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Native American Rights Fund

Annual Report • 1978



NATIVE AMERICAN RIGHTS FUND

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Contents

Director's Report	1
The Program	
Purpose and Development	3
1978—The Year in Perspective	5
Related Legal Developments	11
Special NARF Projects	13
Staff Transitions in 1978	15
NARF's Board of Directors	16
NARF's Contributors	17
The Priorities	20
Tribal Existence	21
Tribal Resources	39
Human Rights	65
Accountability	80
Indian Law Development	85
Treasurer's Report	90
Financial Statements	93
Contributors	105
NARF Staff	110
Publications	119
Index to Cases	121

DIRECTOR'S REPORT

Throughout this nation's history, Native Americans have been subjected to vacillating federal policies ranging from extermination to termination of tribal status to the present day policy of self-determination. Indian people today are committed to maintaining their tribal institutions and cultural integrity, but it is a course made difficult by the past indifference of society. Indians continue to meet resistance as tribal governments build upon their authority as limited sovereigns and as they reclaim resources which are rightfully theirs. Such resistance is unavoidable until Indian tribal governments close the gap created by historical neglect and forge a modern day definition of Indian tribes in America.

The courts play a major role in this definitional process by interpreting obscure and untested laws relating to Indians and, since 1970, the Native American Rights Fund has been at the forefront of this process by providing legal representation to the many Indians who cannot afford counsel. Through cases brought by NARF and others in the field, Indian rights are being upheld and the status of Indian tribes is being defined in greater detail.

During 1978, the Native American Rights Fund continued its program of legal representation in hundreds of important Indian rights cases. Significant victories were achieved in eastern Indian land claims, tribal recognition, state tax immunities, off-reservation hunting and fishing rights, exclusive tribal regulation of reservation game and fish resources, tribal jurisdiction over Indian lands in Oklahoma, Indian religious freedom in prisons, Indian student rights in federal schools, and entitlement to equal state services and federal welfare benefits. Consistent with NARF priorities, these gains and others promised in pending cases strengthen tribal governments, secure Indian natural resources, promote human rights, hold governments accountable for their actions and clarify the special body of law relating to Native Americans.

NARF has been fortunate thus far in having the financial support necessary to support its legal efforts. We thank everyone who has assisted us financially and share the progress we have made with you. The challenge before us is to sustain our momentum and further improve the status of Native Americans.

John E. Echohawk
Executive Director

THE NATIVE AMERICAN RIGHTS FUND

Statement of Purpose and Program Development

By the time the 1978 Annual Report of the Native American Rights Fund (NARF) is circulated and read the organization will be nine years old. NARF is the oldest and largest national Indian interest law firm in the United States. The work of NARF's staff attorneys centers on the preservation and protection of Indian rights and resources as well as the orderly development of a body of law for the preservation of Native American rights and property.

When the Ford Foundation began its support of NARF through California Indian Legal Services back in the summer of 1970, Indian people were in vogue. During the late '60's and early '70's, a new awareness of Indian issues and Indian problems began to surface and many non-Indians were intrigued with the "Indian experience." In the past few years this favorable mood toward American Indians has experienced a change and Indians from Maine to Alaska have realized that they are facing one of the most crucial times in the history of their dealings with the United States government.

When NARF first began its work there were few Indians who were familiar with the American Indian legal system and they avoided the opportunity to work with it. This feeling has changed during the past decade; however, Indians are witnessing a growing resentment of their knowledge and use of the judicial processes.

In July, 1971, NARF opened the doors of its Boulder office. Boulder was chosen as the location for the NARF office because of its central location to all Indian tribes and accessibility to the University of Colorado's Law Library. NARF began with a small core staff which was guided in decision making by a group of dedicated Indian individuals who serve as NARF's Steering Committee. Two of NARF's original incorporators remain a part of the 16-attorney staff--Mr. John Echohawk, the Executive Director and Mr. Robert Pelcyger, NARF's principal water rights attorney. NARF presently maintains a Washington, D.C. office which serves as a vital link between NARF's clients and federal agencies in the nation's capital. In March, 1978, NARF closed its Boston, Massachusetts office which had been opened in preparation for trial in the Mashpee case. In November, the

Calais, Maine office was moved to Portland, Maine in order to facilitate easier access to the federal court system and the nation's capital.

Since its beginnings in 1970, NARF has worked in conjunction with many people to seek judicial solutions to long standing Indian grievances, uncertainties and problems. These people have included local tribal attorneys, legal service attorneys, government attorneys and tribal leaders. The promise of the concentrated legal approach has now been proven. Native American victories in the courts have been far more common than setbacks and they have come in greater number than ever before.

The Steering Committee of the Native American Rights Fund establishes the guidelines which the staff follows in determining the structure of NARF's caseload. Since its inception, it has always been NARF's policy to pursue cases and special projects which will have a significant impact on the future of all Indian people throughout the United States. These cases and projects are ones which affect a great number of individuals and ones which may lead to a change in laws affecting Indians generally.

During the past eight years NARF has represented hundreds of Indian tribes and groups of individuals. Every year NARF's docket usually consists of more than 200 cases and matters. Those matters which consume less than 25 hours of attorney time are not reported in this Annual Report. Many of NARF's cases require hundreds of hours of attorney time in terms of research, travel, court appearances and negotiations.

During its brief eight-year history, NARF has initiated at the request of its tribal clients a number of cases which are at the center of the current controversy with the non-Indian public. In recent years, federal district courts, appellate courts and the United States Supreme Court have rendered decisions which dramatically affirm the sovereign powers of Indian tribes, while in some cases limiting the authority of state and local governments. These decisions have not been favorably accepted by the non-Indian public living on or adjacent to reservations.

As Indian rights of self-government are upheld, opposition to Indian rights has surfaced. Unable to sustain their position in the courts with much success, anti-Indian forces are now focusing their energies in Washington in hopes of obtaining new laws which will modify, abrogate and

eliminate Indian property rights and the right to self-government.

The circumstances now seem to dictate that Indian people and their advocates direct their efforts to educating the American public on the historical and legal bases of Indian rights and the fundamental right to exist as Indian tribes. While Indian people are extremely pleased with the success which NARF and other law firms have had in securing their rights, many non-Indians are steadfastly attempting to abrogate Indian rights through legislative processes.

Last year we reported that a number of anti-Indian bills had been introduced in the 95th Congress in an attempt to limit or abrogate Indian rights. Fortunately for Indian people, none of the eleven so-called "backlash" bills were reported out of committee and hearings were never called on these particular bills. Indian people still fear that similar versions of these proposed laws may surface in the 96th Congress and they are aware of the imminent threat to their tribal rights.

In this introductory section we would like to summarize some of NARF's successes both in the courts and through legislative channels which were accomplished during 1978. There are five sections, following the list of NARF's priorities which discuss NARF's case activity.

1978--The Year in Perspective

In retrospect, NARF's most significant accomplishments for client interests came in the areas of tribal sovereignty, recognition of Indian tribes, reaffirming treaty protections for hunting and fishing and advancement of Indian water interests. NARF also undertook two new projects of major interest to Indian people--A Project to Implement the American Indian Religious Freedom Act and A Project to Establish Tribal Energy and Social Development Offices on three Indian reservations.

NARF attorneys participated in two arguments before the nation's highest court. On April 19, 1978, Staff Attorney Richard Collins presented oral argument on behalf of two members of the Mississippi Choctaw Tribe in a jurisdictional suit known as Smith John v. State of Mississippi, 437 U.S. ___, (1978). Two months later on June 23rd the Supreme Court of the United States unanimously reversed two lower

court rulings and held that the Choctaw Reservation is lawfully established and does constitute "Indian Country." The Court further held that federal courts and not state courts had jurisdiction over prosecution of an assault allegedly committed by an Indian on the Mississippi Choctaw Reservation.

The opinion in the Smith John case was indeed a favorable ruling for Indian interests since it recognizes the existence of an Indian reservation in face of a challenge by the State that no reservation existed. During the briefing of the federal case to the U.S. Court of Appeals, NARF assisted the Indians' private attorney. NARF prepared the appeal of the State case to the Supreme Court and briefed and argued both cases in that Court on behalf of the Tribal defendants.

In October, Staff Attorney Lawrence Aschenbrenner was one of several attorneys to participate in an intervention motion before the Supreme Court in Arizona v. California, 373 U.S. 546 (1963). NARF represented the Cocopah Tribe, one of five lower Colorado River Tribes, in trying to determine the water rights of the Tribes to the Colorado River. Since the original decree was issued in 1963, the five Colorado River Tribes have filed motions to intervene for the purpose of securing additional water rights.

On January 9, 1979, the Supreme Court issued its opinion in this case which proved favorable to the Cocopahs. The Court approved and ordered the entry of a supplemental decree which included a subordination provision which said that in times of shortage the five tribes would be first in allocation of water.

The Court deferred other issues, including whether the Tribes would be allowed to intervene in the case, to a Special Master of the Supreme Court. The Special Master will make recommendations to the U.S. Supreme Court.

The autumn months brought more good news to NARF with passage of the Pascua Yaqui Recognition Bill, signing of the historic Ute Mountain Ute Hunting Agreement in Colorado and President Carter's signing of the Rhode Island Indian Land Claims Settlement Act.

The Pascua Yaqui Tribe of Arizona was recognized by the federal government as an Indian tribe through Congressional passage of the Pascua Yaqui Recognition Act on September 18, 1978. Staff Attorney Raymond Cross devoted

extensive efforts to this recognition bill which culminated the Pascua Yaquis' efforts to overcome an economically marginal existence. The Act should help to resolve conflicts which developed between the Tribe and the County of Pima over who has jurisdiction over the small reservation area. Under the terms of the Act, the Tribe is authorized to organize under the 1934 Indian Reorganization Act; Tribal members are entitled to receive federal services which are regularly extended to other federally-recognized Indian tribes; and the Pascua Yaquis' small village of New Pascua Pueblo was taken into trust by the United States Government. NARF has plans to continue to assist the Tribe along with attorneys from the Department of Interior and the Bureau of Indian Affairs in preparing a draft constitution and bylaws for possible adoption by Tribal members at an election which will be called by the Secretary of the Interior.

Utes Sign Agreement

In Colorado, the United States District Court for the District of Colorado approved a consent decree on September 21, 1978, entered into between the Ute Mountain Tribe and the State of Colorado which would regulate off-reservation hunting by members of the Ute Mountain Tribe in the Brunot Agreement Area of the state. The Brunot Agreement Area of Colorado is a four-million acre area which includes most of the scenic San Juan Mountain range in the southwestern part of the state.

During the past two years, the Ute Mountain Tribe and the State of Colorado have sought to negotiate a comprehensive plan which would allow Colorado to regulate non-Indian hunting in the area and the Ute Mountain Tribe to regulate Indian hunting in the area. The settlement initially was to be signed on March 1, 1978, but a state court judge in Cortez, Colorado issued a temporary restraining order sought by the local county commissioners to prevent the state from signing the agreement. The county commissioners became involved in modifying the proposed agreement subsequent to this state court action, and with their consent, certain minor changes were made. As a result, an agreement satisfactory to the Ute Mountain Tribe, the State of Colorado and local elected officials was reached at a historic signing in Steamboat Springs, Colorado in July. After the signing of the agreement, the Secretary of the Interior approved it in early September, setting the stage for approval by the Federal District court. Members of the Ute Mountain Tribe have been hunting pursuant to this

agreement since September, 1978, and the agreement thus far has proved quite satisfactory to both the Tribe and the State of Colorado. Attorneys Dan Israel and Raymond Cross played prominent roles in negotiating this consent decree.

Progress Made in Eastern Cases

Only nine days after signing of the Ute Mountain Ute Consent Decree, Congress passed the Rhode Island Indian Claims Settlement Act. The Act was signed by President Carter on October 2nd. Under the terms of the Act, the State agreed to a settlement which would give the Tribe 1800 acres, half of it State land and half to be purchased from private landholders with a \$3.5 million appropriation from Congress.

