congressional legislation and negotiation of agreements for the sale or lease of water on and off the reservation. NARF is aiding the Tribe in these endeavors.

Klamath Water Rights Case.

NARF is working with attorneys for the Organization of Forgotten Americans on the issue of Klamath Indian water rights. The water is located on lands that were former trust allotments, free of state jurisdiction. NARF has researched and prepared a legal memorandum on the allottees' rights to claim a federally recognized water right. The Klamath Indian Reservation was terminated by the Klamath Termination Act. However, the statute specifically preserved Tribal members' rights to use water. Now the State of Oregon is seeking to adjudicate the right of all persons, including the Klamath Tribal members, to use water within the former reservation.

This issue is particularly significant because the State of Oregon has initiated an administrative proceeding requiring all persons who claim water rights to file a notice of claim of use. Based on NARF research it has been concluded that the state administrative proceeding ignores the Klamath Indians' federal claim for the use of the waters. Many Klamath Indians may lose their right to claim water for use on their land unless it is determined that the federal statute established a right to use water free of state jurisdiction.

Lac Courte Oreilles Band of Lake Superior Chippewa Indians - Federal Energy Regulatory Commission (FERC) - Project No. 108.

The Lac Courte Oreilles Band, represented by NARF as co-counsel with a private attorney, has intervened in the

FERC relicensing proceedings for the Northern States Power Company's operation of the Chippewa Flowage, a non-power producing reservoir and dam located partially on tribal lands, without tribal consent. 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, FERC 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. The hearings on both the plan and EIS began December 1, 1976. Briefs on the reopened proceedings were submitted in February and April, 1977, the Administrative Law Judge (ALJ) issued the Initial Decision against the Secretaries and the Band and recommended the issuance of a new license to Northern States Power Company. The Band will take exception to the Initial Decision of the ALJ and seek a review of the decision before the Federal Energy Regulatory Commission.

Mashpee Wampanoag Tribe v. New Seabury Corporation, U.S. District Court, District of Massachusetts (filed August, 1976).

The Mashpee Wampanoag Tribe is seeking a declaration of ownership to approximately 13,000 acres of land in the Town of Mashpee, Massachusetts, and has exempted from their claim all individual homeowners within the claim area. The defendants include the Town of Mashpee, represented by Attorney James St. Clair, the State of Massachusetts, several real estate developers, a utility company, and several title insurance companies.

The area around Mashpee was guaranteed to the Tribe by the early Plymouth colonists but was lost in the Nineteenth Century through various transactions between the state and the Tribe. The legal basis for the suit is the 1790 Indian Noninter-course Act, passed by Congress pursuant to their constitutional power over Indian affairs to the exclusion of the states. The Act nullifies any land transactions made with Indians unless they have been approved by the federal government. There has been no federal approval of the land transactions involved in this case. The Tribe hopes that this suit will enable it to preserve the remaining open space and wetlands of Mashpee.

Because of the impact this case has had on the politics and economy of the area, last summer President Carter

appointed a Special Representative -- former Georgia Supreme Court Justice William B. Gunter -- to investigate and report on this claim, as well as the claim in Maine. Unfortunately, after asking for and receiving lengthy memoranda from the parties involved on the merits of the Mashpee claim, Justice Gunter announced in September that he was not able to provide a recommendation for resolution of the case. His announcement was unfortunate, not only because of the work that had gone into preparation of the briefs and meetings with Justice Gunter, but also because the parties had stopped holding informal settlement talks after Justice Gunter was appointed, in anticipation that he would serve as mediator.

Unlike the Maine congressional delegation, the Massachusetts delegation had specifically asked that Justice Gunter serve as mediator for the Mashpee dispute. Because of Justice Gunter's announcement the settlement efforts which had been underway were destroyed since subsequent talks were impossible because a trial date of October 17 had already been set and there wasn't enough time to negotiate and prepare for trial as well.

The trial, scheduled before a jury at the defendants' request, was to decide whether the Mashpees are and have been a Tribe of Indians as that term is used in the Nonintercourse Act. The trial would also decide whether the land being claimed by the Indians belonged to them at the time it was taken in violation of the federal act.

The issue of tribal existence could have been determined by the Department of the Interior before whom the Tribe had a petition pending seeking assistance in the present litigation. The Department began its review of the petition but notified the Tribe shortly before trial that it would not be able to decide the tribal existence question before the summer of 1978.

Following the opening of trial, the Tribe presented its testimony in twenty-two days. The Tribe presented a series of expert witnesses who described the history and culture of the American Indians in general and the Mashpee Wampanoags in particular. The evidence included scores of exhibits, some from as long ago as 1606, including original Indian deeds to the land the Tribe signed in 1665 and 1666. The presentation of this evidence was the culmination of three years of research and investigation by NARF attorneys and staff. The Mashpee trial is one of the longest and most complex in which NARF has ever been involved. The trial was not completed at the end of 1977 and it was not expected to end until well into the new year.

Narragansett Tribe v. Southern Rhode Island Land Development Corporation and Narragansett Tribe v. Murphy, U.S. District Court, District of Rhode Island (filed January, 1975).

This is a consolidated action in which the Narragansett Tribe is suing the State of Rhode Island and certain individuals for return of the Tribe's aboriginal lands. Title to approximately 3,500 acres of land is at issue in the case. The land is part of the area occupied by the Tribe at the time of the first white contact and was included in an area reserved for the exclusive use of the Tribe in 1709. Between 1790 and 1880, the State authorized the alienation of various parcels of the land by the Tribe and in 1880, the State purchased the remaining Tribal lands and purported to abolish the Tribe. The United States did not participate in or approve of any of these transactions. Under the federal Nonintercourse Act of 1790, which nullifies any Indian land transactions not approved by the federal government, these transactions are void and the Tribe is suing for possession of the land.

The defendants raised a number of defenses to the Tribe's claim by their first answer. The Tribe successfully moved to strike these defenses as legally insufficient to bar the claim. With all affirmative defenses stricken, including those based on the passage of time, the Tribe would prevail in court if it could in fact establish a violation of the Nonintercourse Act.

In October, 1977, the defendants amended their answer raising several new defenses to the Tribe's claim. Because of these new issues, time for trial discovery was extended and the trial postponed until April, 1978. NARF prepared a second motion to strike and has been preparing for trial. In the meantime, settlement discussions continue and have some prospect of success.

Native American Natural Resources Development Federation.

In 1973, twenty-six Northern Great Plains Tribes with substantial reserves in energy resources of coal, uranium, and copper, met to form the Native American Natural Resources Development Federation (NANRDF). The purpose of the Federation was the orderly and systematic development of natural resources on tribal lands. NARF aided this organization in securing a funding base, securing the appropriate IRS tax status for non-profit corporations, and helped set up the administrative offices in Denver.

During 1977, NARF helped NANRDF work out internal administrative problems, aided in the development of policies and procedures, and worked to insure a cohesive internal structure. As a result of these efforts, NANRDF has continued to secure funding and has become a viable organization serving all its member tribes.

Northern Cheyenne v. Adsit, U.S. District Court, District of Montana.

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 Northern Cheyennes. NARF undertook representation after the suit had been filed. The suit is consolidated with a similar case filed by the United States as trustee on behalf of the Tribe. The defendants have moved to dismiss the case in federal court in order to force the Tribe into state court proceedings. The decision on that motion has been pending since 1976.

Olympic Pipe Line Company, et al. v. Swinomish Tribal Community, et al., and United States v. Olympic Pipe Line Company, et al., U.S. District Court, Western District of Washington (filed August 19, 1976).

The Swinomish Indian Reservation is located on a peninsula in Northwestern Washington near Mt. Vernon. Two oil pipeline companies operate and maintain pipelines which traverse Tribally-owned tidelands without the benefit of a right-of-way from the Tribe and the United States. One pipeline company has been in trespass for twenty years, the other pipeline company for ten years. After more than a year of negotiations failed to bring results and an impasse was reached, the pipeline companies went to Federal District Court in Western Washington and obtained a preliminary injunction under the Indian Civil Rights Act to prevent the Tribe from closing or interfering in any way with the pipelines. The Tribe filed a cross-complaint requesting eviction of the pipelines and damages for the trespass. NARF was successful in getting the United States to file suit on behalf of the Tribe against the pipeline companies for trespass, which also asked the court to evict the pipeline companies.

During 1977, the court consolidated the two lawsuits. Various motions were filed and discovery was implemented by all parties. The Tribe and the United States filed a motion for summary judgment which was denied by the court, so the case will proceed to trial. A Pretrial Conference of Attorneys, as mandated by local court rules, has been held and a Pretrial Order agreed upon. Several motions were pending before the court at the end of the year.

Oneida Land Claims

Oneida Indian Nation v. Oneida and Madison Counties, U.S. District Court, Northern District of New York.

For a number of years, NARF has been assisting the Oneida Indian Nations of New York, Wisconsin, and Ontario, Canada and their local attorneys in the prosecution of this Nonintercourse Act test case to recover lands presently claimed by Oneida and Madison Counties. These lands were ceded by the Oneidas to the State of New York in 1795 without the consent of the federal government as required by the 1790 Nonintercourse Act. In 1974, the Supreme Court upheld the Oneidas' contention that: (1) the Nonintercourse Act applied to the original thirteen states; and (2) that the District Court for the Northern District of New York had jurisdiction to hear the case. The Supreme Court then remanded the case to the district court for trial which was held in 1975 and on July 12, 1977, Judge Edmund Port (N.D.N.Y.) issued a forty-seven page opinion in favor of the Oneidas. The decision constitutes a favorable precedent for the Oneidas to establish ownership to all the lands, some 246,000 acres, which they lost after 1790. This case will now be reset for hearing on the question of damages.

Following Judge Port's decision, both the Departments of the Interior and Justice, at NARF's urging, agreed to bring suit on behalf of the Oneidas to recover the entire 246,000 acres, plus trespass damages. In the event a negotiated settlement of these claims fails, the United States Government is committed to bring such litigation.

Oneida Indian Nation v. Williams, et al., District Court, Northern District of New York.

The Williams case differs from the test case of Oneida v. Oneida and Madison Counties in that Williams involves 750 acres which the New York Oneidas lost as a result of tax

and mortgage foreclosures, whereas the test case concerns lands lost as a result of treaties with the state. The Williams case is being held in abeyance by agreement of the parties pending final resolution (or settlement) of the test case.

Pre-1790 Land Claims.

On November 18, 1977, NARF sent a request to the Department of the Interior asking the government to also commence litigation on behalf of the three Oneida Nations to establish their claim to some five-and-one-half million acres which they lost in state treaties with New York in 1785 and 1790. The Solicitor of the Department of the Interior currently has this request under active consideration, but has not yet made a decision.

Since the last report, NARF has been formally retained by the Oneida Nation of Wisconsin and the Oneida of the Thamas Band of Ontario, Canada, to pursue the above land claims in New York.

Pamunkey Land Claim and Right-of-Way.

NARF is assisting the Pamunkey Tribe with two land problems. The first is a right-of-way across their state reservation obtained by the Southern Railway in clear violation of the 1790 Nonintercourse Act. All parties involved admit to the violation and are working on settlement terms whereby the railroad's right-of-way will be confirmed by the federal government and the Tribe will be paid for future use of the right-of-way.

The second land issue concerns the continued encroachment on and loss of Tribal lands due to the non-existence of a legal description of the reservation's boundaries. Historical research has been done to determine if the Pamunkeys could regain any land by proving that they were lost in violation of the Nonintercourse Act claim. NARF has hired a historian to review the situation before concluding that a Nonintercourse Act case does not exist. At a minimum, suit can be brought in state court under a Virginia statute to obtain a judicial declaration of the present reservation boundaries. The State Attorney General's Office has agreed to assist in bringing about the suit and NARF will complete the legal research preparatory for such a suit.

Papago Indian Tribe v. City of Tucson, et al., U.S. District Court, District of Arizona (filed March 6, 1975, amended complaint, July, 1977).

This is a consolidated action brought by the United States on behalf of the Papago Indians and by the Papago Tribe against water users on the Upper Santa Cruz Basin in Arizona. The purpose of the action is to seek a declaration of the federally reserved rights of the Papago Tribe in the basin, and to enjoin off-reservation interference with those rights. This case is of significance for two reasons: (1) it represents the first major groundwater action initiated by the United States on behalf of an Indian tribe; and (2) because the City of Tucson depends almost exclusively on groundwater, the impact of the action on the City of Tucson has made this a case of major significance in the State of Arizona.

The primary groundwater users include not only the city of Tucson, but also the State of Arizona and several of the world's largest mining companies that have major mineral development facilities in the Papago Reservation area. In October, 1975, the United States District Court for Arizona ordered the joinder of all groundwater and surface water users in the Upper Santa Cruz Basin. In the last two years, the United States and the Tribe have spent an enormous amount of time determining the ground and surface water users in the basin. The amended complaint, with over 2,000 defendants, is in the process of being served. Once the amended complaint is served, the United States and the Papago Tribe plan to seek preliminary relief which will require the primary municipal and industrial defendants to begin to cut back on their use of groundwater.

This case involves complex issues of law and water management in the Southern Arizona area. It is anticipated that another amended complaint will be filed in the spring of 1978.

Pyramid Lake Paiute Tribe of Indians v. Sierra Pacific Power Company, Docket No. E-9530 Before the Federal Energy Regulatory Commission (filed July, 1975).

In this case, NARF filed a complaint and Petition for Declaratory Order with the Federal Power Commission (now the Federal Energy Regulatory Commission) on behalf of the Pyramid Lake Paiute Tribe of Indians 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 navigable and that Sierra Pacific's power plants are therefore required to obtain a license from the Federal Energy Regulatory Commission. The Complaint alleged that the power plants are operated in a manner which is detrimental to the Truckee River and Pyramid Lake fisheries.