According to Staff Attorney Tom Tureen, the terms of the Narragansett Settlement were reached last January. This settlement is the result of exhaustive negotiations between State officials, Tribal officials, local private defendants and the White House. President Carter appointed Margaret McKenna, who was the Deputy Counsel, as his personal representative in the case. NARF attorneys worked closely with Ms. McKenna and with Mr. Leo Krulitz, Interior Department Solicitor, in drafting this settlement package. The settlement proposal called for extinguishment of the Tribe's claim which involved about 2,600 acres of land and about 600 acres of surface lakes. Under the terms of the Act, the State would convey to the Tribe about a thousand acres which were involved in the claim and the federal government would provide funds for the purchase of an additional 900 acres from defendants who were willing to sell. The lands would be held by a state-chartered, Indian-controlled corporation, and would be subject to permanent, federally-imposed restrictions against alienation as well as the trust responsibilities of the federal government if the Tribe were subsequently federally-recognized.

The Rhode Island State Legislature must also pass legislation to create the permanent state corporation to hold the land in trust. NARF anticipates that the Narragansett Settlement will undoubtedly have an impact on other Eastern Indian land claims cases which are still pending since the existence of the Indian claims not only subjects the parties to lengthy and expensive court litigation, but also imposes a cloud over land titles which has disrupted real estate and municipal bond sales in the disputed areas.

A similar land claim action in Massachusetts, however, did not bring welcome results. NARF attorneys devoted more than 1,500 hours of time in preparation of briefs and oral argument in Mashpee Tribe v. Town of Mashpee. Trial in this case was completed in January when the issue of tribal existence went to the jury. The jury was instructed to decide whether there was a Mashpee Tribe in existence on six key dates. The jury found there was a Tribe in existence in 1834 and 1843 when the Tribe lost its land, but not in 1790, 1869, 1870 or 1976. Judge Walter Skinner then took the case under advisement due to the inconclusive nature of the jury's findings. On March 24, 1978, the Mashpee case was dismissed by the court on the grounds that no Tribe existed to assert their claim to 13,000 acres of land in the Town of Mashpee.

The Mashpee Tribe raised a number of issues on appeal to the United States Court of Appeals for the First Circuit. First, the Mashpee Tribe argued that the District Court erred by refusing to grant a continuance pending the Department of Interior's action on the Mashpee application for federal recognition as a tribe. The Tribe also challenged the District Court's instructions to the jury on the definition of a "tribe." The Tribe was required to prove that it met the definition of a "tribe of Indians," as the phrase was used in the 1790 Indian Nonintercourse Act.

In addition, the Mashpee Tribe asserted that the District Court was wrong in placing the burden of proof of tribal existence on the Tribe. The Mashpees further argued that the special verdicts returned by the jury were irreconcilably inconsistent and totally ambiguous. As a consequence the Tribe argued that the only solution was to order a new trial.

Finally, the Tribe maintained that the District Court failed to investigate sufficiently the impact on the jury verdict of an anonymous threatening phone call made to one of the jurors, and that a new trial therefore was mandatory.

The appellate court argument was held on November 8, 1978, and at the end of the year, the Tribe was still waiting for a decision from the First Circuit Court of Appeals which was anticipated in February, 1979.

Negotiations Continued in Maine

Throughout 1978, settlement negotiations continued in the Maine land claims case brought by NARF on behalf of the Passamaquoddy and Penobscot Indian tribes. Two new settlement proposals were offered by members of the State's congressional delegation. The latest proposal was introduced in October, 1978, by former U.S. Senator William D. Hathaway (D-Maine) which would provide the two Tribes with \$37 million. Of this sum, \$10 million would be used toward the purchase of 100,000 acres of land now held by 14 large landholders. The actual Tribal claim seeks 12.5 million acres, about two-thirds of the State of Maine, and \$25 billion in trespass damages.

The Hathaway proposal was endorsed by President Carter; Maine's Governor James Longley; Attorney General Joseph Brennan, who is now Governor; Congressman David Emery; Senator William Cohen; and Senator Edmund Muskie. Passamaquoddy and Penobscot Tribal leaders termed the offer a "constructive proposal," but did not actually endorse it.

Since the Hathaway proposal was made public, the Tribes have been involved in negotiations with the large landholders concerning the price, location and method of acquisition of lands which those companies are willing to convey. The Tribes have also been involved in discussions with the Interior Department concerning various benefits which will be available to the Tribes if the settlement is accomplished.

Last June the Maine congressional delegation also introduced legislation drafted by Congressman William Cohen, who is now Senator. The legislation provided for the outright extinguishment of the Tribal claims. In place of the claim the Cohen legislation provided for an action in the U.S. Court of Claims in which recovery would be limited to the difference between the value of the land when taken and the amount paid, plus simple interest. The Tribes objected to this course of action and President Carter indicated in a public appearance in Bangor, Maine that he would veto legislation extinguishing the Tribal claims on terms other than those which had been negotiated by the Special Task Force which he had appointed in October, 1977, and the Tribal negotiating committee. Matters remained at a stalemate until October when former Senator Hathaway proposed the totally-federally funded settlement.

Related Legal Developments

Early in 1978, Attorney General Griffin Bell had his first in-depth experience in Indian litigation in the U.S. v. Maine case, since the Justice Department is charged with representing and advocating the federal government's trust responsibility to Indian tribes. Attorney General Bell appeared before the House Judiciary Committee on the Maine land claims issued and stated: "There are a lot of other Indian people in this country (besides those lodging land claims in the Northeast). I divide them into 'Indian Claims East' and 'Indian Claims West.' When you get into the West we are talking about water rights, hunting rights, fishing rights, all sorts of things much more complicated than the East. . . I have been meeting with the Secretary of the Interior trying to settle all the (Indian Land) claims in the East--and after that we will get to the West."

Bell further told the House Judiciary Committee that federal government representation in court of tribal legal interests raised a "conflict of interest" for him. He felt the Secretary of the Interior should hire private sector lawyers to do this "and let the Justice Department represent the United States, so to speak."

On May 1, 1978, Senator Henry M. Jackson (D-Wash.) wrote Attorney General Bell a letter urging him to make a formal "clarification" and a "thorough objective review" of the trust responsibility arising from treaty relationships.

Sensing the seriousness of Griffin Bell's statements regarding the federal government's trust responsibility to Indian people and the Justice Department's role in enforcing and protecting Indian rights, attorneys from the Native American Rights Fund and the American Indian Law Center began circulating key documents to tribal leaders throughout the country. A review of these documents culminated in the drafting of a 20-page letter to Attorney General Bell on August 18, 1978, in which the Directors of NARF and the American Indian Law Center, as well as eight nationally-known tribal leaders, expressed their alarm and fear as a result of Mr. Bell's public statements regarding the role of the United States Department of Justice in protecting Indian rights.

The letter pointed out that "the survival of Indian tribes is inextricably tied to the enforcement and implementation of federal treaties and federal statutes. Because Indian people have such a small voice in electoral

politics, we are particularly vulnerable to actions of highest federal officials which have the effect of dismantling or dramatically changing the contours of the national Indian policy."

The letter also reminded the Attorney General of President Carter's special concern for American Indian Tribes. "That concern is that America continue as a nation where respect for law and due process is paramount."

The Tribal leaders told Bell there was no need for another review of Indian issues by the White House Domestic Policy staff, particularly when a review of Indian water rights had just been completed less than a month before the letter was written. The letter asked that the Attorney General respond to the Tribal concerns and requested an opportunity for tribal people and their legal advocates to meet with the Attorney General and his staff in order to discuss the Indian policy of the Justice Department.

Although the Attorney General declined to meet with Indian representatives, he did arrange for a meeting with other top Justice Department officials in December. The Indian representatives there asked that Bell (1) halt the review of the trust responsibility, (2) that he reaffirm its existence through a statement, (3) that if a review was to take place, its results should not be delivered in documents filed in any pending court case, (4) that any such review be presented to Indians for comment prior to its release, and (5) that Justice be open to any further Indian views on the subject.

At the end of the year, no response to these requests had come forth from the Justice Department.

During the summer President Carter also made public his Water Policy Message which included a discussion on Indian water rights. Tribal claims to water were the subject of a comprehensive analysis and treatment by the Administration as part of its National Water Policy. The President stated in his Water Policy Message, "Indian water rights are an important component of the long term resolution of water problems in the West. There have been several important court decisions . . . to Indian reservations upon their creation." The President went on to say:

"The priority and quantity of these rights present a question, however, because the quantification of the rights must be determined by examining the documents establishing each

reservation. These issues can, of course, be resolved through judicial proceedings. This is a time consuming and costly process. The President strongly favors a negotiation process instead. Where negotiation is unsuccessful, the rights should be adjudicated in the Federal courts."

The summer of 1978 indeed proved to be an eventful time for Indian people with these announcements of the President's water policy and Attorney General Bell's concerns over a "conflict of interest" in representing Indian concerns. Attention again focused on Washington in July with the arrival of the Longest Walk. The "Walk" began in February 1978 when some 800 Indian men and women began this peaceful demonstration against anti-Indian bills which had been introduced in Congress. These men and women of all ages walked across country from California to the Nation's capital. Although the walkers sometimes numbered less than 50 during the cross country trek, by the time the event culminated in Washington, the numbers had swelled to some 3,000. Various rallies and meetings were held in the capital through mid-July. The Longest Walk ended peacefully and with Vice-President Mondale's reaffirming the Administration's commitment on Indian policy.

Special NARF Projects

As mentioned previously, during 1978 NARF was awarded two special grants in order to implement projects in the field of Indian religion and tribal energy development.

On August 12, 1978, President Carter signed Public Law 95-341, "The American Indian Religious Freedom Act." This Act is intended to guarantee to Native peoples--American Indians, Native Alaskans and Native Hawaiians--the right to believe, to express and to practice their native traditional religions. This is to be achieved by establishing a comprehensive and consistent federal policy directed toward protecting and preserving native religious practices in this country.

Among other things, the Act guarantees to Native Americans access to religious sites, use and possession of sacred objects and the freedom to worship through traditional ceremonial rites. Furthermore, it calls for the President to direct federal agencies, whose activities affect Native American religious practices, to evaluate their policies and make changes where possible to insure

that Native American religious and cultural rights are protected. It also directs the President to report back to Congress one year after the signing of the Act with the results of this evaluation, including any changes that were made in administrative policies.

Funds for implementation of the American Indian Religious Freedom Act were made available to three agencies which service Indian people. These three agencies, the Bureau of Indian Affairs (BIA), Community Services Administration (CSA) and the Administration for Native Americans (ANA), approached NARF to see if we would be able to coordinate the implementation of the Act. NARF was considered because of its expertise in securing equitable treatment for Indian inmates in the practice of their traditional Indian religions while incarcerated in various penal institutions.

In late July, a preliminary grant award was made to NARF, with the final grant award being made in October. NARF then subcontracted various legal research aspects of the Project to the American Indian Law Center, headed by Mr. P. Sam Deloria, in Albuquerque, New Mexico. NARF's Executive Director John Echohawk appointed Mr. Kurt Blue Dog and Mr. Walter Echo-Hawk as co-directors of the Project. These two attorneys realized that for the Project to be successful it was essential to secure the broadest possible input from American Indian and other Native American groups and individuals affected by federal practices and regulations. To achieve this input, a 15-member "Native American Religious Freedom Advisory Board" was formed. The board scheduled four meetings for the duration of the Project. One meeting of this board was held at NARF's Boulder office in September and the final board session will be held in Boulder in July, 1979.

NARF's Energy Project

In October, NARF was also awarded a grant through ANA and CSA to develop Tribal Energy and Social Development Offices on Indian Reservations. NARF is subcontracting part of this grant to the Council of Energy Resource Tribes (CERT) for the implementation of this Project. The principal objective of this Project is to assist tribes to begin regulating and controlling the development of energy resources on their reservations.

NARF has subcontracted the socio-economic aspect of the Project to CERT. The three tribes selected to participate in the Project are all members of CERT. They are the

Laguna Pueblo and Jicarilla Apache of New Mexico and the Ute Tribe of the Uintah and Ouray Reservation in Utah.

Both NARF and CERT will be responsible for providing on-going legal and technical assistance to the energy offices during the one-year Project period. It is anticipated that the energy office personnel for the local Tribal offices will be selected by the end of March, 1979 and training sessions will begin by mid-April. The offices should begin operation shortly thereafter. Both NARF and CERT are working with the three tribes to secure funding for the on-going operation of the local energy offices.

Ms. Thelma Stiffarm, former deputy director of the American Indian Law Center, was recruited to head this Energy Project.

Staff Transitions in 1978

Every year NARF experiences a number of personnel changes through staff arrivals and departures. The past year was no different. Attorney Barry Margolin, one of the principal attorneys in the Mashpee case, left NARF's employ in January, following completion of the Mashpee trial. He rejoined the staff of Massachusetts Fair Share, but was asked to assist in preparation of the appellate brief later in the year. Maine Staff Attorney Dennis Montgomery departed NARF in June and now is employed by the Colorado Attorney General's office in Denver. Mr. Montgomery had been with NARF since March, 1975.

Suzan Shown Harjo, NARF's former legislative liaison, was asked to join the staff of the new Assistant Secretary for Indian Affairs in February of last year. Ms. Harjo is working as a Special Assistant to Mr. Forrest Gerard in Congressional and Liaison Activities. To date, NARF has not yet filled the legislative liaison position.

Last May, NARF's Steering Committee appointed Head Bookkeeper Susan R. Hart to the position of Treasurer/Controller. Ms. Hart has been with the organization for seven years. In early September, Staff Attorney John Wabaunsee assumed a position with the regional office of the Legal Services Corporation in Denver. Mr. Wabaunsee is serving as Coordinator of Indian legal service projects. He had been with NARF since June, 1973.

There were two additions to the staff in October when Ms. Thelma J. Stiffarm, a Cree-Gros Ventre Indian, joined NARF as Director of NARF's special energy project. Ms. Stiffarm, former deputy director of the American Indian Law Center in Albuquerque, also served as a legal consultant to the U.S. Commission on Civil Rights. Ms. Grace Gillette, an Arikara from North Dakota, joined the staff as Business Manager during the same month. Ms. Gillette had previously worked as Office Manager for Osoro & Associates in Denver. She was hired to replace Mr. James A. Laurie, who is now employed by the Management Task Force in Denver. Mr. Laurie had been with the organization since September, 1976.

NARF's Board of Directors

NARF is governed by a 13-member Steering Committee made up of prominent Indian individuals from throughout the United States. The Steering Committee meets twice a year, usually in the Boulder office and the meetings are always held in the spring and fall. The meetings are devoted to discussions of overall policy decisions, hearing attorney case reports, deciding administrative issues and directing future courses of action for NARF to follow.

It has always been the focus of the Steering Committee 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.

An important part of the Steering Committee is the NARF Executive Committee which is a four-member body established from within the Committee's membership. This Executive Committee meets four times a year and often conducts additional business by conference call. The 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 considered the finance committee and their actions are later ratified by the Steering Committee.

New Steering Committee members are nominated and elected by the Committee members themselves. The terms for members last two years and usually there are at least three expiring terms at each regular meeting.

During the spring of 1978, there were three expiring terms on the Committee. Mr. Louis LaRose and Mr. Robert

Bojorcas were re-elected to the Board for two more years. Ms. Janet McCloud, who had served on the Committee for six years, decided not to run for another term. Janet had served as a strong advocate for Indian prisoner rights and was very instrumental in getting NARF involved in securing equitable treatment for Indian inmates incarcerated in the nation's penal institutions. Ms. McCloud nominated a fellow tribesman to serve on the Steering Committee--Mr. Herman Williams of Marysville, Washington. Mr. Williams has had extensive experience in administering Indian housing programs and presently serves as Assistant Regional Administrator for Indian housing programs in Seattle, Washington. We welcome Mr. Williams' service on the Steering Committee.

During the fall meeting there were four individuals re-elected to the Committee--Ms. ReNee Howell, Mr. Jerry Running Foxe, Ms. Lucille Dawson and Mr. Leo LaClair. In addition, another Steering Committee position became vacant by the September resignation of Ms. LaNada Boyer, a member of the Shoshone-Bannock Tribe in Idaho. Ms. Boyer was one of the original Steering Committee members and had served on the board since its inception.

We would like to extend a special note of gratitude to Ms. McCloud and Ms. Boyer for their combined years of service on the Steering Committee.

A Yakima Tribal Councilman, Mr. Roger Jim, was elected to fill the unexpired term of Ms. Boyer. Mr. Jim has been active in Yakima tribal politics for the past ten years and has served several terms as President of the Affiliated Tribes of Northwest Indians as well as Vice-President of the National Congress of American Indians. Mr. Jim will be attending his first Steering Committee meeting in May, 1979.

A Special Thanks to NARF's Contributors

The work of the Native American Rights Fund is dependent solely on grants, contracts and donations from foundations, corporations, federal agencies as well as private individuals and organizations.

Through the past few years NARF developed an individual donor file of some 16,000 people. It would be difficult to try to list all of those individuals who deserve so much thanks for their loyalty and assistance. Last year we received support from nine major foundations,

five governmental and public institutions, seven corporations and four tribal councils.

The Ford Foundation continued to provide funds for general support and we would like to extend our gratitude to Mr. R. Harcourt Dodds, who has remained a dear friend and advocate. Also Mr. Ralph Bohrsen, Program Officer for the Office of Education; Ms. Nancy Boggs, Administrative Officer in the Office of Reports; and Ms. Arlene Feder, Administrative Officer for the Ford Foundation.

The Carnegie Corporation of New York continued to provide funds through June for financing of the Indian Lawyer Intern Project. We are looking forward to a continued association with the Corporation and its New Program Officer Mr. Bernard Charles. Mr. Charles and another staff member, Ms. Arlene Kahn were kind enough to visit our Boulder office in November.

NARF continued to operate its "Tribal Sovereignty and Natural Resources Project," with financial assistance from the William H. Donner Foundation. A special water rights project was again made possible with funds from the Field Foundation.

Special thanks again must go to the Lilly Endowment, Inc.'s Board of Directors and staff for financing of the Eastern Indian Legal Support Project. The Knistrom Foundation was welcomed as a new contributor for support of the Eastern Indian land claims negotiations. Muskiwinni Foundation provided general support for Indian women employed at NARF. Both the Candlelight Foundation and the Waters Foundation provided general support funds as well.

The Administration for Native Americans (ANA) in the Department of Health, Education and Welfare continued to provide funds for several NARF projects. In October ANA and the Community Services Administration (CSA) provided joint support for NARF's Project to Develop Tribal Energy and Social Development Offices as well as financing for the Implementation of Indian Religious Freedom Project. The Bureau of Indian Affairs (BIA) was also instrumental in providing funds for the Religious Freedom Project and for consultant contracting and title research.

The Law Enforcement Assistance Administration provided funds for development of the Swiftbird Corrections Facility's Operations Manual and the University of New

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) Mexico's Indian Law Center provided support for Revision of Felix Cohen's Handbook on Federal Indian Law.

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) NARF continued to receive financial assistance from the Legal Services Corporation for operation of the Indian Law Support Center.

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) During 1978 there were four tribal groups who were kind enough to provide contributions to NARF for general support. Those tribes were the Chemehuevi, located in Parker, Arizona, the Shoshone-Bannock of Idaho, the Ute Tribe of the Uintah and Ouray Reservation in Utah and the Walker River Paiute Tribe of Nevada.

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) On behalf of NARF's Steering Committee and staff we would like to express our thanks and appreciation.

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TRIBAL EXISTENCE

Summaries of Major Cases and Activities

American Indian Religious Freedom Act Implementation Project

In August, 1978, NARF received a special grant to assist in implementation of the American Indian Religious Freedom Act which was signed by President Carter earlier that month. The Act establishes a federal policy to protect the religious practices of American Indians and Alaskan and Hawaiian Natives. It also requires a comprehensive review of federal agency statutes and practices so that unnecessary obstacles to the practice of Native religion may be removed. In August, 1979, the President will report to Congress those changes that have been made as well as any recommendations he may have for further legislation.

NARF's Project is specifically aimed at providing factual input and recommendations from the Native community. Part of this work has been sub-contracted to the American Indian Law Center in Albuquerque, New Mexico, as well as several independent Indian consultants. In order to guide the work of the Project, NARF has established a Religious Freedom Advisory Board of Native spiritual leaders from throughout the United States. Thus far, the Project has worked to identify and document problems which Natives have encountered with various federal agencies in the practice of their religion. In addition, staff members are making extensive efforts to solicit input on these issues from all sectors of the Native community. The staff is also conducting legal research concerning recommendations for remedial change. The Project's findings and recommendations will be presented to the responsible federal officials for consideration before the Project ends in August.

Askew v. Seminole Tribe of Florida, Inc.
Civ. No. 76-17413, (Seventeenth Judicial
Circuit Court, Broward County, Florida)

The question as to whether the State of Florida can collect state sales tax from the Seminole Tribe for Tribal business activities on the reservation is still pending. In October, 1976, the State of Florida filed suit

against the Tribe asking the court to order the Tribe to collect state tax on admissions the Tribe charges to the Seminole Village and on arts and crafts items it sells on the Seminole Reservations. The State claimed in its original complaint that the Tribe owed it more than \$8,000 in taxes. In May, 1978, a hearing was held on the Tribe's motion to dismiss the case. To date, a decision has not been rendered in this case.

Blackfeet Oil and Gas Tax Code

The Native American Rights Fund assisted the Blackfeet Tribe in writing and implementing an oil and gas taxing code which, among other things, established a Blackfeet Tribal Tax Commission. The purpose of the code was to enable the Tribe to realize the maximum benefit from its natural resources. During 1978, staff attorneys met with the Blackfeet Tax Commission to review the contents and implementation strategy to be used in the proposed Blackfeet Oil and Gas Taxing Code. After an initial meeting, NARF researched the various questions which arose at the meeting and developed a step-by-step administrative implementation plan to effectuate the tax.

California v. Quechan Tribe Civ. No. 77-1500, 77-2172, U. S. Court of Appeals for the Ninth Circuit

On January 11, 1979, oral argument was presented before the U. S. Court of Appeals for the Ninth Circuit in San Francisco. Argument was presented on the issues of whether California game laws applied to non-Indians within the Fort Yuma Reservation and if so whether state game wardens had the authority to enter the Reservation to enforce them. Earlier, the lower Federal District Court had ruled that although state game laws did apply to non-Indians within the Reservation, state game wardens had no authority to enter the Reservation without Tribal consent.

Both the Tribe and the State are appealing the District Court's decision. The State is arguing that Tribal sovereign immunity does not bar the State's action; the State game laws apply to non-Indians; and that State game wardens do have the authority to enter and enforce State game laws on non-Indians within the Reservation. Besides arguing that the Tribe's sovereign immunity bars the State's action against it and that State game laws do not apply within the Quechan Reservation, the Tribe is also asking

that the case be transferred back to the District Court for consideration of whether the Tribe's comprehensive hunting and fishing code now pre-empts the application of overlapping state laws.

Subsequent to the oral argument, the Ninth Circuit Court issued an order postponing any decision until it renders a decision in a related case--Confederated Tribes of the Colville Reservation v. State of Washington. A decision in this case is expected in the coming months.

Cheyenne-Arapaho Tribes of Oklahoma v. State of Oklahoma
No. 78-1570, United States Court of Appeals
for the Tenth Circuit

NARF filed this case on behalf of the Cheyenne-Arapaho Tribes of Oklahoma in 1975. The suit seeks a ruling that the members of the Tribes have the right to hunt and fish within the original boundaries of the reservation and that the Tribes have the right to regulate such member hunting and fishing. The District Court for the Western District of Oklahoma issued its opinion in this case on March 31, 1978. The court held that the trust lands within the original reservation boundaries were Indian country, and as such, the State of Oklahoma had no authority to regulate within those areas except through application of the Assimilated Crimes Act. The court also held, however, that an 1890 allotment agreement with the Tribes disestablished the reservation and the Tribes no longer could regulate on non-trust (primarily ceded) lands within the former reservation.