By order of the Commission, a Motion to Dismiss made by Sierra Pacific was denied and the issue in the case was confined to the question of the Commission's jurisdiction to license the four hydroelectric power plants. A pre-hearing conference was held in Washington, D.C., on February 23, 1977. A full hearing on the jurisdictional issue was held in Reno, Nevada, on May 31, 1977. The Tribe presented evidence to show that the Commission has jurisdiction to license the plants based on the navigability of the Truckee River and the plants' use of surplus water from three government dams. Initial briefs were simultaneously filed by all parties on August 1, 1977, and reply briefs on September 1, 1977.

The Administrative Law Judge issued an Initial Decision on November 25, 1977, in which he found that the affected reach of the Truckee River is not a navigable stream and the plants do not utilize surplus water from a government dam; therefore the plants are not subject to the jurisdiction of the Federal Energy Regulatory Commission. The Tribe takes exception to the Administrative Judge's decision and has filed a brief appealing the decision to the full Commission.

Pyramid Lake -- Peigh Ranch Matter.

NARF was asked by the Pyramid Lake Tribe to investigate the possibility of filing a land patent annulment suit to secure the return of approximately 565 acres of land on the reservation. The land was patented to non-Indians under the purported authority of the Act of July 7, 1924, which allowed applicants who had, in good faith, occupied reservation lands for twenty-one years to obtain patents.

It was determined upon investigation that the 565-acre parcel, whose location is critical to the success of the Tribe's fishery restoration efforts, was illegally obtained by the patent applicant. A litigation report was prepared and submitted to the Field Solicitor in the Department of the Interior in Phoenix in order to secure the participation of the government. The Solicitor's Office in Washington has reviewed the litigation report and requested the Justice Department to initiate suit, but at this writing, suit has not yet been brought.

Rincon Band of Mission Indians - Federal Energy Regulatory Commission - Project No. 176.

The Rincon, LaJolla, San Pasqual, Pala and Pauma Bands of Mission Indians are opposing the Escondido Mutual Water Company's renewal of its Commission license for facilities which divert the flow of the San Luis Rey River from their reservations in Southern California. The Bands assert that old water contracts entered into by the government are invalid and that the original Federal Power Commission license has been violated by the water company. The Bands, supported by the Secretary of the Interior, are also seeking a non-power license that would enable them 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.

Trial of this matter commenced in September of 1973. Following preparation of an environmental impact statement, the hearings were finally completed in January of 1976. All of the issues were briefed to the Administrative Law Judge who presided in the case, and he rendered a decision on June 1, 1977. That decision was partially in favor of the Bands and partially in favor of the Escondido Mutual Water Company.

During the latter part of 1977, all of the parties prepared briefs supporting and opposing the Administrative Law Judge's initial decision. The matter is now awaiting decision by the Federal Energy Regulatory Commission (formerly the Federal Power Commission).

The case involves the application of a number of provisions of the Federal Power Act that are designed to insure the protection of Indian reservations. It is also the first contested relicensing case in the history of the Federal Power Commission and so it involves a number of issues of first impression relation to that subject. The Bands are represented by NARF, California Indian Legal Services and two private attorneys.

Rincon Tribal Right-of-Way.

In 1913, the federal government granted a right-of-way easement to San Diego County for a road running through the Rincon Reservation. In 1935 the county abandoned the road as it received another right-of-way for a new highway paralling the old road. Although there were trust allotments abutting the old road, the county has not maintained and has

effectively abandoned the old road since 1935. In the spring of 1977, the Bureau of Indian Affairs formally vacated San Diego County's interest in the old road, pursuant to federal authority. Since the effect of this action was to return the road to Tribal jurisdiction, several non-Tribal members with property along the road petitioned the county to keep the road open. The County Planning Commission voted to keep the road open since the old road had never been formally vacated under state law.

The Rincon Band, with NARF as lead counsel, appealed the decision to the County Board of Supervisors. In November, 1977, the Board of Supervisors overruled the Planning Commission and agreed that the county did not have jurisdiction over the old road.

Ross Dam - Federal Energy Regulatory Commission - Project No. 553.

The City of Seattle has a license to maintain and operate a hydroelectric power project on the Skagit River in accordance with the Federal Power Act. There are three dams on the river, which is a major fishery system in Western Washington. The Swinomish Tribal Community, the Sauk-Suiattle Tribe, and the Upper Skagit Tribe have adjudicated treaty-protected fishing rights in and along the Skagit River. The City of Seattle is seeking an amendment to its license to authorize the enlargement of Ross Dam, the major dam within the project.

NARF, in conjunction with Evergreen Legal Services, filed a petition to intervene in the amendment proceeding. The Commission granted intervention, but in so doing, rejected the Tribes' arguments by adopting the Administrative Law Judge's ruling. The judge ruled that the enlargement of the dam would affect only the upper part of the stream and not the lower portion where the fishing rights of the Tribes are located. To protect the Tribes' future rights of appeal an application for rehearing was filed.

Under the terms of the Federal Power Act, the Secretary of the Interior has the power to impose conditions on the operation of any power project for the protection of Indian treaty rights. The Secretary of the Interior has invoked his power and filed a Petition to Intervene. Attorneys for the Tribes met with Interior representatives to formulate and submit the necessary conditions. As a result of these actions, the Commission, without officially granting a rehearing, stayed the effect of the order until further consideration by the Commission.

Shinnecock Land Claim

At the request of the Shinnecock Tribe of Long Island, Southampton, New York, NARF has prepared a request for the United States to bring suit on the Tribe's behalf to recover possession of some 3,150 acres of land in the Town of Southampton. The Shinnecocks acquired a 1,000-year lease to this land in 1703 which they were induced to cede to the Town of Southampton in 1859, without the consent of the United States and, therefore, in violation of the 1790 Nonintercourse Act.

This request is presently being reviewed for historical accuracy by the Tribal trustees and their consultants and should be forwarded to the Department of the Interior in the near future.

Skagit River Fishery Analysis

Three Tribal groups in Western Washington have treaty-protected fishing rights to the Skagit River and its system; the three are the Swinomish Tribal Community, the Sauk-Suiattle Tribe, and the Upper Skagit Tribe. The Skagit River once provided a magnificent fishery, but like virtually every river system in the area or in the country, it has been substantially degraded. The three Tribal groups with interest in the Skagit River joined together and obtained funding for a fisheries enhancement study. NARF contracted with the Tribes to provide the necessary legal research and analysis required as part of that study.

In 1977, NARF initiated a study to identify all major factors contributing to the degradation of the fishery and to do a thorough search of all reports pertaining to the fishery. Major factors which have already been identified are several hydroelectric dams licensed by the Federal Power Commission and large logging operations. There is also a proposal for a nuclear power plant which may pose a threat to the fishery, and a proposed new hydroelectric power plant. The final study will be completed shortly.

Except for administrative proceedings before the Federal Energy Regulatory Commission involving one of the hydroelectric power plants this matter has not generated any litigation. NARF has been working with the Tribes to see what can be accomplished without litigation.

The Tribes plan to convene a meeting of interested organizations which are identified in the study, including the logging companies, the power companies, and the state, to determine whether they can embark together upon a common program aimed at restoration and enchancement of the fishery resources of the Skagit River System.

Swinomish Trespass Matter - Burlington Northern Railroad

For over 75 years the Burlington Northern Railroad and its predecessors have operated and maintained a railroad through the Swinomish Indian Reservation without benefit of a valid right-of-way or consent of the Tribe and the United States. The Swinomish Tribal Community requested NARF to represent it in negotiations with Burlington Northern Railroad for past and present use of their lands. After more than two years, negotiations reached an impasse in May of 1977. NARF prepared and submitted a litigation request for the United States to bring suit against the Railroad on the Tribe's behalf which detailed the legal theory and legal support for the Tribe's position. A draft complaint was also submitted. The litigation request has been approved by the Regional Solicitor's Office and forwarded to the Washington, D.C. Office. NARF is continuing to monitor and work with the government officials in an effort to secure the Tribe's right to its trust properties.

Taos Pueblo Lands

An apparent error in an old government survey covering the northeast boundary of Taos Pueblo in New Mexico was recently discovered. A boundary correction would recognize the Pueblo's ownership of several hundred acres of mountainous land, including a lake which has religious significance to the Taos Indians. NARF, in conjunction with the Taos Pueblo's Tribal attorney, investigated the survey error and secured an Interior Department order setting aside the old survey and ordering a new one. The Department of Agriculture, which also claims the land, opposed Interior's action and has sought the Justice Department's intervention to nullify Interior's action. NARF has continued to work with the Tribal attorney and the Interior Department in upholding the order for a new survey.

Tesuque Pueblo Lease

Local attorneys for the Tesuque Pueblo in New Mexico sought NARF's advice and assistance in a case involving a 99-year agreement it had allegedly executed in 1970 with a developer to build a resort on Pueblo lands. Initial work on the development was stopped in 1972 after a federal appeals court ruled that a prior environmental impact statement was required by the National Environmental Policy Act. The court felt the impact statement was necessary since the Bureau of Indian Affairs (BIA) was involved in approval of the agreement.

In 1976, the Pueblo, after reviewing the consequences of the development in conjunction with the preparation of the environmental impact statement by the BIA, rescinded its approval of the agreement. The Pueblo sought NARF's assistance in pursuading the BIA there was no lease to approve following the completion of the environmental impact statement or, in the alternative, that the Secretary should not approve the lease based upon environmental considerations. After several meetings with government officials, the Under Secretary of Interior withheld approval of the agreement based upon the environmental impact statement.

United States v. Ben Adair, Civ. No. 75-914, U. S. District Court, District of Oregon

This is a major water rights action by the United States seeking a declaration that it is entitled to the use of sufficient water to fulfill the purpose of the Klamath Forest National Wildlife Refuge and the national forest lands within the area of ajudication. NARF is representing the Klamath Indian Tribe which has intervened to protect the water rights associated with its treaty hunting and fishing rights over the entire land under litigation. The Tribe is seeking a declaration that it is entitled to a minimum streamflow in the Williamson River. This guaranteed minimum streamflow is essential to preserving the habitat of the wildlife that is the subject of its treaty hunting and fishing rights.

However, there are important subsidiary issues in the cases such as the Tribe's claims that the priority date for its water rights date from time immemorial, and that the non-Indian successors in interest to allottees, are not entitled to a share of the Tribal waters with a Winters priority date.

Pursuant to the Pretrial Order entered in this case the Tribe has submitted its initial brief on issues identified in the Pretrial Order and has also submitted testimony by both expert witnesses and Klamath Tribal members regarding the importance of the maintenance of a minimum streamflow in the Williamson River for the habitat of the wildlife.

Whether the treaty hunting and fishing rights carry with them a guarantee of a minimum streamflow to preserve the wildlife has never been decided.

Following the submission of the brief, the court will set the matter for trial and hearing sometime during the summer of 1978.

United States ex rel. Chase v. Wald, No. 76-1666, Court of Appeals for the Eighth Circuit (On Petition for a Writ of Certiorari)

This case involves the question of the appropriate penalty to be assessed for livestock trespass on Indian lands. The statute dealing with livestock trespasses provides for a penalty of $1 per animal regardless of the duration of the trespass. The regulations of the Secretary of the Interior which implement the statute provide for a penalty of $1 per animal for each day of trespass. This case was originally filed in federal district court in North Dakota by North Dakota Legal Services on behalf of Eleanor Chase, an enrolled member of the Three Affiliated Tribes of Fort Berthold. Damages and penalties provided for in the Secretary's regulations were sought for livestock trespass to her Indian trust lands. Chase was successful in the district court and received the relief she sought. Defendants appealed. The Eighth Circuit Court of Appeals reversed and ordered the trespass penalty to be reduced. The Court invalidated the Secretary's penalty regulation as beyond his authority.

NARF petitioned the U.S. Supreme Court for a Writ of Certiorari arguing that the regulation providing for $1 per animal for each trespass was within the Secretary's authority, and that the Eighth Circuit's ruling was in direct conflict with the Tenth Circuit's ruling on the same issue. The petition was denied by the Supreme Court in December.

United States as Guardian of the Passamaquoddy Tribe v. The State of Maine and the United States as Guardian of the Penobscot Tribe v. The State of Maine, U. S. District Court, District of Maine (filed June, 1972)

These are combined lawsuits in which NARF's clients, the Passamaquoddy and Penobscot Tribes, seek control of nearly 60% of the State of Maine and billions of dollars in damages for illegal trespass and occupation. The Tribes contend that the lands were taken without congressional ratification as required under the Indian Nonintercourse Act of 1790.

There were a number of developments in these cases during 1977 which will be highlighted in this report. In January, the Interior Department, in response to a district court order, issued a litigation report on the lands claimed by the Tribes saying in its preliminary draft that the Tribes had a valid claim to more than 10 million acres of land and trespass damages in the billions of dollars. Following this report, the Justice Department conducted its own review of the claims and concluded that the government was obliged to proceed with litigation for return of at least 5 million acres of land. The Department said, however, that it would continue to investigate the status of an additional claim for 3 million acres, but it planned no action on a final claim for 2 million acres of occupied land since the Tribes had indicated a willingness to substitute a claim against the appropriate sovereign for monetary damages in lieu of this claim for occupied land. On February 28th the Justice Department filed its findings with the court and said if an out of court settlement was not reached by June 1, 1977, it would proceed first against the state with a few large landowners.