NARF appealed the District Court's ruling to the Tenth Circuit Court of Appeals on the issues of the Tribes' authority over ceded lands and the application of the Assimilated Crimes Act. The briefing before the Tenth Circuit is still in process.

Coos, Siuslaw, Lower Umpqua Restoration

The Coos, Siuslaw, and Lower Umpqua Indian Tribes of Southwestern Oregon were among the many Indian Tribes terminated by act of Congress in the 1954 Western Oregon Indian Termination Act. In 1978, NARF attorneys, at the request of the Tribes, met with the Tribal council and a group of interested tribal members to discuss the Tribe's desires to secure the passage of restoration legislation. As the Tribe's restoration effort is still in a preliminary planning stage, NARF attorneys informed the Tribe that there

was little that they could do at this stage but request that the Tribe keep NARF informed as to its progress.

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

On November 30, 1978, the United States Court of Appeals for the Fourth Circuit entered a decision upholding a lower court judgment. In the Fourth Circuit opinion, the Court unanimously held that North Carolina could not impose its fishing licenses and fishing regulations on tourists fishing in the Put and Take Program of the Eastern Band. The case is significant because it is the first Court of Appeals case which has held that the Tribe, together with the United States Department of the Interior, can pre-empt overlapping state fishing and game laws as they apply to non-Indians.

Currently, the State of North Carolina is preparing to petition for review to the United States Supreme Court.

Fort Berthold Zoning Ordinance

The Fort Berthold Reservation in North Dakota wishes to exert land use control over development on its reservation. Since there are coal deposits and other growth pressures on the reservation, and since the Tribe currently does not have any ordinance relating to land use control, NARF agreed to review its proposed land use ordinance. The proposed land use ordinance was essentially drafted from a city land use ordinance which had little relation to reservation geography, culture, or problems. Therefore, extensive revision was required. In October, 1978 a detailed letter was sent to the Tribe outlining NARF's comments on each aspect of the proposed land use ordinance.

Mashpee Tribe v. Town of Mashpee
447 F.Supp. 940 (S. D. Mass. 1978)

In this suit the Mashpee Tribe sought 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 suit is based on the Indian Nonintercourse Act of 1790 which requires federal approval of tribal land transactions. No federal approval was obtained for the transactions by which the Mashpees lost their land. The defendants asserted that the Mashpees were not a Tribe and therefore not entitled to the protection of the Act. This question of tribal existence was severed out for a separate trial by District Court Judge Walter J. Skinner.

Trial was completed in January, 1978, following 40 days of testimony and presentation of evidence. The jury was instructed to decide whether there was a Mashpee Tribe in existence on six key dates. The jury found there was a Tribe in existence in 1834 and 1843 when the Tribe lost its land, but not in 1790, 1869, 1870 and 1976. Judge Skinner then took the case under advisement because of the inconclusive nature of the jury's findings. On March 24, 1978, the Mashpee case was dismissed by the Court on the grounds that no tribe existed to assert the claim.

The Tribe then appealed to the First Circuit Court of Appeals in Boston and raised a number of issues before the appellate court. Included among those issues was alleged jury tampering; the question of placing the burden of proof on the plaintiff Tribe; and the legal standard which the trial judge adopted to define the term "Indian Tribe." The Tribe also raised questions concerning inconsistencies in the jury's verdict. The defendants cross appealed from the refusal of the trial judge to grant them a directed verdict on grounds that the 1790 Act did not protect tribes which were surrounded by white settlements. Both the appeal and the cross appeal were argued to the First Circuit Court of Appeals in November and a decision had not been rendered by the end of the year.

Mississippi Band of Choctaw Indians--Tribal Corporation

In the fall of 1978, NARF attorneys were contacted by the Mississippi Band of Choctaw Indians and were asked to assist in the drafting of a Tribal corporation charter and bylaws. With the establishment of a Tribal business corporation, the tribe would be able to finalize contracts with the Economic Development Administration and a subsidiary of General Motors Corporation for the establishment of an on-reservation plant which may employ 300 people. NARF attorneys assisted in the drafting of a proposed charter for a Tribal corporation to be established by the federal government under the provisions of the Indian Reorganization Act. Since the federal charter will take time for approval, NARF

assisted the Tribe in the establishment of a temporary corporation chartered by the Tribe itself. This action enabled contracts to be finalized and construction of the plant to begin. NARF attorneys will continue to assist the Tribe in securing final approval for the permanent corporate charter from the Secretary of the Interior.

Native Village of Tyonek

The Native Village of Tyonek was organized under the Indian Reorganization Act (IRA) in 1939. In 1964, the Tyonek Village Council signed an oil and gas exploration permit for \$14 million. The village used the monies to build homes for all residents of the village; built a water, electrical and sewer system; improved the village airport; constructed community facilities; and invested in real estate in Anchorage. The Native Village of Tyonek was one of the few Indian reservations in Alaska comprising approximately 30,000 acres.

The Native Village Council opted to accept the provisions under the Alaska Native Claims Settlement Act (ANCSA) and a village corporation, Tyonek Native Corporation, was formed. ANCSA revoked all prior reservations of those villages and tribes accepting ANCSA's benefits.

Since the passage of ANCSA several troubling questions have developed, such as the extent of the self-governing powers of the IRA village council to govern the former reservation; whether the houses owned by the Native Village of Tyonek are taxable; and who owns the utility system built by the village council. An extensive opinion letter discussing the various alternatives for the village was researched and written to the village.

Pascua Yaqui Federal Recognition

Pursuant to a congressional act of September 18, 1978, the Pascua Yaqui Tribe of Arizona was recognized as an Indian tribe and the Tribe's lands near Tucson, Arizona, were taken into trust by the federal government. The signing of the federal recognition act culminates the Pascua Yaqui Tribe's efforts to overcome an economically marginal existence. During the past several years, a substantial conflict developed between Pima County and the Tribe over who has jurisdiction on their small reservation area. This Act should help to resolve the conflict in the Tribe's favor. Under the terms of the Pascua Yaqui Federal Recognition

Act the Tribe is authorized to organize under the Indian Reorganization Act; Tribal members are entitled to receive federal services which are regularly extended to other federally-recognized Indians; and the Pascua Yaqui's small village of New Pascua Pueblo was taken into trust by the United States. NARF will continue to assist the Tribe along with attorneys from the Department of Interior and the Bureau of Indian Affairs in preparing a draft constitution and bylaws for possible adoption by the Tribal members at an election which will be called by the Secretary of the Interior.

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

This matter represents a suit initiated by the Pascua Yaqui Tribe seeking relief against Pima County's enforcement of its building codes on reservation lands. For some time the county has enforced its building codes on the lands making it impossible for the Tribe to build homes funded in part under the Farmers Home Administration (FHA) loan program. Consequently this suit was initiated to test the county's jurisdiction. The Tribe has proposed settlement of this case by way of a consent decree in view of its successful efforts in securing federal recognition. Such a consent decree would declare that the County has no jurisdiction to enforce its building code on the reservation. A settlement of this matter is expected as soon as the form and the content of the consent decree can be agreed on by the parties.

Pawnee Food Co-op Tax Exemption Matter

In late 1978, the Pawnee Tribe requested NARF's assistance in researching the question of whether the Pawnee Tribe could establish a Food Co-op on Tribal trust lands which would sell food to Tribal members free from the obligation either to pay or to collect state sales tax on food. If possible, the Tribe would like to obtain a state administrative decision upholding the Tribe's right to sell food free from state taxation. If this is not possible, the Tribe would like to be able to confirm its tax exemption either through federal administrative rulings or by a court decision. NARF attorneys are currently researching the Tribe's question. The first order of business in 1979 will be contacting state officials regarding their position on the Tribe's claim that it is exempt from having to pay or collect state sales taxes on food.

Point Conception Matter

In November, 1978, NARF attorneys were contacted by representatives of the Santa Barbara Indian Center and the Brotherhood of the Tomol regarding the plans of Western Liquefied Natural Gas Associates, a subsidiary of Pacific Gas and Electric Company, to place a large LNG receiving terminal and port at Point Conception. Since time immemorial, Point Conception has been considered by Southern California Indians as the gateway through which the souls of the dead depart this world and through which the souls of the newborn enter. Adjacent to Point Conception, at the exact site of the proposed facility, are the intact ruins of the ancient villages of Shisholop and Upop. These village sites, along with their burial and ceremonial areas, have been held sacred by not only southern California Indians, but Indian holy people throughout the nation.

The Santa Barbara Indian Center requested that NARF represent it in the proceedings currently underway before the Federal Energy Regulatory Commission. In December, 1978, hearings were held in Washington, D. C. before a FERC Administrative Law Judge (ALJ) on the Final Environmental Impact Statement prepared by FERC staff. At the December hearings, limited testimony, prepared with the assistance of NARF attorneys, was presented on the issue of the historical and religious significance of the Point Conception site to Native Americans.

In late December the commission granted the Indians' motion to intervene and ordered local hearings to be held in Santa Barbara in January 1979. NARF attorneys assisted in the preparation of over 15 Indian and professional witnesses who gave testimony at the hearings. Following the hearings, NARF will argue the Indians' position in briefs to be filed with the commission in February and March, 1979. Thereafter, the ALJ will issue an initial decision and recommendation, which will then go to the administrator of the Economic Regulatory Administration for final agency action within the Department of Energy.

Prairie Band of Potawatomi Indians v. Raymond Jackman, et al. Civ. No. 78-4197 (U.S.D.C., Kansas)

In August, 1978, NARF filed suit on behalf of the Potawatomi Tribe seeking declaratory and injunctive relief to halt the practice by Jackson County officials of enforcing and collecting Kansas State personal property taxes against Indians residing on the Potawatomi Reservation as a

precondition to motor vehicle registration. The Tribe was granted a preliminary injunction in September, 1978, and shortly thereafter filed a motion for summary judgment. At pre-trial conference in September, 1978, the court set the matter for trial but strongly urged the parties to attempt to negotiate a settlement. Thereafter, attorneys for the county and NARF attorneys were successful in reaching an agreement in the Tribe's favor on December 8, 1978. The final judgment provides that the state is without jurisdiction to impose personal property taxes on Indians residing on the reservation, that taxes paid by reservation Indians in tax years 1976, 1977 and 1978 will be refunded, that property which is owned jointly by an exempt Indian and a non-Indian will be exempt from taxation, and an orderly mechanism for the determination of eligibility for immunity from personal property taxation will be established.

Rincon v. Gonzales
Civ. No. N-10601, (Superior Court,
San Diego County, California)

This case was previously referred to as the Rincon Water Ordinance. The Rincon-San Luiseno Band of Mission Indians continue to experience 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 have failed and violators have ignored the Tribe's authority.

During 1978, NARF continued to request the Justice Department to bring suit on behalf of the Band. In May, the Department indicated it would not bring suit. Without federal intervention, the chances for federal court jurisdiction were not good. Therefore, in June, 1978, NARF filed suit on the Band's behalf in State Court in California. On September 15, 1978, the hearing was held on the defendants' motion to dismiss. The Superior Court judge ruled in favor of the Rincon Band and thus allowed the action to continue. In October, NARF filed extensive interrogatories and completed discovery with the defendants. By state statute, defendants are required to answer discovery request within 30 days. This statute was not complied with and the Band rescheduled a discovery motion with the court for January, 1979.

In late 1978, the Band dismissed a defendant from the suit since her employer had complied with the Tribe's water ordinance on her behalf.

Sac and Fox v. Licklider
576 F.2d 145 (8th Cir. 1978), cert. denied, U.S. Supreme Court

This action was filed to determine state jurisdiction to regulate Indian hunting and fishing on the Sac and Fox Reservation in Iowa. NARF represented the Tribe. The Iowa Federal District Court ruled against the Tribe in 1977, holding that two federal statutes gave jurisdiction to the State. On appeal the Eighth Circuit Court of Appeals upheld the decision of the lower court. The U. S. Supreme Court later declined to review the case.

Sand Creek Massacre

Descendants of the survivors of the Sand Creek Massacre, which took place in Colorado in the 1860's, have requested NARF to represent them in a potential claim against the federal government. The claim is based on Article VI of the 1865 Cheyenne-Arapaho Treaty which provides for reparation to the survivors of the massacre. The reparation involves the setting aside of land for the survivors. The claim is under review.

Sault Ste. Marie v. Andrus
Civ. No. 77-1388, (U.S.D.C., District of Columbia)

This action was filed by the City of Sault Ste. Marie against the Secretary of the Interior attempting to rescind the taking into trust of a 79 acre parcel of land within the city on behalf of the Sault Ste. Marie Tribe of Chippewa Indians. The land was taken for a Tribal housing project and the Government countered with a fair housing lawsuit against the City. That case has since been settled, so the housing can be built this summer.

The action concerning the trust land was filed in 1977. The Government sought to get it dismissed, but that motion was denied. Shortly thereafter the Tribe intervened in the case on the side of the government. NARF represented the Tribe, assisting its local counsel. Since then attorneys have initiated efforts to settle the case. Failing those, the case will proceed to the merits in 1979.

Siletz Restoration

On November 18, 1977, President Jimmy Carter signed into law the Siletz Restoration Act which restored this small western Oregon tribe to federal status. NARF assisted the Tribe in every stage of the procedures, from initial drafting of the legislation through the three-year legislative effort to secure its passage. In the year following the passage of the Act, NARF has assisted the Tribe in its implementation, particularly in such matters as the drafting of a proposed Tribal constitution, establishment of the Tribal administration, and the implementation of federal Indian services.

The Siletz Restoration Act did not provide for the establishment of a federal reservation, but rather required the Secretary of the Interior within two years of the Act's passage to submit a proposed reservation plan to Congress. NARF will therefore be assisting the Tribe during the coming year in the development of such a reservation plan, as well as assisting the Tribe in securing its enactment by Congress.

Smith John v. Mississippi 437 U.S. ____ (1978) (United States Supreme Court)

On June 23, 1978, the Supreme Court of the United States reversed two lower court rulings and held that the Mississippi Choctaw Indian Reservation constitutes "Indian Country" within federal jurisdictional statutes. The Court held that Federal courts and not state courts had jurisdiction over a prosecution of an assault allegedly committed by an Indian on the Reservation.

The opinion in the Smith John case was favorable to Indian interests since it recognizes the existence of an Indian reservation in face of a challenge by the State that no reservation existed.

NARF assisted the Indian's private attorney during the briefing of the Federal case to the U.S. Court of Appeals. NARF prepared the appeal of the State case to the Supreme Court and briefed and argued both cases in that Court on behalf of the Indian defendants.

State of Washington v. Eagle Elk No. 6537 (Superior Court, Washington)

On September 1, 1978, three young Indian men were arrested by state authorities on the Colville Indian

Reservation in Washington state, while on their way to a meeting of the Native American Church. They were arrested and charged with possession of a controlled substance, peyote.

Two of the individuals contacted NARF and requested legal assistance. Because it was clearly evident that these defendants were bona fide members of the Native American Church, and because the overwhelming weight of the law in this regard exempts such church members from peyote sanctions, NARF responded to this request.

NARF assisted local Tribal attorneys in getting the individuals released from jail, but not before they had been incarcerated for eleven days. NARF thereafter assisted local attorneys in putting together a defense which included providing the relevant expert witnesses and assisting in gathering and compiling the appropriate legal background materials. After a hearing was held in Superior Court, Judge Kohls dismissed the charges based on the Freedom of Religion clause of the First Amendment. The opinion further held that the Washington statute was unconstitutional as applied to bona fide members of the Native American Church.

State of Wisconsin v. Baker
No. 76-C359, (U.S.D.C. for the
Western District of Wisconsin)

On December 14 and 15, 1978, trial was held in this case before the United States District Court for the Western District of Wisconsin. This case involved an attempt by the State of Wisconsin to prevent the Lac Courte Oreilles Indians from regulating and imposing license fees on non-Indians fishing in the navigable waters of the Lac Courte Oreilles Reservation. At trial, the State of Wisconsin introduced testimony tending to show that the United States and the Lac Courte Oreilles Indians did not intend that the reservation be for the exclusive use of the Indians and, further, that the reservation was not intended to include adjacent navigable bodies of water. The Lac Courte Oreilles Indians presented expert and documentary evidence which tended to show, that to the contrary, exclusive use was consistent with the Chippewa way of life and was embodied in the original Treaty of 1854 which established the reservation and also that navigable bodies of water within the reservation and on its exterior boundary were to be included. A decision is expected soon.

Stillaguamish Tribe of Indians v. Kleppe
(U.S.D.C. for the District of Columbia)

After a successful decision in 1976 on the Stillaguamish Tribe's status as a federally-recognized tribe, NARF has continued to assist the Tribe in its request before the Secretary of the Interior to have land taken into trust. The Secretary initially denied the Tribe's request. NARF has prepared a petition for reconsideration of the decision and has written several follow-up memoranda. The issue, however, appears to be one in which the Department of the Interior has been re-formulating a position, and therefore, the Secretary is extremely slow to act.

Swinomish Tribal Community, et al. v.
Federal Energy Regulatory Commission, et al.
Civ. No. 78-1649 (U.S. Court of Appeals
for the District of Columbia)

On December 17, 1970, the City of Seattle, Washington, Department of Lighting, filed an application for an amendment to its license for Project No. 553 on the Skagit River. The City is seeking authority to amend its license by raising the height of Ross Dam, the largest and furthest upstream of the three dams included in the license. The Skagit River is the largest river in the Puget Sound complex, contributing approximately one-third of the viable wild salmon runs for certain major species in the Puget Sound fishery and is the only river system in the State of Washington with major viable natural runs of all six anadromous species indigenous to North America: steelhead, chinook, sockeye, coho, pink and chum. The Swinomish Tribal Community, the Sauk-Suiattle Tribe, and the Upper Skagit Tribe have adjudicated treaty-protected fishing rights in the Skagit River, its tributaries and adjacent marine areas.

NARF, in conjunction with Evergreen Legal Services, intervened in the amendment proceedings on behalf of the three tribes. In August, 1978, the Commission issued its final order authorizing the raising of Ross Dam. The Tribes have petitioned for review to the U.S. Court of Appeals for the D.C. Circuit on the basis of three issues:

1. Pursuant to Section 15(a) of the Federal Power Act, the Commission may issue an annual license only upon the same terms and conditions as the original license, and the Commission does not have the authority to amend an annual license.

2. Pursuant to Section 10(a) of the Federal Power Act, the Commission must consider the effect of Project No. 553's downstream flows on Indian treaty fishing rights to determine if the license, as amended, is in the best interests of a comprehensive plan for development of the waterway.

3. Pursuant to Section 4(e) of the Federal Power Act, the Secretary of the Interior has power to impose conditions on the operation of any power project for the protection of Indian treaty rights, and it was error for the Commission to refuse to include these conditions in the amended license.

The Commission has instituted an ancillary proceeding known as Ross Dam--FERC Project No. 553-EL78-36, concerning downstream flows of the Project. NARF and Evergreen Legal Services have petitioned to intervene in this proceeding as well as on the Tribe's behalf.

As reported earlier, the Commission refused to accept the Secretary of Interior's conditions submitted under Section 4(e) of the Federal Power Act to protect Indian treaty fishing rights. Instead, the Commission elected to treat the Secretary's conditions as "recommendations" under Article 37 of the License which provides that the Secretary may propose conditions which will be evaluated in relation to a number of other criteria for operation of the project. It is the Tribes' position that Secretarial conditions submitted pursuant to Section 4(e) are mandatory conditions and must be included in the license.

Tanana Chiefs Conference

The Tanana Chiefs Conference (TCC) was established as a non-profit organization in the Doyon Region to perform services and give guidance to over 40 Alaska Native villages. The service area is one of the largest land areas in the State of Alaska comprising almost the entire interior of Alaska. The services are also extended to villages which were excluded or elected not to come under the Alaska Native Claims Settlement Act. NARF is working with TCC in advising them of the options of self-government available as well as the extent and limitations of powers under each form and the mechanics for implementation.

Topash v. Minnesota Commissioner of Revenue
Tax Ct. No. 2611 (Minnesota)

This is an action to recover state income taxes paid by Mr. Topash while residing and working within the Red Lake Indian Reservation in Minnesota. Topash is an enrolled Indian from the Tulalip Tribe of Washington. The State refused a refund on the ground that only members of the local tribe are exempt from state jurisdiction. In February, 1979, the Tax Court ruled against Mr. Topash. NARF now plans to appeal his case to the Minnesota Supreme Court.

Trans-Canada Enterprises Ltd. v.
Muckleshoot Indian Tribe, et al.
No. C77-882 (U.S.D.C. Western District of Washington)

This action arises out of the Muckleshoot Tribe's efforts to regulate the activities of a large real estate developer within reservation boundaries. In 1977, the Muckleshoot Tribe enacted a comprehensive land use ordinance which purported to regulate the use and development of lands within the boundaries of the Muckleshoot Indian Reservation. Shortly thereafter, Trans-Canada Enterprises began work on its proposed trailer and subdivision on fee lands within the reservation boundaries and without the requisite Tribal permits. When the Tribe attempted to enforce its land use regulations, Trans-Canada brought suit in federal district court seeking an injunction against the Tribe.

In January, 1978, the Court denied Trans-Canada's request for injunctive relief, holding that the Tribe's interest in regulating land use on its own reservation was central to its governmental purposes and that Trans-Canada had not exhausted its remedies within the Tribal administrative and judicial structure. Following the Supreme Court's decision in Oliphant v. Suquamish Indian Tribe, which held that another Washington tribe did not have criminal jurisdiction over non-Indians, Trans-Canada moved for reconsideration of the January, 1978, Order. In June, 1978, the district court reversed its position, based upon Oliphant, and held that the Tribe did not have jurisdiction to regulate land use by non-Indians on the lands within its reservation boundaries. The Tribe then filed a motion for reconsideration which was denied, and in late 1978, appealed the case to the Ninth Circuit Court of Appeals. The Tribe was represented by Evergreen Legal Services in the District Court proceedings; however, NARF attorneys assisted in advising the Tribe as to whether an appeal should be taken,

and will serve as co-counsel with Evergreen Legal Services attorneys on appeal to the Ninth Circuit in San Francisco.

Tunica-Biloxi Land Claims

At the request of the Tunica-Biloxi Tribe of Louisiana, NARF hired a historian to assist in research and preparation of a Federal Recognition Petition which was submitted to the Department of the Interior on September 17, 1978. NARF is advised by the Federal Acknowledgement Project of the Bureau of Indian Affairs (BIA) that this petition is one of three to be considered first by the BIA and that a final decision may be expected in 1979. In addition, NARF is in the process of researching and drafting a request to the United States to bring suit on the Tribe's behalf to recover possession of several thousand acres of land in North Central Louisiana which were lost in violation of the 1790 Indian Nonintercourse Act. This request is expected to be submitted in mid-1979.

Ute Mountain Tribe v. State of Colorado No. 78-0220 (U.S.D.C. for the District of Colorado)

In September, 1978, the United States District Court for Colorado approved a consent decree entered into between the Ute Mountain Tribe and the State of Colorado to regulate off-reservation hunting by members of the Ute Mountain Tribe in the Brunot Agreement Area of Colorado. The Brunot Agreement Area is a 4-million-acre area which includes most of the scenic San Juan Mountain range in southwest Colorado. By the Brunot Cession Agreement of 1874 the Ute Mountain Tribe withdrew from the San Juan Mountains to a smaller reservation south of the mountains but retained the right to hunt in that area so long as game were to last.

During the last two years, the Ute Mountain Tribe and the State of Colorado have sought to negotiate a comprehensive plan which allows Colorado to regulate non-Indian hunting in the area and the Ute Mountain Tribe to regulate Indian hunting in the area. The settlement initially was to be signed on March 1, 1978, but a state court judge in Cortez, Colorado issued a temporary restraining order brought by the local county commissioners to prevent the State from signing the agreement. The county commissioners became involved in modifying the proposed agreement subsequent to this state court action and with their consent certain minor changes were made. As a result, an agreement satisfactory to the Ute Mountain Tribe, the State of Colorado, and local

elected officials was reached at a historic signing in Steamboat Springs, Colorado in July, 1978. After signing the agreement, the Secretary of the Interior approved in early September, 1978, setting the stage for the approval by the United States District Court.