The Justice Department indicated to the court that these cases were potentially the most complex effort to hit the federal courts and had serious economic and social impact. The Department urged that a negotiated settlement was far preferable to litigation. In March, President Carter responded to this suggestion by appointing his personal friend, William B. Gunter, a former Georgia Supreme Court Judge, as his representative to review the entire matter and submit recommendations. Judge Gunter was not appointed as mediator for the Maine cases; instead, he viewed himself as an evaluator. His primary task was to determine whether the cases had sufficient merit to warrant an out of court settlement, and if so, to advise the President whether the federal government should contribute to the settlement even though it was technically a party plaintiff.

After reviewing the briefs submitted by both sides and receiving answers to additional questions, Judge Gunter concluded that the cases had sufficient merit to warrant an out of court settlement and that the burden in such a settlement should fall on the State of Maine, which had concluded the transactions with the Indians, and the federal government, which had a duty to prevent them but did not do so. The private defendants, Judge Gunter concluded, should not be required to contribute to a settlement because they were not involved in the original transaction. The Judge recommended that the State of Maine assemble and convey to the Tribes a tract of land containing 100,000 acres and continue to provide annual benefits to the Tribes at a rate equal to the average of its last five-year expenditures in settlement of the Tribes' claim to the land currently held by the State. He also recommended that the federal government pay the Tribes $25 million dollars and provide normal services through the BIA (which the Tribes had become eligible for as a result of the 1972 Passamaquoddy v. Morton decision, which established the trust relationship with the federal government).

Gunter also recommended 400,000 acres of land be purchased with "tribal funds". The Judge concluded that if the Indians refused to accept the $25 million dollars, their claim to all private lands should be extinguished and that they be allowed to compete only for return of land held by the State of Maine (approximately 530,000 acres).

While overjoyed by the prospect of having Congress wipe out the Tribes' claims to private lands without compensation, the State of Maine flatly rejected that portion of the Gunter proposal which would have required the State to give anything to the Tribes. The Tribes were outraged at the nature of the proposal and said they would be willing to consider his terms "a point of departure in good faith negotiations". The Passamaquoddy and Penobscots were joined in their position by 76 prominent Indians and non-Indians across the country. Among the signers of a telegram to President Carter, were three former Commissioners of the Bureau of Indian Affairs, the President of the Maine Bar Association and the Chairmen of the Republican and Democratic state parties in Maine.

In the fall, President Carter appointed a Presidential level working group to seek a consensual settlement with the Tribes. The members of the Committee are Leo Krulitz, Solicitor of the Department of the Interior, Elliot Cutler, Director of the Natural Resources Division of the Office of Management and Budget and Steve Clay, a law partner of Judge Gunter, who assisted in preparing Judge Gunter's report. An

initial meeting was held and subsequent meetings are planned to review substantive proposals for resolution of the Tribes' claim against all private defendants. At the end of the year, a negotiated settlement to the Passamaquoddy and Penobscot claims had not been reached. Negotiations were expected to continue into the new year.

United States v. Southern Pacific Transportation Company, et al.; Walker River Paiute Tribe of Nevada, et al., v. Southern Pacific Transportation Company, et al., (Damages Phase) District Court, District of Nevada

On September 10, 1976, the liability phase of this lawsuit was concluded by means of a decision from the Ninth Circuit Court of Appeals in favor of the Tribe. The circuit court held that the railroad has been trespassing for ninety years across lands which have been continuously reserved for the Tribe. The Ninth Circuit did not rule on the claims of the allottees, who are also represented by NARF; however, it remanded their claims to the Nevada District Court for further consideration as to jurisdiction. The Tribe, however, as a consequence of the decision, has the authority to evict the railroad from its land on the reservation if an agreement for the future use of the right of way cannot be reached between the Indians, the Tribe, the allottees, and the railroad.

Southern Pacific Railroad decided not to appeal the Ninth Circuit decision to the Supreme Court. Therefore, the second phase of the lawsuit involving the amount of damages owed to the Tribe for the ninety years of trespass, as well as the issue of whether the Court has jurisdiction over their lands, and as to damages, is now remanded back to the District Court of Appeals in Reno, Nevada. The district court has not yet scheduled the second phase of this lawsuit for trial. In the meantime, the Indians and the railroad are attempting to negotiate a settlement of the remaining issues in this case.

In 1977, NARF attorneys spent many hours researching the law with regard to damages owed to Indians for illegal use of their lands. The conclusions reached as a result of this research formed the basis of a settlement offer by the Indians to the Southern Pacific Railroad in October, 1977. As a result of that offer, a meeting was held between NARF attorneys representing the Indians and the railroad in December, 1977. NARF attorneys are now preparing a revised settlement offer in light of the understandings reached at that meeting. After

conferring with the clients, NARF attorneys will present this second offer to the railroad, If no settlement can be agreed upon, the second phase of the lawsuit as to damages and eviction will go to court.

United States v. Truckee Carson Irrigation District, U. S. District Court, District of Nevada (filed Dec., 1973)

This case is one of NARF's major water rights involvements. It was filed by the United States on behalf of the Pyramid Lake Paiute Tribe and names over 15,000 defendants, all of whom use the waters of the Truckee River in Nevada or hold rights to the use of the water. The United States, joined by the Tribe, is claiming a water right with an 1859 priority to maintain the level of Pyramid Lake and to permit natural spawning in the Truckee River.

The Pyramid Lake Tribe, represented by NARF and the Tribe's local attorney in Reno, intervened in the case in early 1974. One of the defenses asserted by the defendants was separated out for a separate hearing. The defense claimed that a prior federal court decision had already determined the allocation of waters to the Truckee River, and that the government's failure to assert water rights for the protection of Pyramid Lake and the Truckee River fisheries at that time, bars them from being asserted now. The defense was attempting to bar further action under the principles of res judicata and collateral estoppel.

All of the parties engaged in extensive discovery in 1974 and 1975. Trial on the res judicata and collateral estoppel issues began in November, 1975, and continued intermittently for 43 trial days until April, 1976. After trial, it took approximately one year for the trial transcript to be prepared by the court. In the summer of 1977, all sides prepared and submitted their respective briefs. The case was argued to the district court in late October, 1977.

The Court rendered its opinion on December 12, 1977. It found in favor of the defendants and against the United States and the Pyramid Lake Tribe. It held that any right that the Pyramid Lake Tribe had to water from the Truckee River for fishery purposes was taken by the United States under authority of the Reclamation Act in order to provide water for the Newlands Reclamation Project. It also found that the failure of the United States to assert a water right for fishery purposes in the Orr Water Ditch litigation prevented the United States and the Tribe from now claiming any right to Truckee River water for that purpose. In effect,

the Tribe's rights had been extinguished. Both the government and the Tribe have appealed to the Court of Appeals for the Ninth Circuit.

This case, in addition to being of immense importance for the Pyramid Lake Indians, also involves several critical issues of Indian law. They include whether Indian tribes are entitled to water for purposes other than agricultural development; whether the results of litigation in which the United States purports to represent Indians but actually represents conflicting interests can be binding on the Indians; and whether Indian water rights can be taken under authority of the Reclamation Act to benefit water users within federal reclamation projects.

Ute Water Rights Cases

NARF is representing the Ute Mountain and Southern Ute Tribes of Southwestern Colorado in several water rights matters. Since this representation involves several issues, they have been separated into matters in the State of Colorado and the State of New Mexico.

The principal case in Colorado is titled In the Matter of the Application of the United States for Water Rights, District Court for Water Division No. 7, State of Colorado, Case No. W-1603-76. These applications were filed by the United States on December 31, 1976, on behalf of the two Ute Tribes and on its own behalf. They were an outgrowth of the Supreme Court's decision in Colorado Water Conservancy District v. U.S., formerly known as the Akin case.

The Supreme Court decided in the Akin case that the State of Colorado was entitled to have federal water rights, including those claimed on behalf of Indian tribes, litigated in state courts.

NARF has been retained by the Ute Tribes to advise them with respect to this litigation; the Tribes are not formal parties to the litigation at this time. There is a possibility the Tribes will enter at a future time.

The other active Colorado case was In the Matter of the Application for Water Rights of the Ute Mountain Ute Tribe in the La Plata River or its Tributaries in La Plata County, District Court for Water Division No. 7, State of Colorado, No. W-1422-76

At issue in this case was the entitlement of the Ute Mountain Tribe to water for an off-reservation ranch.

Since the matter involved state law, it was fully concluded when the Tribe and one opposing party in the matter reached a stipulated agreement.

Ute Water Cases - New Mexico

NARF is representing the Ute Mountain Ute Tribe in a lawsuit entitled, New Mexico v. United States, No. 75-184, New Mexico District Court for San Juan County.

At issue in this case is whether the state court has jurisdiction to determine the water rights of three Tribes, including the Mountain Ute, Navajo and Jicarilla Apache. Also at issue is the amount of water the Tribes are entitled to receive.

This case is very important to the Jicarilla Apache and Navajo Tribes and of less significance to the Ute Mountain Tribe because of the quality of its land in New Mexico. However, the jurisdictional issue in the case will affect other cases in other states.

In 1977, the United States asked the court to dismiss the case for several reasons including the argument that the three tribes had conflicting claims so the federal government could not properly represent them in the case. The motion to dismiss was denied and arrangements were made for the three tribes to intervene in the case. Each of the tribes filed a motion to intervene and motions to dismiss on the grounds of lack of jurisdiction in the state court. These motions were denied at the end of the year. The court also refused to certify an appeal of this issue to the Supreme Court of New Mexico.

Wampanoag Tribal Council of Gay Head v. Town of Gay Head, et al., United States District Court, District of Massachusetts (filed November, 1974)

In this suit, the Gay Head Wampanoag Tribe is seeking the return of approximately 240 acres of town-owned land, although the Tribe's potential claim includes the entire town of Gay Head, approximately 2,600 acres.

In the fall of 1976 the town directed its attorney to seek a negotiated settlement of this case. The first negotiating session was held in November, 1976, and on December 9, 1976, the town voted to give the 240 acres of common land to the Tribe. The state legislature had to approve

this transfer and enabling legislation for the State of Massachusetts was prepared. However, soon after this legislation had been drafted, the town's non-Indian landowners intervened demanding that title to the remaining land and town be cleared before the 240 acres were transferred to the Tribe. After talks between the Indians and local non-Indians bogged down, Massachusetts Governor Dukakis asked the American Arbitration Association to appoint Dean Albert Saks of the Harvard Law School to serve as mediator. The Ford Foundation provided the funds for this mediation effort and Dean Saks was accepted by all parties. Currently under discussion is a plan under which the state and town will convey the common lands to the Tribe and the federal government will purchase an additional tract of land through a private landowner for the Indians. The land would be held by the Gay Head Indians collectively with conservation restrictions on a certain portion of the land. But, the question of Tribal status and eligibility of the Gay Head Indians for federal Indian services would be left to a future adminstrative determination by the Department of the Interior.

Western Pequot Tribe of Indians v. Holdridge Enterprises, Inc., and Schaghticoke Tribe of Indians v. Kent School Corporation, U. S. District Court, Connecticut

In the first action, the Western Pequots are seeking the return of 800 acres of land and the Schaghticokes are asking for the return of 1300 acres of land. These Tribes allege that their aboriginal lands were taken from them in violation of the 1790 Indian Nonintercourse Act.

Last spring these two Tribes, who are represented by NARF, won two important decisions in Connecticut District Court. The Court found that affirmative defenses based on passage of time cannot bar claims by Indian Tribes under the Nonintercourse Act.

In the Western Pequot case NARF attorneys have made initial contacts toward negotiations on the matter. Defendants in the Schaghticoke case have filed a motion to amend their answer and the court has denied their motion.

Wisconsin v. Baker and Citizens League v. Baker, (Companion cases filed in the District Court, Western District of Wisconsin)

Both cases arise from license fees imposed by the Lac Courte Oreilles Chippewa Tribe on non-members who fish in

navigable lakes adjacent to and within the Lac Courte Oreilles Reservation. The State of Wisconsin asserts ownership to these lakebeds and the applicability of the public trust doctrine. The Citizens League, a group composed of non-Indian landowners and sportsmen, claim denial of due process and equal protection rights under the Indian Civil Rights Act in that they are regulated by a government in which they have no voice. NARF is co-counsel for the Tribe in both cases. Tribal jurisdiction of the lakes adjacent to the reservation is based on either Tribal ownership or governmental control over activities within reservation boundaries. A motion to dismiss was filed and fully briefed in 1976 on behalf of the defendants in both cases claiming sovereign immunity from suit by the state and a lack of a claim by the Citizens League.

As the motion to dismiss has been pending in both cases for over a year, NARF initiated meetings between all parties to explore the possibility of an implementation plan for the regulation of fishing within the disputed waters during the pendency of these suits. An official implementation plan was submitted to the proper officials in the State of Wisconsin and NARF is awaiting the State's reply.

Yankton Sioux v. Nelson, U. S. District Court, District of South Dakota

This case is now pending in federal district court in Sioux Falls, South Dakota. The suit was filed by the Yankton Sioux Tribe in August, 1976 and involves ownership of Lake Andes, a once navigable lake in the middle of the original Yankton Sioux Reservation. NARF is lead counsel in the case.

In November, 1976, a motion for summary judgment was filed. The motion was fully briefed and argued in Sioux Falls on July 5, 1977. Judge Nichols has not yet ruled on this motion, but has asked the defendants to make a cross-motion for summary judgment. That motion has not been made by the defendants.

Summary of Education Cases or Matters

All Nations Traditional School

This school is an attempt by Native American parents to establish an alternative school for elementary students in Denver. The school was started because Indian parents were dissatisfied with the way the Denver Public Schools were educating their children. One of the priorities of NARF's education project has been to work with Indian parents and communities to gain control of their education systems. In 1976 NARF attorneys drafted the Articles of Incorporation, Bylaws, and tax exemption application. In 1977 NARF provided legal counsel on a variety of legal matters. All Nations operated a program for the 1976-1977 school year, but was not able to offer a program for the 1977-1978 school year due to lack of finances.

Board of Regents of the University of California v. Bakke, Supreme Court of the United States

Native American law students and the Native American Student Union at the University of California at Davis asked that NARF prepare a brief amicus curiae on their behalf before the Supreme Court of the United States in this matter involving the constitutionality of special admissions programs for medical schools. Subsequently, other Indian organizations such as the American Indian Bar Association, the American Indian Law Students Association, the American Indian Law Center at the University of New Mexico and the American Indian Lawyers Training Program joined as amicus curiae on the brief.

The brief supported the concept of special admissions programs based on race but did not provide any substantive arguments on that issue because of the large numbers of other amicus curiae briefs of the same issue. Instead the Indian brief emphasized the unique status of

American Indians with respect to special admissions programs. It argued that if the Supreme Court should find the special admissions program at issue in Bakke to be constitutionally or statutorily deficient that the court not include special admissions programs for Indians in its decision. The brief stated that it is well established that the United States, when it singles out American Indians for preferential treatment based on their status as members of political bodies, that is tribes, that such preferential treatment was not inconsistent with the due process clause of the Fifth Amendment or the Civil Rights Act of 1964. Similarly, special admissions by states for American Indians were not constitutionally or statutorily suspect.

Berger v. Califano, Civil No. A77-1060
(District of North Dakota, 1977)

Last June, NARF was called upon to assist Indian parents in Cannonball, North Dakota, in efforts aimed at integrating the elementary schools in Cannonball and Solen, North Dakota.

Cannonball is an Indian community located on the North Dakota portion of the Standing Rock Sioux Reservation. Historically, the school district in which Cannonball and Solen are located employed a "freedom of choice" attendance scheme. Under this plan the elementary school located in Cannonball remained virtually all-Indian while the school located in Solen was essentially all-white.

Because the Solen School District received a substantial portion of its operating budget from the federal government, the Office of Civil Rights (OCR) began an investigation in 1974 to determine whether the school district was in compliance with the applicable civil rights legislation. As a result of this extensive investigation, OCR in June of 1977 informed the school district that there was a possibility that the district could lose all federal funding absent compliance with Title VII of the Civil Rights Act of 1964.

The Solen School Board's immediate reaction was to propose the closing down of the Indian school in Cannonball and then bussing all students to the school located in Solen. It was at this point that the Indian parents contacted NARF for assistance. Subsequently the NARF attorneys convinced the school district that the proposed plan was illegal since it is well established in law that

a minority group may not be forced to take the brunt of any desegregation effort.

Thereafter, on August 4, 1977, the Solen School Board, the Indian parents with the advice of NARF, and the OCR agreed that all children in the district in grades 1-3 would attend the Solen School and all children in grades 4-6 would use the Cannonball School, with all junior and senior high students attending school in Solen. The OCR found this plan acceptable to bring the school district into compliance with the Title VII provision.

On September 20, 1977, a month after the school started, a group of non-Indian parents sued the school district and OCR officials in federal court claiming that the integration plan was illegal and that it violated their constitutional rights. NARF, on behalf of the Indian parents, immediately intervened to insure that the rights of the Indian children were protected. Trial was held in Bismarck, North Dakota on October 6 and 7, 1977. On October 25, 1977, the court held that the School Board's plan was legal and that there was no violation of the constitutional rights of the non-Indian plaintiffs.

Federal Inter-Agency Committee on Education (FICE)

NARF was invited to participate in the National Convocation on American Indian Education sponsored by the Federal Inter-Agency Committee on Education. The purpose of the convocation was to provide a forum for the Indian community to present goals and priorities relating to education; to seek suggestions for improvement of federal administration and regulatory policies affecting Indian education; to consider legislative changes relating to Indian education; and to recommend an appropriate goal for the federal government to set in responding to Indian educational goals and priorities.

As a result of the convocation, recommendations were made to the Department of Health, Education and Welfare and the Bureau of Indian Affairs Education Office for consideration in developing Indian education legislation and seeking improvement in the administration of agency programs.

Institute of American Indian Art

The Student Senate of the Institute of American Indian Art, a Bureau of Indian Affairs School in Santa Fe, New Mexico, retained NARF to represent students in their grievances with the administration concerning such matters as security on the campus and admissions standards. NARF attorneys and student leaders met with the administration and the Institute Board of Regents and were able to resolve the problems. Subsequently, NARF attorneys assisted the Student Senate in obtaining a grant for a drug abuse and alcoholism prevention program.

Johnson-O'Malley Act (JOM)

In 1974 in the case entitled Natonabah v. Board of Education, 355 F.Supp. 716 (D. N.Mex. 1973) NARF attorneys were able to establish the proposition that the Johnson-O'Malley program was intended to be used for special supplemental programs for American Indian students. Johnson-O'Malley funds are allocated to public schools by the BIA. As a result of the decision in Natonabah NARF attorneys were instrumental in organizing a national Indian position on provisions for new Johnson-O'Malley regulations. These regulations were promulgated on September 12, 1974, and incorporated the Natonabah decision. In 1975, after the passage of the Indian Self-Determination and Education Assistance Act which amended the Johnson-O'Malley Act, NARF attorneys were once again involved in drafting new regulations and monitoring the operation of the revised Johnson-O'Malley program.

The Johnson'O'Malley program is an important source of funds for Indian parent groups, Indian tribes, and public schools because it is the most flexible education money available. In addition, when public school districts receive Johnson-O'Malley funds the regulations require that Indian parent committees exercise substantial control over the operation of the Johnson-O'Malley program. In some cases the JOM parent committee may be the only method of Indian participation in the education program.

One of the lingering problems of Johnson-O'Malley has been the use of these funds for operation or basic support for public school districts. Money that is used for operational support, unlike money which is used for supplemental programs, is put into the general operating budget and can be expended in the same fashion as any other

unrestricted funds a district receives. In the past there has been substantial abuse by public school districts receiving Johnson-O'Malley funds for basic support because they have been able to reduce the burdens on their taxpayers or the state has been able to abdicate its financial responsibility by the misuse of JOM funds. At the present time NARF attorneys are working closely with the Bureau of Indian Affairs and other education professionals in an effort to draft regulations which will assure the maximum benefit of the Johnson-O'Malley money.

National Indian Education Association (NIEA)

The National Indian Education Association is the largest Indian education organization in the United States. Its primary function is to sponsor an annual conference whereby Indian parents, Indian educators, and other persons interested in American Indian education can meet to discuss and exchange ideas. Attendance at these meetings exceeds 5,000 persons. NARF attorneys provided a variety of services to NIEA last year, including acting as special counsel for the revision of bylaws and articles of incorporation. In addition, at each annual meeting NARF attorneys have presented workshops, panels or training sessions on such subjects as public school finances, powers and responsibilities of parent committees, bilingual education, contracting, and Indian control of education.

Milwaukee Desegregation

In early September, 1977, NARF was contacted by parents of Indian children in the Milwaukee, Wisconsin, public schools who were being mandatorily assigned and bussed to other schools in the system pursuant to a desegregation order. Since special education programs for Native American children were concentrated in Title IV base and target schools in Milwaukee, the effect of the desegregation order was to scatter the Indian children out among schools that did not have education programs for them.

NARF attorneys met with a group of Indian parents, known as "We Indians", and learned of the dissatisfaction concerning school assignments. NARF brought these concerns to the school officials responsible for implementing the desegregation order. Since the order specified that the school officials could consider the special needs of Native Americans in making assignments, the officials were cooper-

ative and they agreed that Indian children should be assigned to the Title IV target schools. By October, 1977, NARF learned that the parents who appealed for reassignment to Title IV schools for their children were quite successful in their efforts.

Nez Perce Hair Controversy

Last spring parents of Indian students who attend Lapwai High School on the Nez Perce Indian Reservation asked NARF's assistance in a controversy with school officials over the students' hair length. The high school enrollment at Lapwai is approximately 50 per cent Indian. The controversy arose over Indian student participation in extracurricular activities. The school district has had unofficial hair regulations for students participating in athletic activities which were never formally promulgated by the school board. These regulations were enforced primarily against Indian male students who wished to wear their long hair in traditional fashion.

In the fall of 1976 one of the school's football coaches cut the hair of several of the Indian football players without their consent in an attempt to enforce this non-written hair regulation. The parents of the Indian children protested this action to the school board and the school board said the coach was acting within the parameters of the unwritten rule. NARF attorneys and Indian parents began meeting with school board officials last May to discuss the problem. The parents threatened to begin a civil rights action if the school board did not immediately promulgate hair regulations which would protect the right of the Indian students to wear long hair and to participate in athletic activities at the same time. After an extended period of negotiations, the school district adopted a comprehensive hair regulation governing extracurricular activity which fully protects all students' interests. In return the parents agreed not to litigate any questions raised by the incident.

Nebraska ex rel. Goetz v. Lundak, No. 41239, (Supreme Court of Nebraska, December 14, 1977)

In this suit, NARF represented the Santee School District, a small school district of the State of Nebraska located entirely within the Santee Indian Reservation. The

three members of the school board are Santee Sioux Tribal members.

This was an action filed by two taxpayers within the Santee School District to cause the dissolution of the district and the attachment of its lands to a neighboring district. The basis for the case was a little used Nebraska statute. The basic issue in the case was whether the situation of the Santee School District came within the statutory duty under Nebraska Law imposed by the particular statute at issue. The taxpayers were relying on events that occurred from 1956-59, claiming that these events required the dissolution of the school district. NARF maintained that the events took place too long ago to be the basis for dissolving the district. The significance of the issue is that the present school is Indian run. If the district were to dissolve, the Indian children would be bussed long distances to neighboring towns and would attend schools with no Indian involvement at the management level.

The case was filed in 1976 in state district court and the Santee School District was not a party to the case initially; but it intervened along with two neighboring districts to which it would have to become attached. All three intervening districts opposed the lawsuit.

Trial was held in November, 1976 and the trial court ruled in favor of the taxpayers in December, 1976. The primary activity in 1977 was centered around the appeal of the case to the Nebraska Supreme Court. The appeal was briefed, argued and decided in 1977 in favor of the school district. A companion event was the introduction of two bills in the Nebraska Legislature in February, 1977. One of the bills would have caused the dissolution of the Santee District by legislative action. The other bill would permit the Santee District to operate a smaller high school, which under the circumstances would cause its tax rate to go down, thus removing the basic incentive for the lawsuit. The Nebraska Legislature passed the latter statute, and the Santee School District began operating a high school in September, 1977. The Nebraska Supreme Court in part relied on this action in showing that the Legislature approved the continuation of the district. The Supreme Court ordered that the taxpayers action be dismissed and sent the case back to the lower court. NARF served as lead counsel for the school district throughout this case.

Rocky Boy School District

The Rocky Boy School District is located on the Chippewa-Cree Indian Reservation in north central Montana. In 1970 the Rocky Boy School District, using Montana law, was able to split away from a larger non-Indian controlled school district and become an Indian-controlled school district within the reservation. Because of the limitations of state school law the new Rocky Boy School District could only operate the school for grades 1 through 8. High school students still had to attend schools off the reservation. In the past year NARF attorneys have been working with the Rocky Boy School District in efforts to bring all lands of the Chippewa-Cree Reservation into the Rocky Boy School District and to allow the Rocky Boy School District to operate a high school. NARF has negotiated with the Montana Department of Education and local school districts to obtain their cooperation in extending the boundaries of the Rocky Boy School District so that a high school could be opened. In addition, NARF attorneys have worked with the school district in obtaining funds for construction of the school.

Syracuse, New York Education Matter

The Office of Indian Education, Department of Health, Education and Welfare, used an incomplete count of eligible Indian students enrolled in the Syracuse Public School System as a basis for computing entitlement of Indian education monies under Title IV. As a result, services were being provided for 212 Indian students who were erroneously excluded by the Office of Indian Education. This resulted in the budget being over spent and major modifications being made which seriously affected the quality and extent of the services to Indian children within the school system. The Office of Indian Education maintained that pursuant to regulations developed in accordance with the Act, they were unable to channel the additional funds to the schools to finish the 1977 school year.

On behalf of Indian Parent Committees within the Syracuse School System, NARF petitioned the Commissioner of Indian Education to reconsider and reverse his decision. A series of meetings were held involving NARF attorneys and representatives of the Office of Indian Education. The Office of Indian Education accepted the arguments advanced by NARF on behalf of the Indian Parent Committees. The Office released additional funds for the school system during the latter part of May.

In a related development, the Chairman of the Indian Parent Committees expressed the desire to form an organization composed of recipients of Title IV Indian Education monies in the State of New York for mutual support, benefit, and exchange of ideas. NARF advised the Chairman as to the fee requirements, benefits, and disadvantages of incorporation of such an organization, and outlined the steps to be taken in securing a tax exemption status with the Internal Revenue Service.

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

This case is one of the oldest education matters on the NARF dockets. It was originally filed in 1972 against the Shawano, Wisconsin School Board for deprivation of Indian students' civil rights. After a year of negotiation and litigation a comprehensive consent decree was signed in 1973 which provided for due process in suspension, explusion or disciplinary hearings and for American Indian culture and history classes. The one remaining issue which has been under negotiation for the past four years has been the amount of damages to be paid to the individual plaintiffs who were illegally suspended by the district. In April, 1977 the school district agreed to pay $8,500 in damages to the eight named plaintiffs.

In the intervening four years the Shawano School District has been reorganized so that the Menominee Indian Reservation now constitutes a separate school district and few Indian children attend the Shawano schools.