Members of the Ute Mountain Tribe have been hunting pursuant to this agreement since September, 1978, and the agreement thus far has proved to be quite satisfactory to both the Tribe and the State of Colorado.

White Mountain Apache Tribe v. Arizona
No. 78-3427 (U.S. Court of Appeals
for the Ninth Circuit)

This action was brought in October, 1977, by the White Mountain Apache Tribe against the State of Arizona seeking to prevent Arizona from imposing its hunting and fishing seasons and licenses on non-Indians hunting and fishing in the scenic Fort Apache Reservation. The White Mountain Apache Tribe contended that it and the United States Department of the Interior had assumed all financial and technical responsibility for the development of fish and game and for the conservation, regulation and enforcement of sportsmen on the Fort Apache Reservation. Hence, the Tribe contended before federal district court in Arizona that the State had no responsibility on the Fort Apache Reservation and, hence, should not be able to impose its laws. In June, 1978, the United States District Court ruled against the White Mountain Apache Tribe and found that Arizona had "concurrent" jurisdiction over non-Indian hunting and fishing on the Fort Apache Reservation.

The White Mountain Apache Tribe has appealed that action to the United States Court of Appeals for the Ninth Circuit. The opening brief was to be filed in January, 1979. It is anticipated that oral argument will be heard on this appeal some time late in 1979.

Wisconsin Taxation of Fee Lands

NARF was asked to do research into the question of whether a state had authority to tax lands owned by a reservation Indian in fee patent. The fee allotment in question was an original treaty allotment. However, it arguably passed through the General Allotment Act. The proviso of the 1906 amendment to the General Allotment Act states that Indian lands shall be subject to taxation upon

the issuance of a fee patent. Therefore, the General Allotment Act on its face would seem to allow state taxation of Indian lands owned in fee. Because of this facial difficulty, it has been necessary to conduct extensive research into legal theories which circumvent or operate to repeal the direct inference of the General Allotment Act. This research is continuing and it is expected that it will be completed early in 1979.

Zuni War God Statue

In March, 1978, NARF was contacted by representatives of the Zuni Tribe regarding a sacred war god statue which was on display at the Denver Art Museum. The war god statue is a carved wood figurine of approximately two feet in height which is of extreme religious significance to the Zuni Pueblo. Because the Zuni war god is communally owned by the members of the Zuni religion, any removal from its original shrine on the reservation would be unauthorized and illegal. The Denver Art Museum received the war god as a gift from a private party in 1953, so it was conceivable for them to argue that they had legal title to it since the statute of limitations had run against the Zunis.

In April, 1978, NARF scheduled a meeting with officials of the Denver Art Museum at which time the Zuni officials requested the museum to return the war god to them. Museum officials stated that proper procedure for deaccession of an item required the collections committee to pass on the proposal with the final decision resting with the Board of Trustees. Museum officials also stated various practical and legal objections to their return of the war god. Nevertheless, NARF requested meetings with the collections committee and the Board of Trustees. Following the April meeting, NARF conducted legal research on the issues raised by the museum officials. NARF also coordinated with attorneys at Zuni Legal Services who were working on similar war god cases in other jurisdictions. For various reasons, a meeting with the collections committee and the Board of Trustees could not be scheduled until January, 1979. On January 10, 1979, a Zuni delegation made a full presentation to these museum officials. The Zuni delegation consisted of religious and political leaders, two anthropologists, representatives from the Colorado Lieutenant Governor's office, and NARF. At the January 10 meeting the delegates presented moral, humanitarian, and legal reasons as to why the god should be returned. The museum is expected to reach a decision by March, 1979.

TRIBAL RESOURCES

Summaries of Major Cases and Activities

Arizona v. California 373 U.S. 546 (1963)

In this case, NARF is representing the Cocopah Tribe, one of five lower Colorado River Tribes, in trying to determine the water rights of the Tribe to the Colorado River. This case was originally decided by the Supreme Court in 1963. During the intervening years, the five Colorado River Tribes have filed motions to intervene for the purpose of securing additional water rights.

In October 1978, NARF participated in the argument of the case before the U.S. Supreme Court. On January 9, 1979, the Supreme Court issued its opinion which proved favorable to the Cocopahs. The Court approved and ordered the entry of a supplemental decree which included a subordination provision which provided that in times of shortage the five tribes would come first in allocation of water.

The Court deferred other issues, including whether the Tribes would be allowed to intervene in the case, to a Special Master of the Supreme Court. A retired Senior Judge of the Fifth Circuit Court of Appeals will serve as the Special Master. The Master has scheduled a March 29, 1979 pre-trial conference in Phoenix, Arizona. After hearing Tribal witnesses, the Special Master will make recommendations to the U.S. Supreme Court.

Arkansas Riverbed Matter

The Arkansas River Trust Authority (ARTA) is an association of five Oklahoma Tribes--Ponca, Pawnee, Otoe, Kaw, and Tonkawa. ARTA's purpose is to protect the member tribes' water rights and to clear the tribes' titles to the riverbeds which traverse their respective reservations, especially the bed of the Arkansas River. NARF represents the Ponca Tribe and, as of 1978, the Pawnee Tribe, as to their respective claims to ownership of the riverbeds in question. NARF attorneys also play a large role in coordinating the efforts of the five member tribes of ARTA and

their attorneys in preparing their riverbed claims for trial.

During 1978, the five ARTA tribes made significant progress in their efforts to prepare their riverbed claims for litigation. At the beginning of the year, NARF attorneys researched and prepared a comprehensive litigation plan which was adopted by ARTA and the other tribal attorneys involved as the general plan of action of ARTA in preparing for litigation. Based on this plan, NARF attorneys prepared a budget request on behalf of ARTA which was submitted to the BIA for funds to conduct necessary expert studies in 1978. Following negotiation meetings with federal officials in Washington, D.C., partial funding was received by ARTA for expert studies. NARF attorneys played the primary role in finding the appropriate experts to do the necessary studies, and in preparing and negotiating contracts between ARTA and the experts. As a result, several experts are currently conducting studies which will to a major extent form the factual foundation for the litigation of the five tribes' riverbed claims. NARF attorneys are currently monitoring these ongoing studies.

In the latter part of 1978, at ARTA's request, NARF attorneys prepared ARTA's budget proposal for FY 1979. The funds from this budget request will be used to retain experts for the remaining studies needed, and to pay tribal attorneys for expenses incurred and time spent in drafting a comprehensive litigation report. The litigation report will be a comprehensive analysis covering both the legal and factual bases for the tribal claims. The report may also be the basis for ARTA's request to the United States that it represent the five tribes in their claims in federal court. The Area Office has endorsed ARTA's budget proposal. The final step will consist of negotiations with federal officials of the BIA in Washington, D.C. This will be the first order of business in 1979.

Brooks v. Nez Perce County
Civ. No. 2-72-27 (U.S.D.C. Idaho)

This is an action in federal district court to recover Indian allotted land in northern Idaho within the Nez Perce Reservation. NARF is working with North Idaho Legal Services on this case. During 1978 there was discovery and other minor action taken.

Burt Lake Band (or Cheboygan Band) Land Claim

At the request of the Burt Lake Band of Ottawas in Michigan, NARF researched the possibility of recovering approximately 600 acres of land lost by the Band in 1899 by tax foreclosures. In addition, NARF retained a historian to search for documents to support a possible lawsuit. The research done by NARF and the historian, however, revealed strong legal defenses to any legal claim the Band might make to the land. NARF met with the Band and informed them that a lawsuit did not look feasible. The state, however, had once conveyed land to the Band to compensate it for the lost lands. The particular land conveyed by the state was unusable and NARF has agreed to assist the Band in seeking substituted lands from the state legislature. NARF is working on this matter with Michigan Indian Legal Services.

Carson Truckee Water Conservancy District v. Andrus No 76-152-BRT (U.S.D.C. for Nevada)

This suit was brought by the State of Nevada and two water companies seeking to prevent the Secretary of the Interior from utilizing water stored in Stampede Reservoir for the benefit of the Pyramid Lake fishery. The Tribe has intervened as a defendant. During 1978, NARF attorneys filed a brief opposing the plaintiffs' motion for partial summary judgment, prepared, in cooperation with the government, a cross motion for summary judgment, and participated in other related matters including extensive discovery proceedings. As of the end of 1978, no action had been taken on the pending motions for summary judgment and a trial has tentatively been set for April 1979.

Catawba Land Claim

The Catawba Tribe's reservation claim arises out of treaties between the British Crown and the Tribe negotiated in 1760 and 1763. By those treaties, the Tribe ceded a much larger tract of land to the colonies in return for the establishment of a 15-mile square, 144,000-acre reservation situated on what is now the border between the North and South Carolinas. The Catawba Tribe fought on the side of the colonies against the British during the Revolutionary War, but in 1840, the State of South Carolina, without federal participation or consent, negotiated a treaty with the Tribe purporting to extinguish the Tribe's title to their 1763 reservation. In return, the State

promised to secure for the Catawba Tribe a suitable reservation in North Carolina. The state failed to do this however, and instead, in 1842, purchased for the Tribe a 640-acre tract within the original boundaries of the 1763 reservation as a new reservation for the Tribe.

In 1975, NARF, at the request of the Catawba Tribe, undertook an investigation of the Catawba Tribe's claim. After more than a year of historical and legal research, NARF submitted to the Secretary of the Interior on behalf of the Catawba Tribe, a litigation request asking the Secretary of the Interior to request the Department of Justice to initiate legal action on the Tribe's behalf to regain possession of the 1763 reservation. In September 1977 the Interior Department submitted a favorable litigation request to the Justice Department.

During 1977, the Tribe, like the United States, adopted the position that a negotiated settlement was preferable to protracted federal court litigation. To that end, the Tribe undertook a lengthy negotiation process with the South Carolina state officials which culminated in a November 1977 agreement between the Tribe and the state's attorney general. The agreed upon settlement would provide that in return for the extinguishment of the Tribe's claim, legislation would be enacted by Congress which would establish a federal reservation on unoccupied lands, a Tribal development fund and status as a federally recognized Indian Tribe.

In the months that followed however, opposition among Tribal members to the proposed settlement plan emerged, centering around the failure of the Tribe's proposal to allow those members who might so elect to receive their share of the settlement benefits in cash. In July 1978, the Tribe voted to revise its settlement proposal to allow those members who desired to receive their portion of the settlement on an individual basis rather than a Tribal basis to elect to do so. The Tribe is currently in the process of drafting legislation and is negotiating with representatives of the Administration and Congress in an effort to develop settlement legislation which can be enacted during the current session of Congress.

Central Utah Project

During the last six years, NARF has assisted the Ute Tribe of the Uintah and Ouray Reservation in eastern Utah to secure and quantify its water rights and other

reservation rights. During the last two years, NARF has assisted the Tribal attorney in negotiating a comprehensive settlement covering water, hunting and fishing, taxation, and civil and criminal jurisdiction with the State of Utah. The key to the settlement which is now before the Utah Legislature is the significant Winters Doctrine water rights of the Ute Tribe.

The Ute Tribe is a headwater Tribe whose reservation sits just south of the scenic Uinta Mountains in eastern Utah. A number of streams flow from these mountains through the reservation. A significant aspect of the Central Utah Project is to divert water from this basin over the Wasatch Mountains to Salt Lake City for agricultural, municipal and industrial purposes. In 1965, the Ute Tribe agreed to defer the irrigation of some of its lands so that approximately 60,000 acre-feet of water could be diverted to the Wasatch Basin. In recent years, it has become apparent that the Tribe, which was promised certain water shortage and irrigation projects in return for its deferral of water, was not receiving those benefits expeditiously. As a result, the Tribe has taken a more vigorous posture in asserting these water rights and out of this has emerged the effort between the Tribe and the State to bring about a comprehensive water entitlement settlement.