Prison-Related Cases or Matters

Bear Ribs v. Grossman, Civ. No. 77-3985 RJK(G) (C.D. California, filed October 25, 1977)

NARF has filed this case on behalf of Indian prisoners confined in the Federal Correctional Institution at Lompoc, California. The Indian inmates are seeking access to an Indian sweatlodge at the prison for use in religious ceremonies. Discovery is presently being conducted in this First Amendment case against the Federal Bureau of Prisons. California Indian Legal Services is serving as co-counsel in the case.

Bender v. Wolff, Civ. No. R-77-0055 BRT
(D. Nev., filed March 5, 1977)

Nevada Indian Legal Services filed this case on behalf of Indian inmates in the Nevada State Prison challenging the constitutionality of prison hair regulations. Plaintiffs claimed the regulations deprived them of their religious and cultural rights under the First Amendment of the United States Constitution. NARF was asked by the legal services offices to assist in preparing for trial and in obtaining a favorable consent judgment, which was issued on July 5, 1977.

Crowe v. Erickson, Civ. No. 72-4101
(D. S. D., filed November, 1972)

This was a class action suit filed by NARF in 1972 against the South Dakota prison system on behalf of Indian inmates. The case raised many issues, including discrimination, the need for bicultural rehabilitation, allowing access to Indian religion, securing more adequate medical treatment, censorship problems, access to the courts and due process.

NARF was successful in securing a number of favorable orders on these issues prior to 1977. The case was finally settled on May 7, 1977, in a comprehensive consent judgment and it is now in the enforcement stage.

Hawkins v. Crist, No. CV-76-99-BLG
(D. Mont., filed August 8, 1976)

A Montana Indian inmate has filed a writ of habeas corpus in this action challenging the legality of his confinement. The petitioner is a Crow Indian who claims the State of Montana did not have jurisdiction to convict him for an alleged criminal offense which occurred within the original boundaries of the Crow Reservation. This case raises the issue of whether an Act of Congress diminished the original boundaries of the Crow Reservation. During 1977, NARF briefed the issues and the case is now on submission before the district court.

Inmates v. Greenholtz, 436 F. Supp. 432 (D. Nebraska 1976), Aff'd ____F.2d ____(8th Cir., December 2, 1977)

This is a class action suit which was filed in 1972 by Indian and Mexican-American inmates incarcerated in the Nebraska State Prison. The inmates claimed the Nebraska Parole Board discriminated against them in the granting of parole on the basis of their race.

In the spring of 1975, NARF entered and tried the case on behalf of the inmates. In 1976, the district court ruled that the plaintiffs failed to establish a prima facie case of racial discrimination. In 1977, NARF appealed the case to the Eighth Circuit which recently affirmed the district court's findings. NARF's petition for rehearing is pending before the Eighth Circuit.

Little Raven v. Crisp, No. 77-165-C (E.D. Oklahoma filed May 7, 1977)

This is a case filed by an Indian inmate incarcerated at the Oklahoma State Penitentiary who is seeking access to Indian religious and cultural programs at the prison. During the fall of 1977, NARF entered an appearance in this case along with Legal Aid of Western Oklahoma and other local counsel. The litigation is presently in the discovery stage.

National Indian Ex-Offender Project

During the latter part of 1976, NARF began working to establish an independent project to meet the special needs of Indian offenders on a national scope. In early 1977, a task force met at NARF's Boulder office under the auspices of the National Congress of American Indians (NCAI) to identify needs of ex-offenders and develop a program for funding. Many offender needs were identified by the task force including: (1) technical assistance to tribes, prisons and communities regarding Indian rehabilitation; (2) the need for a national clearinghouse of information; and (3) the need for a special lobbying effort and provision for legal assistance. Since the task force meeting, a proposal for funding has been developed and funding sources are being explored for the project.

Nebraska Discrimination

For the past several years NARF has received a number of complaints from Nebraska Indians concerning civil rights violations. Early in 1977, NARF convened a large strategy meeting in Lincoln, Nebraska in order to discuss and plan a litigation approach which would address criminal justice discrimination against Indian people. The meeting was attended by representatives of several legal entities, including the Justice Department. As a result of the meeting, one lawsuit was filed and other areas of potential litigation are presently under investigation.

Peck v. Meachum, Civ. No. 76C-30W
(2nd D. Wyoming, May 4, 1977)

This was a pro se action filed in 1976 in state court by Indian prisoners in the Wyoming State Penitentiary challenging the constitutionality of prison regulations requiring prisoners to wear short hair. Plaintiffs claimed the rule interfered with their religious and cultural beliefs. NARF assisted the prisoners in successfully resolving the case. When the defendants revised their regulations to exempt Indian inmates, the case was dismissed.

Sheridan County Jail Conditions

During 1977, NARF received many complaints from Indians confined in the Sheridan County Jail, located in Rushville, Nebraska, regarding the conditions of their confinement. The primary concerns were overcrowding and lack of medical treatment. Working in cooperation with Panhandle Legal Services, NARF and its experts investigated and toured the jail. Subsequently NARF cooperated with the State of Nebraska in an attempt to correct the problems at the jail. The jail situation is presently under review by NARF and Panhandle Legal Services.

South Dakota Alternatives to Incarceration (The Swift Bird Project)

Since 1973, NARF has been working to develop an alternative form of rehabilitation for Indian offenders. This concept developed as a result of NARF's activities in the corrections field where it was recognized that traditional prison systems fail to meet the unique needs of Indian inmates. Thus, in 1973, NARF began working with the Cheyenne River

Sioux Tribe of South Dakota in the development of a corrections/rehabilitation center for Indian offenders. This proposed center would be known as the Swift Bird Project and would be located in an abandoned Job Corps camp on the Cheyenne River Reservation.

During 1977 NARF developed a proposal and received funds from the Law Enforcement Assistance Administration (LEAA) for development of an operations manual to be used in the administration of the Swift Bird Project. Earlier in 1976, LEAA had granted NARF funds for a feasibility study on the project.

The Swift Bird Project will be run by Indians for Indian inmates who will be contracted from a five-state Northern Great Plains region, including: Montana, North and South Dakota, Minnesota, and Nebraska. The proposed Swift Bird Operations manual will be submitted to LEAA during the latter part of February, 1978. The Cheyenne River Sioux Tribe hopes to open the doors of the Swift Bird Project during the fall of 1978.

White Eagle v. Storie, No. 77-L-245
(D. Neb., filed December 2, 1977)

NARF is working with Nebraska Inter-tribal Legal Services in this case which was brought on behalf of Indian prisoners confined in the Thurston County Jail, located in Pender, Nebraska. The case involves challenges to all aspects of confinement, including overcrowed conditions, mail censorship and the lack of medical treatment. Discovery is presently being conducted and the case will likely proceed to trial in 1978.

favorable Solicitor's Opinion confirming that all vacancies are subject to Indian preference and that vacancies could not automatically be filled with other employees affected by a reduction-in-force.

In addition to this matter, NARF has provided advice on several other Indian preference related requests for assistance and has worked with the National Center on Indian Preference in monitoring Indian preference developments.

Tyndall v. United States, U.S. District Court, District of Columbia (filed January, 1977)

Federal law provides that qualified Indians shall have preference to appointment to employment vacancies within the Indian service. A 1974 federal court decision held that qualified Indians were entitled, without exception, to preference in appointment to vacancies within the Bureau of Indian Affairs, no matter how the vacancies were created. The Indian Health Service, however, continued a policy of making exceptions to Indian preference hiring. When an Indian applicant was denied the opportunity to apply for a position in the Oklahoma City Area Office by the Indian Health Service and a non-Indian was hired to fill the vacancy, a suit was initiated. It was asserted that the Indian Health Service was bound by the Indian preference laws in the same manner as was the Bureau of Indian Affairs and that no exceptions could be made to the policy. A few months after the suit was filed, the Indian Health Service entered into a consent decree acknowledging its obligations under the Indian preference law that qualified Indians are entitled to preference in filling all vacancies and that no exceptions to the policy are permitted. The Oklahoma City Area Office position was vacated and re-advertised.

INDIAN LAW DEVELOPMENT

Summary of Major Activities

American Indian Cattlemen's Credit Consortium

Indian cattlemen, who represented sixteen individual tribes, secured a grant from the Economic Development Administration to aid Indian ranchers who had lost cattle in the spring storms of 1975. A contract for the administration of loans was entered into with the American Indian National Bank. During 1977, NARF was asked to assist in a variety of organizational tasks for the Consortium. NARF aided in the negotiation of various amendments to the original loan agreement as well as providing assistance in the drafting of corporate documents and establishment of a South Dakota office for the consortium.

American Indian Policy Review Commission

In 1975 the Congress of the United States created the American Indian Policy Review Commission to conduct a comprehensive review of Indian affairs and present recommendations to improve the condition of American Indians. The Commission's final report was due in 1977. A NARF attorney served in a consultant capacity in preparing the sections of the final draft report relating to contracting and Indian preference issues. In conjunction with the National Tribal Chairmen's Association, NARF also prepared and distributed a summary of the final draft report to facilitate Indian comment and review prior to the Commission's preparation of the final report.

Cohen Revision

As part of the Indian Civil Rights Act of 1968, Congress provided for the revision of Felix Cohen's Handbook of Federal Indian Law, originally published in 1942. An attempt at putting together the revision was made by the Interior Department, which established a special office to work on it. However, this project was abandoned. Thereafter the rights to the revision were assigned to the American Indian Law Center at the University of New Mexico, and a private editorial board was assembled under the direction of Professor Rennard Strickland of the University of Tulsa Law School. A NARF attorney serves on the editorial

board and has been contracted to do certain portions of the revision and to edit other portions. A revision of the Cohen Handbook may be published by the end of 1978.

Conferences and Organizational Assistance

Every year NARF staff attorneys are asked to participate in a variety of conference and strategy sessions sponsored by Indian organizations. During 1977, NARF assisted the following organizations: The National Congress of American Indians, the National Indian Education Association, the National Tribal Chairmen's Association, the American Indian Law Students Association and the Montana and Idaho Inter-Tribal Policy Boards.

Staff attorneys also gave presentations at meetings of the Federal Bar Association, the Coalition of Indian Controlled School Boards, the American Indian Higher Education Consortium, the National Indian Health Board and the Rocky Mountain Mineral Law Institute.

Federal Water Policy

The Carter Administration has promised to develop a new national water policy for the nation. One of the specific subject areas to be addressed in that policy is Indian water rights.

On behalf of its clients, who have water rights and water-related problems, NARF has closely monitored the effort to prepare the statement on Indian water rights which will be included as part of the new national policy. NARF attorneys have attended several policy meetings on the subject and have consulted frequently with the federal officials who are assigned primary responsibility for this task.

Indian Law Support Center

NARF continues to serve as an Indian Law Support Center for legal service organizations around the country. NARF receives a grant from the Legal Services Corporation (LSC) in order to provide a variety of services to field programs. NARF provides assistance in the form of letter and telephone advice, field consultation, legal research, analysis and preparation of draft pleadings, analysis of legislation and distribution of legal materials.

In June, 1977, NARF co-sponsored an Indian Law Seminar with LSC. The purpose of the seminar was to train attorneys in broad areas of Indian law. Over 100 attorneys from 23 different programs attended the three-day seminar in Boulder. Another session is in preparation for 1978. Also during the past year, in order to better serve Indian legal services, NARF initiated the formation of a Project Advisory Committee whose members are the directors of Indian legal service programs. This committee will function as long as NARF is the recipient of LSC funds.

In addition to providing general assistance to legal services, NARF also serves as lead counsel or co-counsel in a number of cases which are brought by field programs. NARF receives at least 50 requests for assistance a month from legal service groups.

NARF Documentary

Since 1975 a film crew supported by the Ford Foundation has been filming a documentary on NARF's legal work and its impact on Indian affairs. NARF has continued to work with the film crew and Foundation staff in completing the film for release in 1978.

National Indian Law Library

The National Indian Law Library (NILL) is a repository and clearinghouse for Indian legal materials and resources. NILL serves organizations and individuals interested in Indian legal materials. The library began in 1972 in response to a demand for legal materials which at the time were scattered throughout the land. In the early days of NARF, attorneys working in the field of Indian law were especially in need of basic Indian law materials which were necessary to effectively research their cases. With the aid of a grant from the Carnegie Corporation, NILL began operations in the basement of the Boulder NARF offices. The library is now funded through a grant from the Administration for Native Americans (formerly HEW's Office of Native American Programs).

Those who request NILL materials include legal service organizations, Indian tribes, organizations and individuals, private attorneys, students, law libraries, state and federal government offices and NARF staff. Every month NILL receives over 100 requests for assistance.

All of the library's holdings are published in the 1976 Cumulative Edition of the NILL Catalogue. During the last year, NILL published four supplements to the Catalogue, adding 400 holdings to those already published. The total number of holdings now published is 2,600. There were 145 NILL Catalogues distributed during the past year, bringing the total number distributed to 702.

The library began the process of converting the storage of shelfcard information from magnetic typewriter cards to a computer system which will expedite both the publication of the quarterly supplements and the presently tedious task of updating and revising shelfcards. The retrieval of stored information by subject, tribe, state and type of holding will be possible when all the holdings are finally entered into the system.

Although there was no supplement published for the Index to Indian Claims Commission Decisions last year, two more bound volumes of the Commission Decisions were published and distributed. The set consists of Volumes 1 through 38 with publication of Volumes 39 and 40 scheduled for early 1978.

Tribal Water Code Regulations

The Department of the Interior published proposed regulations which would authorize tribes to adopt water codes governing the use of water within the reservation boundaries. This is a very important topic and one that has been subject to a great deal of controversy for the past several years.