Crow--Section II

During the last four years NARF has been assisting the United States Departments of Interior and Justice in trying to prepare a test case over the restrictions contained in Section II of the Crow Allotment Act of 1920. Those restrictions were specifically inserted for the purpose of preventing non-Indians from amassing large agricultural and ranching operations within the boundaries of the Crow Reservation. Because the provisions have not been enforced for over 50 years, there now reside on the Crow Reservation a small number of large ranching operations, many of whom control and own acreage in excess of 15,000 and 20,000 acres. Legal research and data on the land transactions of the Crow Reservation have been undertaken during 1978. It is hoped that the United States will initiate this action in 1979, although the complexities of the suit and the current unwillingness of the federal departments to press for dispossession of lands for both eastern and western claims makes the filing of this case far from certain.

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.

This matter was fully briefed to the Commission on Exceptions from the initial decision of the presiding Administrative Law Judge during 1977. The Commission arranged an on-site visit which took place in June 1978. As of the end of 1978, the Commission had not yet rendered a decision.

During 1978, the primary work of NARF attorneys on this matter concerned meeting with clients to advise them of what was happening and engaging in settlement discussions with the United States and the other parties in the proceeding. The Bands are also represented by California Indian Legal Services and two private attorneys.

Fort Hall Airport Matter

NARF was asked to assist the Shoshone-Bannock Tribes of Fort Hall, Idaho, in determining the legality of the taking of Tribal lands by the United States Army for the Pocatello Air Base and of the subsequent transfer to the City of Pocatello. These questions were researched and evaluated and an extensive opinion letter was submitted to the Tribal Council during 1978.

Fort Hall Land and Water Matters

NARF is also assisting the Shoshone-Bannock Tribes with a number of matters involving the Tribes' right to certain lands. To date, these matters have included the Tribes' right to land on which the Pocatello Airport is built, and the Tribes' right to certain lots within the exterior

boundaries of the City of Pocatello. In addition, NARF has undertaken a general analysis of the Tribe's water situation.

Fort McDowell - Water Rights - Orme Dam

Commencing on April 18, 1978, and continuing through the remainder of the year, NARF represented the Fort McDowell Indian Community in negotiations with the State of Arizona and the Salt River Project (SRP) in an effort to agree upon an additional allocation of water to the Community above and beyond that awarded to the Tribe in the 1910 Kent Decree. In the course of these negotiations, Assistant Secretary of Interior Forrest Gerard and Interior Solicitor Leo Krulitz, committed the government to bring a water adjudication suit on behalf of the Community on or before April 1, 1980, in the event these negotiations fail. The Interior officials also agreed to seek additional water for the Community by way of congressional legislation should the negotiations reach a stalemate. These negotiations will continue in 1979, with a decision as to whether an acceptable settlement is possible due to be made by mid-year.

Keweenaw Bay Fishing Rights

NARF has been assisting the Keweenaw Bay Band of Lake Superior Chippewa Indians in trying to secure their treaty fishing rights. NARF has retained a historian and an anthropologist to gather documentary and other secondary evidence respecting the Tribe's fishing rights. It is expected that this research will be completed sometime in the summer of 1979, and NARF will evaluate this material with the Tribe to determine the extent to which it secures treaty fishing rights for the Chippewas on Lake Superior in Michigan.

Kimball v. Callahan No. 77-2628 (U.S. Court of Appeals for the Ninth Circuit)

On January 28, 1979, the Court of Appeals for the Ninth Circuit issued its second opinion in this ongoing litigation between the Klamath Indian Tribe and the State of Oregon over surviving hunting, fishing and trapping rights on the former Klamath Indian Reservation. The second decision of the Ninth Circuit upheld the first decision and ruled that the Klamath Termination Act did not affect the sovereign status of the Klamath Indian Tribe. As a result, the Tribe

retains the right to regulate hunting and fishing by its members and its members' descendants on all public lands which were formerly a part of the Klamath Indian Reservation and on all private lands where consent is given by the landowner to hunt, fish and trap. The Court of Appeals remanded the case to the District Court to establish emergency conservation standards under which Oregon may attempt to restrict Indian hunting, fishing and trapping when necessary to protect a specie of game or fish. It is anticipated that the State of Oregon will file an appeal with the United States Supreme Court to have this case reviewed.

Klamath Water Rights - Schonshin v. Sexson
Civ. No. 78-294 (D. Ore., Complaint filed June 12, 1978)

NARF attorneys are assisting attorneys from the Organization of Forgotten Americans (OFA) in representing former Indian allottees of the Klamath Reservation in Oregon who are seeking to preserve their water rights from loss under State administrative proceedings. These water rights have been guaranteed to the Klamath Tribe by federal statute. The State is seeking to determine the water rights by requesting and requiring every claimant to file a claim to the water rights within the Klamath River Basin or within the three counties that comprise the former Klamath Indian Reservation. NARF intends to continue to assist OFA's efforts though it does not anticipate any direct counsel role. The matter is set for pretrial in early 1979.

Knight v. Gardner
No. 78-0003-BRT (U.S.D.C. Nevada)

In this case, NARF is assisting attorneys from Nevada Indian Legal Services in representing several Western Shoshone Indians who are heirs to certain property homesteaded by their ancestors in Ruby Valley, Nevada. The patents to the Indian homesteads were erroneously issued as fee simple patents instead of Indian trust patents. Suit was brought in January, 1978, against the present claimants to the land in order to recover possession of the land and for reformation of the patents. The United States was also made a party as required by statute.

Both sides engaged in discovery procedures which culminated in a pretrial conference in December. At that time, the court set a trial date for January, 1979.

Lac Courte Oreilles Band of Lake Superior Chippewa Indians
Northern States Power Company, Project No. 108:
Before the Federal Energy Regulatory Commission

In 1921, the Federal Power Commission licensed the predecessor of the Northern States Power Company to construct a dam immediately below the confluence of the east and west forks of the Chippewa River. The resultant reservoir flooded portions of Tribal and allotted lands and completely inundated the areas in which the tribe had grown substantial quantities of wild rice. In 1971, the company's 50-year license expired and it sought a new license from the Federal Power Commission. The Lac Courte Oreilles Band, joined by the Secretaries of Interior and Agriculture, intervened in the licensing proceedings and opposed the issuance of a new license to Northern States Power. The Tribe and the Secretaries are instead seeking a recommendation by the Commission to Congress, under the provisions of the Federal Power Act, that the Project be "recaptured" by the United States and turned over to the Secretaries of Interior and Agriculture to be jointly managed for the benefit of the Band and the public. In the alternative, the Band and the Secretaries assert that any new license which might be issued must include protections of the Band's treaty rights to grow and gather wild rice.

In February, 1974, the Administrative Law Judge (ALJ) reopened the record for the purpose of receiving into evidence a comprehensive joint management plan to be prepared by the Band and the Interior and Agriculture Secretaries. The plan was submitted in October, 1975, and the ALJ then ordered the preparation of a supplemental environmental impact statement on the proposed plan to be completed by August, 1976. The hearings on both the plan and the EIS began December 1, 1976, and continued for approximately three weeks. Briefs on the reopened proceedings were submitted in February and April, 1977. In December, 1977, the ALJ issued the Initial Decision against the Secretaries and the Band and recommended the issuance of a new license to the Northern States Power Company. The matter is now before the Full Commission, and briefs on exceptions to the Initial Decision were filed by the Band and the Secretaries in March, 1978. A decision is still pending.

Lower Muskogee Creek

In 1832, the United States signed a treaty with the Creek Nation which extinguished the Tribe's title to any land claimed by the Tribe in Georgia. Many of the Creeks

then emigrated westward, but a community of Creeks remained on a portion of its former Tribal lands known as the McIntosh Reserve. Descendants of that Creek community have remained on that land until today even though record title is claimed by the county and other individuals. The Creeks asked NARF to file a suit on their behalf to establish their interest in the land. Research revealed that the Creeks apparently had no claim to the land under federal Indian law but could claim the land by adverse possession under state law. The Creeks retained a local attorney who we assisted in preparing the lawsuit. The local attorney is now prosecuting the case.

Menominee Water Rights

NARF was asked to assist the Menominee Tribe in a water rights problem involving several non-Indian farmers who are pumping water from the Wolf River which runs through the Menominee Reservation. The Tribe is concerned about the pumping because it lowers the River significantly and has a detrimental effect on the fishery and the recreational use of the river. The farmers have applied for a state water permit, and the matter is now being pursued before the Wisconsin Department of Natural Resources. NARF's role has been as advisor to the Tribe's attorney.

Muckleshoot Indian Tribe v. Trans-Canada Enterprises, Ltd.

Civ. No. C77-909S (U.S.D.C. Western District of Washington)

In December, 1977, NARF attorneys, acting as co-counsel with Evergreen Legal Services attorneys, assisted in the drafting of a complaint against Trans-Canada Enterprises. The Tribe asserts that it, and certain individual allottees, retain title to the original bed of the White River which flows through the Muckleshoot Indian Reservation. The Tribe asserts that the course of the river has been changed over the years by illegal diking and diversion of White River water by the county and federal governments. Because the change in the river's course was brought about by sudden man-made causes rather than natural causes, the Tribe asserts that it and the allottees retain title to the original bed of the river. It is upon its former river bed that the defendant plans to construct a large sub-division, trailer park and shopping center, largely on fee lands which it has acquired within the reservation boundaries.

Trans-Canada has filed its answer to the Tribe's complaint, and both parties are presently engaging in discovery.

Narragansett Land Claims Settlement

On October 2, 1978, President Carter signed into law the "Rhode Island Indian Claims Settlement Act." This negotiated settlement marks the first Indian land claims to be settled on the East Coast. The Tribe's original claim, filed in Federal District Court in Rhode Island in 1975, called for the return of approximately 3,200 acres to tribal ownership, which included 600 acres of surface lakes.

Under the terms of the Settlement Act the Tribe is to receive 1,800 acres, half of it State land and half to be purchased from private landowners who are willing to sell at fair market value. The land will be purchased with a \$3.5 million appropriation from Congress. These lands are to be held by a state-chartered, Indian controlled corporation and subject to a permanent, Federally-imposed restriction against alienation. The lands will be put in Federal trust for the Tribe if the Tribe gains Federal recognition. The Tribe has the option to establish its own hunting and fishing rights on the settlement lands. The land will be pre-zoned but otherwise exempt from local zoning restrictions. Settlement lands will be free of property taxation; however, any profit-making activities would be subject to taxation. State civil and criminal law will generally apply, such as health, building and other codes.

The Narragansett Settlement will undoubtedly have an impact on the other Eastern Indian land claims cases still pending. The existence of the Indian claims not only subjects the parties to lengthy and expensive court battles, but also imposes a cloud over land titles which has disrupted real estate and municipal bond sales in the disputed areas.

Northern Cheyenne Tribe v. Adsit, et al. No. CV-75-20-BLG (U.S.D.C. for the District of Montana, Billings Division)

NARF represents the Northern Cheyenne Tribe of the Northern Cheyenne Reservation in this case which seeks to establish the Tribe's right to sufficient water to fulfill

the purposes for which their reservation was created, including present and future uses. The suit which was filed in 1975 involves the adjudication of rights of numerous defendants to the waters of the Tongue River, Rosebud Creek, and their tributaries. The United States filed suit on behalf of the Tribe shortly after. The two cases have been consolidated.

Various motions to dismiss have been pending since 1976. During that time the Tribe and the United States have been involved in assembling the evidence necessary to prove their case.

Olympic Pipeline Co., et al. v.
Swinomish Tribal Community, et al., and
United States v. Olympic Pipeline Co., et al.
No. CV-550V, filed August 19, 1976
(U.S.D.C. Western District of Washington)

The Swinomish Indian Reservation is located on a peninsula in northwestern Washington near Mount Vernon, Washington. Two oil pipeline companies operate and maintain pipelines which cross Tribally-owned tidelands without benefit of a right-of-way from the tribe and the United States. One pipeline carries crude oil to the oil refinery at Marches Point, and the other carries refined oil from the refinery. If the pipeline companies did not trespass on Indian lands, they would have to run their lines around or under Puget Sound at great expense. One pipeline has been in trespass for approximately 20 years; the other pipeline for approximately 15 years. After more than a year of negotiations, an impasse was reached, and the pipeline companies filed suit in federal district court and obtained a preliminary injunction based on the Indian Civil Rights Act to prevent the Tribe from closing or interfering in any way with the pipelines. After the Tribe's motion to dismiss based on lack of jurisdiction under the Indian Civil Rights Act was denied by the court, the Tribe filed a cross-complaint requesting eviction of the pipelines and damages for the trespasses. The United States also filed suit on behalf of the Tribe against the pipeline companies for trespass to evict the pipeline companies. After the Martinez v. Santa Clara Pueblo decision, the Tribe filed a renewed motion to dismiss the pipelines' complaint.