NARF attorneys prepared extensive comments on the proposed regulations and recommended certain changes in order to make the regulations more comprehensive. NARF attorneys also attended NCAI sponsored conferences that were aimed at bringing together tribes from around the country in order to present a united position to the Bureau of Indian Affairs.

Due to the opposition of all the western states and some Indian tribes, the proposed regulations were withdrawn. However, they may be revised and reissued some time in the near future.

TREASURER'S REPORT

In fiscal year 1977 that ended on September 30, 1977 the Native American Rights Fund had revenue of $1,633,957, expenses of $1,551.417, and an excess of support over expenses of $107,130.

This surplus resulted in an ending fund balance of $514,383. The make up of these monies was: $102,881 in Unrestricted Funds, $174,798 in Restricted Funds, and $236,704 in the General Fixed Asset Fund.

Grants made up the major source of revenue at more than $1.4 million. These gifts came from: private foundations, $887,462; and federal agencies, $571,559.

The application of these funds was in:

Tribal Existence	17%
Tribal Resources	55%
Human Rights	11%
Accountability	2%
Indian Law Development	10%
National Indian Law Library	5%
TOTAL	100%

From a functional standpoint, NARF spent each dollar in the following areas:

	'77	'76
Litigation and Client-Related Services	73%	70%
National Indian Law Library	6%	7%
Management and General	15%	15%
Fund Raising	6%	8%

In comparison with fiscal year 1976, these figures are very similar with only a slight increase in program-related disbursements and a slight decrease in the area of fund raising.

It is the aim of management to keep non-program costs to a minimum and to direct as much of revenue to program activities as possible. Our goal is to have non-program costs absorb less than 20% of the program's funds, and with good management, that objective should be met by the next Treasurer's Report.

A breakdown of expenditures by line item indicates the following:

Budget Expense Category	FY 77	% of Total	FY76	% of Total
Salaries & Wages:				
Professional Staff	$521,927	34%	$412,068	34%
Support Staff	226,743	15	215,410	18
Fringe Benefits	89,002	6	73,976	6
TOTAL	$837,672	55%	$710,454	58%
Contract Fees & Consultants	$138,774	9%	$ 43,920	3%
Travel	172,537	11	114,552	9
Space Costs	77,344	6	54,551	5
Office Expenses	236,613	15	229,416	19
Equipment Maintenance & Rental	13,330	1	13,538	2
Litigation Costs	35,531	2	27,438	3
Library Costs	13,986	1	12,854	1
TOTAL	$688,115	45%	$496,269	42%
Expenses Before Depreciation	$1,525,787		$1,206,723	
Depreciation	25,630		19,171	
TOTAL EXPENSES	$1,551,417	100%	$1,225,894	100%

In examining the costs and comparing them with the previous fiscal years, these comments are worth noting:

1. Personnel costs as a percentage actually declined from the previous year. However, on an actual basis these costs rose by $127,000 and came almost entirely in professional salaries and fringe benefits.

2. The consultant costs rose by nearly $100,000. This is directly attributable to heavy preparation for court proceedings, particularly in the Eastern cases.

3. Staff travel increased by $58,000 reflecting the dramatic increase in airfare, lodging, and car rental rates.

4. Space costs increased $23,000 due, in part, to the opening of an office in Boston, Massachusetts for trial of the Mashpee v. New Seabury case, and in part to bearing, for the first year, the full cost of maintaining an office in Calais, Maine.

5. Office expense as a per cent went down and in actual dollars, increased by only $7,000. This is quite remarkable when considering the addition of the Boston office.

Other budget items remained stable with costs of last year and as a percent of the total budget.

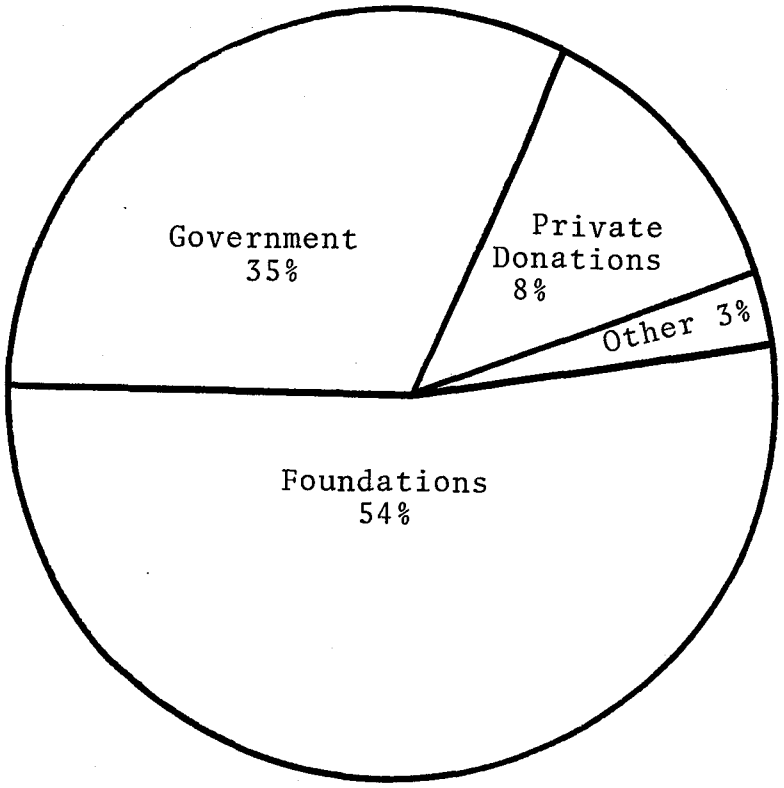
During the fiscal year, there were eighteen full-time attorneys on staff. The cost to support one of these lawyers on the average, including direct, indirect and ancillary costs was $68,000.

With costs rising in virtually all areas of program activities, it seems realistic to expect the per attorney cost to also increase in FY78. However, it is interesting to note that in FY77 the per attorney cost actually remained at the same level as FY76, this being the result of greater productivity by staff and improved administrative techniques.

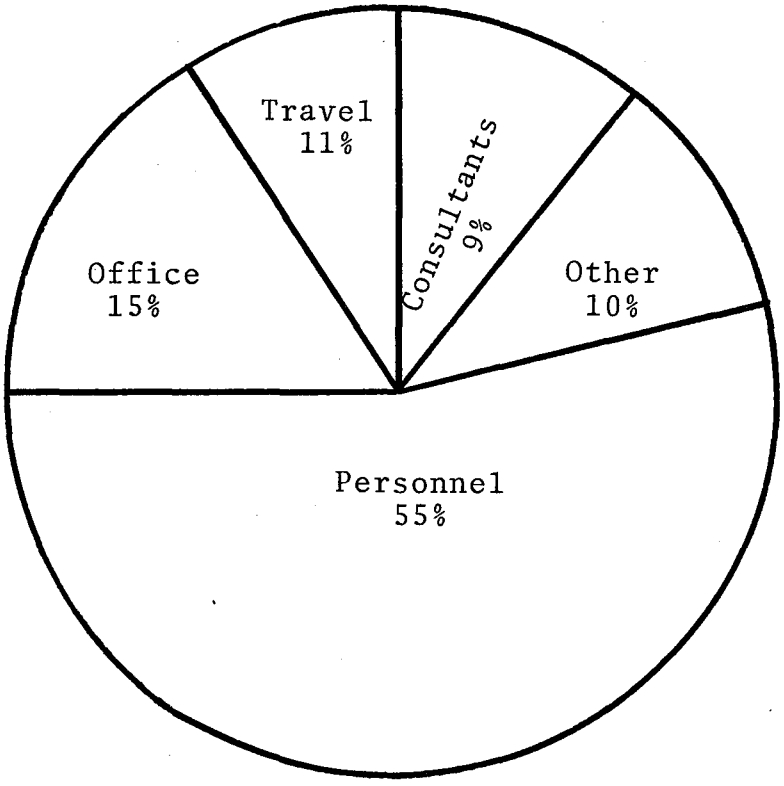
We at the Native American Rights Fund know that funds to administer our programs are difficult to come by and it is the business of all to make these funds extend as far as possible. To this end we strive.

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 make to the Native American Rights Fund.



SOURCES
of
REVENUE



EXPENSES

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.

The report of Price, Waterhouse and Company, independent certified accountants, on NARF's financial statements, including a statement of revenue, expenditures, and changes in fund balances, as well as supplemental notes and information, as of September 30, 1977, is included at the end of this section for those readers who wish a more detailed analysis of the financial picture of 1977.

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 1977, 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 1977, NARF's direct mail program experienced steady growth in both donors and income. Gross receipts were $117,929.45, with $35,794.19 the net income after expenses. The donor file increased by 2,500 to over 12,000 contributors. These 2,500 new donors represent future revenue from renewed gifts for several years to come.

Each contribution is recorded and each individual donor receives an official receipt for the contribution. NARF retains permanent records of all such gifts and makes available to the donor, upon request, a record of his or her individual contribution, including the date and amount of each gift.

Trademark, Publications and Certificate of Authority

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

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

NATIVE AMERICAN RIGHTS FUND, INC.

FINANCIAL STATEMENTS

SEPTEMBER 30, 1977

Price Waterhouse & Co.

Price Waterhouse & Co.

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

November 23, 1977

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

We have examined the accompanying balance sheets of Native American Rights Fund, Inc. as of September 30, 1977 and 1976, 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 described in Note 2, the method of accounting for costs related to the professional library was changed in 1977.

In our opinion, the financial statements examined by us present fairly the financial position of Native American Rights Fund, Inc. at September 30, 1977 and the combined financial position for all funds at September 30, 1976, and the results of its operations and changes in fund balances for the year ended September 30, 1977 and such combined results and changes for all funds for the year ended September 30, 1976, in conformity with generally accepted accounting principles consistently applied during the period except 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, 1977			Total all funds	
	Current funds		General fixed	September 30,	September 30,
	Unrestricted	Restricted	asset fund	1977	1976
ASSETS					
Current assets:					
Cash	$223,563			$223,563	$ 70,731
Marketable securities, at market (Note 3)	67,341			67,341	172,737
Grants receivable		$116,524		116,524	79,102
Other receivables	16,944			16,944	54,459
Prepaid expenses	17,045			17,045	10,115
Interfund receivable (payable)	(58,274)	58,274			
Total current assets	266,619	174,798		441,417	387,144
Property and equipment, at cost (Notes 4 and 5):					
Land and buildings			$313,938	313,938	313,938
Improvements to land and buildings			60,289	60,289	29,778
Office equipment and furnishings			123,559	123,559	76,695
Professional library (Note 2)			39,999	39,999	
Automobile					4,220
			537,785	537,785	424,631
Less - Accumulated depreciation			(70,623)	(70,623)	(50,237)
Net property and equipment			467,162	467,162	374,394
	$266,619	$174,798	$467,162	$908,579	$761,538
LIABILITIES AND FUND BALANCES					
Current liabilities:					
Current portion of mortgages and notes payable (Note 5)			$ 9,009	$ 9,009	$ 8,365
Accounts payable	$ 86,106			86,106	41,366
Accrued expenses (Note 6)	77,632			77,632	74,099
Total current liabilities	163,738		9,009	172,747	123,830
Mortgages and notes payable (Note 5)			221,449	221,449	230,455
	163,738		230,458	394,196	354,285
Fund balance (Notes 4 and 7)	102,881	$174,798	236,704	514,383	407,253
	$266,619	$174,798	$467,162	$908,579	$761,538

The accompanying notes are an integral part of the financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.

STATEMENTS OF SUPPORT, REVENUE, EXPENSES AND CHANGES IN FUND BALANCES

	Year ended September 30, 1977			Total all Funds	
	Current funds		General fixed	Year ended September 30,	
	Unrestricted	Restricted	asset fund	1977	1976
Support and revenue:					
Grants		$1,459,021		$1,459,021	$1,032,411
Contributions	$131,866			131,866	140,026
Other (Note 3)	46,635			46,635	78,454
Gain (loss) on disposal of fixed assets			$ (3,565)	(3,565)	
Total support and revenue	178,501	1,459,021	(3,565)	1,633,957	1,250,891
Expenses:-					
Program services:					
Litigation and client services	16,157	1,101,952	19,991	1,138,100	865,010
National Indian Law Library	6,586	68,154	1,538	76,278	76,288
Total program services	22,743	1,170,106	21,529	1,214,378	941,298
Support services:					
Management and general	27,438	205,701	3,588	236,727	180,922
Fund raising	82,135	17,664	513	100,312	103,674
Total support services	109,573	223,365	4,101	337,039	284,596
Total expenses	132,316	1,393,471	25,630	1,551,417	1,225,894
Excess (deficiency) of support and revenue over expenses before cumulative effect of change in accounting for professional library	46,185	65,550	(29,195)	82,540	24,997
Cumulative effect of change in accounting for professional library (Note 2)	5,628	22,514	(3,552)	24,590	
Excess (deficiency) of support and revenue over expenses	51,813	88,064	(32,747)	107,130	
Other changes in fund balances (Note 4):					
Acquisition of fixed assets (Note 2)	(81,756)	(44,259)	126,015		
Reduction in mortgage payable	(3,154)	(5,208)	8,362		
Other transfers	500		(500)		
	(84,410)	(49,467)	133,877		
Fund balance, beginning of year	135,478	136,201	135,574	407,253	382,256
Fund balance, end of year	$102,881	$ 174,798	$236,704	$ 514,383	$ 407,253

The accompanying notes are an integral part of the financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.

STATEMENTS OF FUNCTIONAL EXPENSES

	Year ended September 30, 1977							
	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, 1977	1976
Salaries and wages:								
Professional staff	$ 422,733	$30,892	$ 453,625	$ 59,852	$ 8,450	$ 68,302	$ 521,927	$ 421,068
Support staff	156,759	14,749	171,508	45,452	9,783	55,235	226,743	215,410
Fringe benefits	71,723	4,416	76,139	11,215	1,648	12,863	89,002	73,976
Total salaries and related costs	651,215	50,057	701,272	116,519	19,881	136,400	837,672	710,454
Contract fees and consultants	116,432	110	116,542	13,707	8,525	22,232	138,774	43,920
Travel	146,458	1,004	147,462	21,885	3,190	25,075	172,537	114,552
Space costs	26,732	5,452	32,184	44,736	424	45,160	77,344	54,551
Office expenses	128,289	16,194	144,483	24,452	67,678	92,130	236,613	229,416
Equipment maintenance and rental	4,556	1,038	5,594	7,736		7,736	13,330	13,538
Litigation costs	35,531		35,531				35,531	27,438
Library costs	8,896	885	9,781	4,104	101	4,205	13,986	12,854
Expenses before depreciation	1,118,109	74,740	1,192,849	233,139	99,799	332,938	1,525,787	1,206,723
Depreciation	19,991	1,538	21,529	3,588	513	4,101	25,630	19,171
Total expenses	$1,138,100	$76,278	$1,214,378	$236,727	$100,312	$337,039	$1,551,417	$1,225,894

The accompanying notes are an integral part of the financial statements.

NATIVE AMERICAN RIGHTS FUND, INC.

NOTES TO FINANCIAL STATEMENTS

SEPTEMBER 30, 1977

NOTE 1 - ORGANIZATION AND SIGNIFICANT ACCOUNTING POLICIES:-

Organization:

Native American Rights Fund, Inc. (NARF) was organized in 1971 under the nonprofit 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.

Revenues:

Revenues are principally recorded when funds are received. Where costs have been incurred in excess of funds received from continuing grants, revenues and related receivables are recognized to the extent of such costs unless, in management's opinion, future grant funds will be insufficient. In such cases, costs are charged to unrestricted funds.

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 declines in market value which cause the recorded value of marketable securities to exceed market value are recorded as charges against revenue.

Interfund receivables (payable):

Generally, revenues received by NARF are deposited in a general bank account and segregation of cash and certain other assets and liabilities between restricted and unrestricted funds is not maintained in the accounting records. However, segregation of revenues and expenditures applicable to restricted and unrestricted funds, including segregation within the restricted fund by grant source (Note 7),

and the general fixed asset fund is maintained in the accounting records. The interfund receivable (payable) results from the recognition of restricted revenues in excess of costs incurred allocable to the restricted fund at September 30, 1977.

Allocation of expenses:

Expenses are allocated to grants based on related professional legal time devoted to projects except where expenses are specifically identifiable with a particular grant or project.

Professional staff:

Personnel classified as professional staff in the Statement of Functional Expenses include attorneys and office management personnel.

Fund raising:

Fund raising expenses are comprised of costs associated with contribution revenue and costs associated with obtaining grants from private foundations and governmental agencies.

Property and equipment:

Purchases of property and equipment and payments on the note and mortgage liabilities are expenditures of the current funds. Such expenditures are treated as transfers to the general fixed asset fund (Note 4).

Depreciation:

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

NOTE 2 - CHANGE IN METHOD OF ACCOUNTING FOR PROFESSIONAL LIBRARY:

As required by one of its grantors, NARF changed its method of accounting for costs related to its professional library effective October 1, 1976. As a result of this change, the costs of permanent additions to the legal library, which had previously been charged to expenses as incurred, have been capitalized and are being depreciated using the straight-line method over the estimated useful life of the additions (30 years).

The effect of this change was as follows:-

Cumulative effect at October 1, 1976:	
Prior years' expenditures capitalized as professional library (Note 4)	$28,142
Less - Prior years' depreciation expense	(3,552)
	$24,590
Effect for year ended September 30, 1977:	
1977 expenditures capitalized as professional library (Note 4)	$11,857
Less - 1977 depreciation expense	(1,137)
	$10,720

Had this change been adopted during the fiscal year ended September 30, 1976, the cumulative effect at October 1, 1975 would have been $21,351 and the effect for 1976 would have been $3,239.

NOTE 3 - MARKETABLE SECURITIES:

Marketable securities consist of marketable corporate securities. These investments are stated at market value which was approximately $24,000 and $17,000 less than cost at September 30, 1977 and 1976, respectively. Net realized gains on sales of marketable securities, after write-downs to market previously recognized, were approximately $14,000 during 1977 and $29,000 during 1976.

NOTE 4 - TRANSFERS TO GENERAL FIXED ASSET FUND:

Net transfers to the general fixed asset fund from current restricted and unrestricted funds consisted of the following:

	Year ended September 30, 1977	1976
Purchases of office equipment and furnishings	$ 55,505	$ 11,484
Improvements to land and buildings	30,511	23,863
Principal payments on mortgages and notes	8,362	6,989
Additions to professional library (Note 2)	11,857	
Prior year additions to professional library capitalized in current year (Note 2)	28,142	
Purchase of land and building		173,803
Less - Mortgage and notes payable		(125,597)
Proceeds from dispositions	(500)	
	$133,877	$ 90,542

NOTE 5 - MORTGAGES AND PROMISSORY NOTES PAYABLE:

Long-term debt consisted of the following:

	September 30, 1977		1976
	Current portion	Total	Total
Mortgage loan payable in equal monthly instalments of $1,113, including interest at 8 3/4%, through May 1983, with a final principal payment of $89,491 due in June 1983. Secured by land and building	$3,524	$114,022	$117,252
Mortgage loan payable in equal monthly instalments of $482, including interest at 5 1/2%, through March 1985. Secured by land and building	3,716	39,295	42,809
Promissory notes payable in equal monthly instalments of $720, including interest at 9%, through October 1985, with the remaining principal due November 1985. Secured by land and building	1,769	77,141	78,759
	$9,009	230,458	238,820
Less - Current portion of long-term debt		9,009	8,365
		$221,449	$230,455

NOTE 6 - RETIREMENT PLAN:

Effective October 1, 1976, NARF adopted a money purchase pension plan for all full-time employees. The establishment of such a plan had been authorized by the Steering Committee of NARF in 1975. Annual contributions to the plan by NARF are at amounts equal to 5% of each participant's compensation. Additional contributions to the plan may be made by the participants. A participant's interest in NARF's contribution becomes vested at the rate of 10% for each year of service. Contributions by NARF and by participants are principally invested in life insurance annuity contracts. Pension expense for 1977 and 1976 was $34,706 and $29,030, respectively. Amounts in excess of funding requirements are reserved for sabbatical leave for eligible employees, which totaled approximately $10,000 in 1977.

NOTE 7 - RESTRICTED FUND BALANCE:

The restricted fund balance consisted of the following individual grant balances:

	September 30, 1977	1976
Ford Foundation	$ 53,202	$ 12,449
Carnegie Corporation of New York	67,805	100,607
Legal Services Corporation	43,786	22,182
Department of Health, Education and Welfare, Office of Native American Programs	3,775	
Field Foundation	3,286	
Laras Fund	963	963
Law Enforcement Assistance Administration	1,981	
	$174,798	$136,201

NATIVE AMERICAN RIGHTS FUND

CONTRIBUTORS 1977

Foundations	Grant Purpose
AKBAR Fund	Legislative Liaison Project
Ann Maytag Foundation	Legislative Liaison Project
Candlelight Foundation	General Support
Carnegie Corporation of New York	Indian Lawyer Intern Project
Charities Foundation	General Support
Donner Foundation	Protection of Tribal Sovereignty and Natural Resources
Field Foundation	Indian Water Rights Litigation
Ford Foundation	General Support, Indian Education Legal Support Project
Lilly Endowment, Inc.	Eastern Indian Legal Support Project
Muskiwinni Foundation	Summer Law Clerk and General Support
Plumsock Foundation	General Support
Waters Foundation	General Support

Corporations	
American Telephone and Telegraph	General Support
Gulf Oil Corporation	General Support
International Business Machines	General Support
McGraw-Hill Inc.	General Support

Religious, Governmental and Public Institutions	Purpose
Department of Health, Education and Welfare, Administration for Native Americans	National Indian Law Library, Projects to Strengthen and Facilitate Tribal Governments and Natural Resources
Department of the Interior, Bureau of Indian Affairs	Consultants and Expert Witnesses
Department of Justice, Law Enforcement Assistance Administration	Development of Operations Manual for Swift Bird Facility
Legal Services Corporation	Indian Law Support Center
The Lutheran Church in America, National Lutheran Indian Board	Eastern Indian Legal Support Project

INDIVIDUAL CONTRIBUTORS OVER $100

FOR GENERAL SUPPORT

Mr. Scott Abbot
Ms. Pauline E. Ahl
Mrs. Fanny H. Arnold
Ms. Margaret Tolle Austin
Ms. Antoinette O. Bailey
Ms. Elizabeth E. Baker
Ms. Katrina McCormick Barnes
Mrs. Helen M. Beardsley
Ms. Florence L. Becker
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Mrs. Florence B. Beresford
Mrs. Leon F. Bialosky
Mrs. Edith S. Binns
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Mr. Howard Y. Blaustein
Mr. Roger Boone
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Mr. & Mrs. William Bretnall
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Mr. Leon Greenberg
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Mr. Arthur Stuart Hanisch
Mrs. Fredrika T. Hastings
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Rev. Bruno Hicks
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Ms. Ruby A. Holton
Mr. Philip E. Hotchkiss
Mr. & Mrs. James H. Hudnall
Mrs. Boyd Hunt
Mr. Raymond W. Ickes
Inter-Tribal Council of Nevada
Dr. Marie M. Jenkins
Mr. James J. Kelly, Jr.
Mrs. Fred Koch
Mr. & Mrs. A. Grant Kennedy
Ms. Joan Kimball
Mr. & Mrs. Roger S. Kuhn
Mr. & Mrs. Milton H. Lackey
Ms. Margaret I. Lamont
Mr. Donald B. Lawrence
Mrs. Frances Lehman
Ms. Georgiana Lockwood
Mr. Michael D. Loges
Mrs. Dorothy Longfellow
Ms. Nancy R. Lowe
Mrs. Margaret MacCosham
Mr. Lincoln C. Magill
Mr. David Magnuson
Mr. Leroy G. Malouf
Ms. Jean C. Martin
Ms. Mary Julia McClurkin
Mr. Michael McIntosh
Mrs. Charles R. McLean
Mrs. David Miller
Mr. Lawrence Monohon
Mr. & Mrs. Carlisle Moore
Mrs. Alexandar Moss
Native American Brotherhood
Mr. Richard C. Nolte

INDIVIDUAL CONTRIBUTORS OVER $100 (cont.)

Mrs. Kady L. Offen
Mrs. Lilith Quinal Otey
Mr. David H. Owens
Mr. & Mrs. Herman T. Phillips
Mrs. William Preston
Mr. Robert Ralph
Ms. Eva Rehner
Ms. Bertha F. Rogers
Mr. Earl R. Rosenwinkel
Mrs. Frank Soderling
Mr. & Mrs. Paul J. Sperry
Mr. John P. Spiegel, M.D.
Mr. Edgar V. Springer, Jr.
Mr. Thomas Sprouse
Mr. & Mrs. William Starr
Mr. John Steiner
Mrs. Daniel Stone
Mr. & Mrs. Robert Stover
Mrs. Daniel W. Stroock
Ms. Nettie Tamler
Mr. Frank H. Teagle, Jr.
Mr. Alan M. Thorndike
Mr. John K.C. Tkachyk
Ms. Vera Shank Trea
Mr. Allen F. Turcke, M.D.
Mr. Carl R. Turner
Mr. Robert C. Turner
Mr. Clinton M. Van Dusen
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Rev. Arthur A. Vogel
Mr. Samuel Walker
Mr. Welcomb E. Washburn
Mr. Richard E. Weed
Mr. & Mrs. Edmund Weingart
Mrs. Vera Whaley
Ms. Suzanne C. Wilson
Mrs. Julie D. Winslow
Mr. & Mrs. J. R. Wollenberg
Ms. Mary Young

NATIVE AMERICAN RIGHTS FUND

Professional Staff

John E. Echohawk is a Pawnee and Director of the 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 has served as Deputy Director of NARF, 1972-1973; Director, 1973-1975; and Vice-Executive Director, 1975-1977. He was re-appointed as Director in October, 1977.

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

Thomas W. Fredericks, former Executive Director of the Native American Rights Fund, left NARF in July, 1977 to assume a new position as Associate Solicitor for Indian Affairs with the Department of the Interior in Washington, D.C.

Mr. Fredericks, a Mandan-Hidatsa, joined NARF as a staff attorney in 1972 and served as Vice-Executive Director from April, 1974 until his appointment as Executive Director in June, 1975.

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 July, 1977). Member of the Bar of Colorado.

Kurt V. Blue Dog, a staff attorney in the Boulder office, joined NARF in August of 1977. A former summer law clerk at NARF, Kurt is a Sisseton-Wahpeton Sioux from South Dakota. He is working primarily in the areas of Indian education and Indian corrections.

B.A., University of South Dakota, 1972; J.D., University of Minnesota, 1977. Native American Rights Fund (August, 1977 to present). Member of the Bar of Minnesota.

Richard B. Collins joined NARF as a staff attorney in November, 1975. Mr. Collins has had extensive experience in Indian law trial and appellate work, having worked in Indian legal services programs since 1967.

B.S., 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, (1967-1971); Director of Litigation, DNA Legal Services, Window Rock, Arizona (1971-1975); Native American Rights Fund (November, 1975 to present); Legal Adviser to National Indian Law Library. Member of the Bars of California, Arizona, New Mexico and Colorado.

Raymond Cross joined NARF as a staff attorney in the Boulder office in November, 1975. He came to NARF after two years 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 Bars of California and Colorado.

Sharon K. Eads, Cherokee, joined NARF in July, 1975 as a staff attorney in the Washington, D.C. office working on the Eastern Indian Project. Prior to entering law school she worked as a counselor in juvenile corrections in Oklahoma. Ms. Eads is one of the founding directors of the American Indian Law Review. Transferring to the Boulder office in 1976, she is presently involved in cases concerning taxation, hunting and fishing, protection of tribal resources, federal power projects, and Indian education.

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 four 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 School of Law, 1973; Native American Rights Fund (June, 1973 to present). Member of the Bar of Colorado and the United States Supreme Court.

Bruce R. Greene returned to NARF in January, 1975 following a two-year period as director of California Indian Legal Services. Mr. Greene was a staff attorney and director of the Indian Law Support Center at NARF, and in this capacity advised and assisted 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, as well as treaty, hunting and fishing rights.

In May, 1977, Mr. Greene resigned his position at NARF in order to form a private law firm in Boulder with David H. Getches, the founding director of the Fund. He continues to be associated with NARF as a consultant.

B.S., University of California, 1964; J.D, University of California's Hastings College of Law, 1967; Attorney Advisor to Commissioner of Federal Power Commission (1967-1969); Associate, Feldman, Waldman and Kline, San Francisco (1970); Staff Attorney, Native American Rights Fune (1971-1972); Director, California Indian Legal Services (1972-1974); Staff Attorney and Director, Indian Law Support Project, Native American Rights Fund (1975-1977); Partner, Getches and Greene, Boulder, Colorado (1977-present). Member of the Bars of California and Colorado.

Daniel H. Israel is a staff attorney in the Boulder office.

A.B., Amherst College, 1963; M.S., 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, Colorado (1970-1971); Native American Rights Fund (July 1972 to present). Member of the Bars of New York and Colorado.

Yvonne T. Knight, a Boulder staff attorney, is a member of the Ponca Tribe and the first Indian woman to graduate from law school under the auspices of the University of New Mexico Indian Law Scholarship Program. She is a founding member of the Board of Directors of the American Indian Law Students Association. Since joining NARF's staff she has worked in the fields of education and real property. She recently served as a member of Task Force No. 9 of the American Indian Policy Review Commission.

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

Tim LaFrance joined NARF's Boulder staff in August, 1977. Previously, he had worked with the Planning Commission and legal staff of the Quinault Indian Nation in the summer of 1975. He has also served as a consultant in tribal land-use planning and zoning to the American Indian Policy Review Commission's Task Force on Tribal Government to the Legal Services Corporation. He is currently working on cases involving jurisdiction, hunting and fishing rights, riverbed and education claims. He is a member of the Turtle Mountain Band of Chippewa Indians.

B.S., cum laude, University of North Dakota, 1974; J.D., Boalt Hall School of Law, University of California at Berkeley, 1977; Native American Rights Fund (August, 1977 to present). Member of the Bar of California.

Arlinda Locklear joined the NARF staff in August, 1976. She is a Lumbee Indian and is especially interested in doing legal work on behalf of eastern Indians. During her final year in law school, Ms. Locklear was a winner of the National Moot Court Competition held in New York City.

B.A., College of Charleston, South Carolina, 1973; J.D., Duke University, 1976; Native American Rights Fund (August, 1976 to present). Member of the Bar of North Carolina.

Barry A. Margolin is presently working for NARF on an Of Counsel basis out of Boston, Massachusetts. From August, 1974 until April, 1976 he was a Reginald Heber Smith Community Fellow with the Indian Legal Services Unit of Pine Tree Legal Assistance, Inc., in Calais, Maine, working on land claims for Eastern Indians.

B.A., Harvard College, 1970; J.D., Northeastern University, 1974; Native American Rights Fund (July, 1977 to present). Member of the Bar of Maine.

Don B. Miller is a staff attorney in the Boulder office of the Native American Rights Fund. Before transferring to the Boulder office, Mr. Miller was directing attorney of the Fund's Washington D.C. office for almost three years. Mr. Miller works on a variety of issues including land claims and tribal restoration. Prior to coming to NARF, Mr. Miller was the first director of the Organization of the Forgotten American, which provided legal, economic, consumer protection and health services to the Klamath Indians in Oregon.

B.S., University of Colorado, 1969; J.D., University of Colorado, 1972; Executive Director, Organization of the Forgotten American, Klamath Falls, Oregon (1972-1974); Attorney-Advisor, Office of the Solicitor, Division of Indian Affairs, Department of the 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.

Dennis M. Montgomery joined NARF's Boulder staff as a research assistant in March, 1975 and worked in that capacity until January, 1976 primarily on the water rights of the Pyramid Lake Paiute Tribe of Indians. In February, 1976, he moved to Calais, Maine to work with Tom Tureen as a staff attorney of the Indian Unit of Pine Tree Legal Assistance, Inc. In October, 1976, he joined NARF's staff to work out of the NARF office in Calais on the Eastern Indian Legal Support Project.

B.S., University of Michigan, 1967; J.D., University of Colorado, 1974; Native American Rights Fund (March, 1975 to present). Member of the Bars of Colorado and Maine.

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.

Thomas N. Tureen became the staff attorney in charge of the NARF office in Calais, Maine on October 1, 1976. Previously, he had worked for NARF on an of Counsel basis and has been working with NARF since 1973 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, Calais Maine (1969 to 1976); Native American Rights Fund (October, 1976 to present). Member of the Bars of Maine and the District of Columbia.

A. John Wabaunsee, a Boulder staff attorney is a Prairie Band Pottawatomie Indian. Since July, 1975, he has headed NARF's Indian Education Legal Support Project, in addition he has worked on cases in the area of hunting, fishing, allotments and resource protection.

J.D., DePaul University School of Law, 1973; Reginald Heber Smith Fellow (1973-1975); 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. Ms. Whiteing, a Blackfeet-Cahuilla Indian, is one of the 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 University, 1972; J.D., University of California at Berkley, 1975; Native American Rights Fund (June, 1975 to present). Member of the Bar of Colorado.

Jane Cantor worked in the Boulder office as research attorney from August, 1976 to October, 1977. Ms. Cantor left NARF to work with the Point No Point Treaty Tribes in Washington State.

J.D., Lewis and Clark Northwestern School of Law, Portland, Oregon (1976); University Year for Action, (1975); B.A., University of California at Berkeley (1971). Member of the Bar of Oregon.

Moshe J. Genauer joined NARF in June, 1977 as a research attorney working primarily on Eastern Indian tribal matters. Mr. Genauer is presently assigned to NARF's Boston office.

J.D., University of Oregon School of Law, (1977); B.A., Boston University, (1973). Member of the Bar of Oregon.

Elizabeth Meyer Morse came to NARF in December of 1976. She is presently employed as a research attorney, involved with various NARF case responsibilities as well as Indian Law Support Center cases.

Elizabeth graduated from Colorado University Law School in 1976, and was admitted to the Colorado Bar in 1977. Her prior education includes graduate study to obtain her M.A. degree at the University of Minnesota, (1970); and her undergraduate degree at the University of South Dakota (1968).

Marilyn K. Segal began working at NARF in January, 1977. Her position is that of research attorney. Issues that she has researched have been many and diverse including problems specific to Native Americans as well as those involving basic legal principles.

J.D., George Washington University, 1976; B.A., S.U.N.Y at Binghamton, New York, 1973. Member of the Bar of Colorado.

Other Professional Staff

Lorraine P. Edmo, Secretary to the Corporation and Technical Writer, joined the staff of NARF in August, 1976. She is a member of the Shoshone-Bannock Tribe of Eastern Idaho.

B.A., University of Montana, 1970; graduate work at Columbia University, 1971; summer law program, University of New Mexico, 1976. Native American Rights Fund (August, 1976 to present).

James A. Laurie, Treasurer of the Corporation and Business Manager, joined the staff of NARF in September, 1976, after serving as Business Manager of the Sinte Gleska College on the Rosebud Sioux Reservation in South Dakota.

B.A., University of Colorado, 1969; M.B.A., University of Notre Dame, 1976; Native American Rights Fund, (September, 1976 to present); Woodrow Wilson Foundation Administrative Intern, 1976 to present.

Susan R. Hart, Head Bookkeeper has been a member of the bookkeeping staff of the Native American Rights Fund for six years and prior to that time, served as Bookkeeper to the Boulder Valley Head Start Program. Ms. Hart is currently pursuing studies with Loretto Heights College in Denver, Colorado to obtain her B.A. degree in Business.

Oran LaPointe, Rosebud Sioux, received his B.S. degree from the University of Kansas in 1965, and attended the University of Colorado Law School for two years. From July, 1974 to October, 1977, he was Research Assistant for the National Indian Law Library. Mr. LaPointe left NARF in October and is now employed by the Coalition of Indian Controlled School Boards in Denver, Colorado.

Diana Lim Garry, National Indian Law Library Librarian, joined the staff of NARF in 1972. She has been the Librarian since 1973. She is an Acoma Pueblo from New Mexico and received her B.A. from the University of Colorado in 1971.

James E. Hofbauer, a member of the Keweenaw Bay Indian Community, received his B.S. degree from Northland College in Ashland, Wisconsin and attended the University of Michigan Law School at Ann Arbor for two years.

Mr. Hofbauer joined the staff of the National Indian Law Library in October, 1977. He has served as a legal intern for the American Indian Lawyer Training Program as well as the Western Interstate Commission on Higher Education.

Suzan Shown Harjo, Legislative Liaison, joined the staff in March, 1977. She previously worked with the National Congress of American Indians as its Legislative Assistant and Communications Director. She also had experience as a staff member of the new administration's (Carter-Mondale) transition team. She is a member of the Cheyenne-Arapaho Tribes of Oklahoma.

1977 Support Staff

Law Clerks
- Thomas R. Acevedo (Salish-Kootenai)
- Scott Daniels
- Bruce O. Davies (Oglala Sioux)
- Tom W. Echohawk (Pawnee)
- Ethel Krepps (Choctaw)
- Elmer J. Lincoln, Jr. (Navajo-Rincon)
- Laurie P. McManus
- Ralph R. Nordwall (Pawnee-Chippewa)
- Steven P. Roche (Eastern Shawnee)

Paralegal
- Richard B. Williams (Oglala Sioux)

Legal Secretaries
- Gloria J. Cuny (Oglala Sioux)
- Valerie A. Emery (Passamaquoddy)
- Erna Faulkner
- Gail J. Geary
- Judy Geisman
- David S. Levy
- Charles A. Lewis
- Sheryl A. Livingston
- Sigrid Eisberg-Melus
- Karen M. Munoz (Oglala Sioux)
- Candace L. Randall
- Rebecca S. Romero (Apache-Southern Ute)
- Terese M. W. Smith
- Terry-Anna Slotnick

Administrative Secretaries
- Sarah S. Carufel (Chippewa-Santee Sioux)
- Violet M. Mills (Oglala Sioux)

Research Assistants
- Robert Frazier (Choctaw)
- James G. Robideau (Oglala Sioux)

Bookkeepers
Bernadine W. Eagle (Rosebud Sioux)
Marian Heymsfield
Carmel H. Lewis (Acoma Pueblo)

Receptionist
Kimberly Torres (Kickapoo)

Records
Muzzette M. Stubben (Turtle Mountain Chippewa)

Press Operator
Kenneth W. Springer (Menominee-Omaha)

Reproduction
Patricia Tate (Santa Domingo Pueblo)

Direct Mail
Edith Lentini
Mary Lu Prosser (Cheyenne River Sioux)

Maintenance
Roberto A. Frazier (Choctaw)
Monroe Tonahcot, Jr. (Kiowa)

Special Assignments
Cecil R. Campbell (Pawnee)
David A. Moore (Santa Domingo Pueblo)
Andrea L. Smith (Makah)
Laurine York (Choctaw)

National Indian Law Library

Secretary
Janice C. Bray (Kiowa)

NILL Clerk
Constance M. Olson (Cheyenne River Sioux)

NATIVE AMERICAN RIGHTS FUND

STAFF PUBLICATIONS 1977

Thomas W. Fredericks, Executive Director*

"Conducting Business on Indian Reservations - Traditional v. Emerging Alternative Forms of Doing Business."
... The Indian Viewpoint

"The Right of Tribes to Regulate The Use of Water By Allottees and Non-Indian Landowners on the Reservation."

(speeches prepared for the Federal Bar Association's Indian Law Conference).

Timothy A. LaFrance, Staff Attorney

"Zoning Authority Over Fee Lands Within Reservation Boundaries." Published by the Legal Services Corporation for 1977 Indian Law Seminar, Boulder, Colorado.

Robert S. Pelcyger, Staff Attorney

"The Winters Doctrine and the Greening of the Reservations." This article was submitted to the University of Utah's Journal of Contemporary Law for publication in 1978.

A. John Wabaunsee, Staff Attorney

"Indian Control of Schools and Bilingual Education," Bilingual Education: Current Perspectives, Center for Applied Linguistics.

"Community Controlled Schools and American Indian Bilingual Education," Un Nuevo Dia, Vol. 3, No. 2.

The Swift Bird Project Staff,
Walter R. Echo-Hawk, Development Director

Cheyenne River Swift Bird Project Operations Guide, Preliminary Draft for the Law Enforcement Assistance Administration.

* until July, 1977