During 1978, the court granted the Tribe's motion to dismiss the pipeline companies' claim against the Tribe. However, the Tribe is still prosecuting its claim for trespass

against the pipeline companies. The final pretrial order was filed by the attorneys in January, 1978. The Court has yet to announce a pretrial conference and trial date. Negotiations between the parties resumed in 1978.

Oneida Land Claims

Oneida Nation of New York, et al. v.
Oneida and Madison Counties

No. 70-CV-35, (U.S.D.C., Northern District, New York)

Oneida Nation of New York, et al. v.
Oneida and Madison Counties

No. 74-CV-187, (U.S.D.C. Northern District, New York)

Oneida Indian Nation of New York v.
Abraham Williams, et al.

No. 74-CV-167, (U.S.D.C. Northern District, New York)

These are related lawsuits in which the Oneida Nations of New York, Wisconsin, and Ontario, Canada, seek recovery of some 246,000 acres of land in Central New York, which they lost possession of after 1790 in violation of the Indian Non-Intercourse Act.

In 1977, Senior District Judge Edmund Port issued an opinion in favor of the Oneidas in Case No. 70-CV-35, which although a test case, technically involving only a few thousand acres, established precedent for the Oneidas to recover their entire 246,000 post-1790 claim area. During 1978 pre-trial discovery on the question of damages has proceeded, with trial on this issue expected to be set in 1979.

NARF represents the Oneida of Thames Band and the Oneida Nation of Wisconsin in Case Nos. 70-CV-35 and 74-CV-187 and the Oneida Nation of New York in Case No. 74-CV-167.

In 1977 NARF requested the federal government to institute suit to recover the five-and-one-half-million acres which the Oneidas lost in two treaties with the State of New York prior to passage of the Non-Intercourse Act. On August 1, 1978, NARF submitted an extensive Supplemental Memorandum to the Department of the Interior in support of this request. The Solicitor's Office of the Department of the Interior presently has this request under active consideration.

On March 3, 1978, the Oneida Indian Nation of New York and several individual New York Oneidas filed suit against the State of New York and the New York State Thruway Authority to recover lands "owned" by the State within the five-and-one-half-million acres which the Oneidas lost prior to 1790. The Oneida Indian Nation of New York, et al. v. The New York State Thruway Authority, et al., Case No. 78-CV-104, United States District Court, Northern District, New York.

During 1978 NARF continued preparation of a companion suit to the latter case on behalf of the Thames Band and the Oneida Nation of Wisconsin. In the absence of settlement, this suit is expected to be filed in 1979.

Orme Dam

The Carter Administration remains committed to abiding by the decision of the Fort McDowell Community against the construction of Orme Dam, which would inundate some two-thirds of the Fort McDowell Reservation. In Arizona, however, a number of influential politicians remain equally committed to the construction of this dam. Ongoing studies in Arizona with respect to the effects of the construction of Orme Dam and its possible alternatives are continuing. The Community is in the process of retaining an expert consultant to assist it and the Native American Rights Fund in the monitoring of such studies and to advise the Tribe with respect to various options.

Pamunkey Land Claim

NARF represents the Pamunkey Tribe of Virginia in two problems involving the tribe's state reservation. The first involves a right-of-way obtained by a railroad across the Tribe's reservation in 1855 without federal consent or payment to the tribe. NARF has attempted to negotiate a settlement of this matter with the railroad. To date, however, the Tribe and the railroad have not agreed to either a measure of past trespass damages or terms for a future lease. The Tribe has authorized NARF to file suit against the railroad if substantial progress is not made in settlement talks within the next few months.

The second problem with which NARF is assisting the Pamunkeys is the lack of a legal description of the Pamunkey Reservation boundaries. The Commonwealth of

Virginia, as trustee for the Tribe, has agreed to bring a lawsuit on the Tribe's behalf to obtain a judicial declaration of the reservation boundaries. NARF has assisted the attorney general's office in preparing the lawsuit. Unless the matter with the railroad is resolved first, however, the railroad would intervene and further complicate the boundary suit. Therefore, the boundary suit cannot be filed until the railroad dispute is resolved, either by settlement or litigation.

Pyramid Lake Paiute Tribe -
Environmental Protection Agency Matter

In this matter, NARF attorneys represented the Pyramid Lake Tribe in connection with a grant from the Environmental Protection Agency to the City of Reno for expansion of the Reno-Sparks Sewage Treatment Plant. The Tribe was concerned that the expansion of that facility could adversely affect the water quality in Pyramid Lake and the Truckee River. Negotiations are continuing in 1979 and thus far no litigation has resulted.

Pyramid Lake Paiute Tribe of Indians v.
Sierra Pacific Power Co.
Docket No. E-9530 Before the Federal
Energy Regulatory Commission

NARF represents the Pyramid Lake Paiute Tribe of Indians in the case before the Federal Energy Regulatory Commission (FERC). The Tribe complained to the Commission that Sierra Pacific Power Company is illegally operating four hydro-electric power plants on the Truckee River. The basis of the Tribe's complaint is that the Truckee River is a navigable stream within the jurisdiction of the FERC, and that the plants are being operated without a proper license from the Commission. The Tribe further complained that the plants are being operated in a manner which is detrimental to the Truckee River and Pyramid Lake fisheries.

After a hearing in May, 1977, the Administrative Law Judge assigned to the case issued a preliminary decision on November 25, 1977, that the affected reach of the Truckee River was not a navigable stream within the Federal Power Act and that FERC, therefore, possessed no jurisdiction over the plants. The Tribe and the Secretary of the Interior took exception to the ruling and filed a brief appealing

the decision to the full Commission in January, 1978. A decision on the appeal is expected at any time.

Rincon Band of Mission Indians v.

Escondido Mutual Water Company

Civ. Nos. 69-217-S, 72-276-S and 72-271-S
(U.S.D.C. Southern District, California)

This is a suit brought by the United States on behalf of the Rincon and LaJolla Bands of Mission Indians as well as three other Bands to declare certain old water rights contracts invalid or in the alternative to determine the meaning of the contracts. NARF has been working with other attorneys to ascertain if the contracts have been violated and to prevent two water companies from diverting the San Luis Rey River away from the reservations.

During the past year, attorneys engaged in extensive pretrial preparation in this case which is scheduled to go to trial during the summer of 1979. Attorneys have also engaged in settlement discussions.

St. Regis Mohawk Environmental Matter

In February, 1978, the St. Regis Mohawk Band Council asked NARF's assistance in obtaining relief from flouride pollution of its Canadian reserve caused by a Reynolds Aluminum plant in New York. NARF worked with the Band in compiling factual information to prove the flouride damage. In addition, NARF researched legal avenues available to the Band to abate the pollution. In September, NARF advised the Band that it could bring a nuisance action in federal court and seek an injunction against continued pollution. NARF offered to work with an environmental lawyer to prosecute the case. To date, the Band has not notified NARF of its decision on whether to proceed.

Seminole Tribe v. Florida

Civ. No. 78-6116-DIV-NCR

(U.S.D.C. for the Southern District of Florida)

This suit challenges the legality of a 1950 dedication of 16,000 acres of a Seminole State Reservation by Florida for use as a flood control district. The 16,000 acres had been part of the East Big Cypress Reservation first set aside by the state as a reservation for the

Seminole's exclusive and perpetual use in 1936. In this suit, the Tribe claims that the 1950 dedication was void by virtue of non-compliance with the 1790 Indian Non-Intercourse Act and constituted a breach of the state's trust responsibilities toward the Seminole Tribe.

The suit was filed initially by the Seminole Tribal attorney. The Tribe asked NARF to serve as co-counsel and NARF drafted an amended complaint that was filed. Shortly after the amended complaint was filed, the attorney general's office indicated its interest in settling the case. NARF and the Tribal attorney have met twice with the attorneys for the state. On December 10, 1978, the assistant attorney general assigned to the case recommended to the attorney general that the case be settled. NARF has agreed on an appropriate measure of damages for purposes of settlement and expects to meet with the attorneys representing the state in February to work out preliminary settlement terms.

Shinnecock Land Claim

On February 8, 1978, NARF submitted a combined Litigation Request and Federal Recognition Petition to the Department of the Interior on behalf of the Shinnecock Tribe of Long Island, New York. The request asks the government to bring suit to recover some 3,150 acres of land in the Town of Southampton, which the Shinnecocks lost possession of in 1859, in violation of the Indian Nonintercourse Act of 1790. The Tribe is advised that the Solicitor will make a decision with respect to this request on or before February 15, 1979. The Petition for Federal Recognition is currently pending before the Federal Acknowledgement Project of the Bureau of Indian Affairs.

Swinomish Allotments

NARF has continued to look into the effect of unique restrictions on alienation of land assigned under certain treaties with western Washington tribes, including the Swinomish Tribe. A memorandum outlining NARF's research and analysis of the issue was prepared and presented to attorneys representing other western Washington tribes. Continuing discussions have taken place as to the appropriate strategy to be used in litigating the issue.

Swinomish Tribal Community v.
Burlington Northern Railway, Inc.
No. C78-429V (U.S.D.C. for the Western District of Washington)

The Burlington Northern Railway and its predecessors have operated, and continue to operate, a railroad across Tribally-owned tidelands of the Swinomish Indian Reservation without benefit of a lease or right-of-way from the Tribe and the United States. This case is factually similar to Olympic Pipeline v. Swinomish Tribal Community, discussed earlier. After negotiations failed to resolve the matter, and after waiting more than nine months for the Justice Department to act, NARF filed suit in federal district court on behalf of the Swinomish Tribal Community. In an effort to bypass the Tribe, the railroad requested a lease from the Bureau of Indian Affairs for the use of the Tribally-owned tidelands pursuant to an 1890 statute, arguing that Tribal consent was not necessary for rights-of-way granted under that statute. NARF has filed briefs in opposition to the granting of this lease. The application was rejected at the Superintendent level. The railroad has appealed the Superintendent's decision to the Area Director level, and briefs on behalf of the Tribe have been filed. The pretrial order in this case is scheduled to be filed with the court in July.

Tribal Energy and Social Development Offices

NARF has undertaken a special project to develop Tribal Energy and Social Development Offices (TESDOS) on three Indian reservations. Funded by DHEW's Administration for Native Americans and Community Services Administration, the Project's overall objective is to assist the tribes to begin regulating and controlling the development of energy resources on their reservations.

NARF has subcontracted the socio-economic aspects of the project to the Council of Energy Resource Tribes. The three tribes selected to participate in the project are Laguna Pueblo, Jicarilla Apache and the Ute Tribe of the Uintah and Ouray Reservation.

The project has been divided into several tasks and sub-tasks, the most important of which are: (1) A survey of socio-economic and legal impacts of energy development on Indian reservations; (2) Develop and administer training sessions on energy development and related legal and socio-economic issues for the three tribal councils and the energy

offices' staffs; (3) Develop an information system to facilitate the dissemination, retrieval and utilization of relevant information on energy development and its implications; (4) Provide ongoing legal and technical assistance to the energy offices during the one-year project period.

It is anticipated that the energy office personnel will be selected in March, 1979, and training begun in April, 1979. The offices will begin operations shortly thereafter.

United States v. Ben Adair
Civ. No. 75-914 (D. Ore.)

The Klamath Tribe intervened in this action seeking to protect its treaty hunting and fishing rights confirmed to it by federal statute. Judge Solomon of the District Court of Oregon directed the parties to prepare briefs and file supporting affidavits and attach any other evidence that it had to present in support of its claim. The opposing parties would then have the opportunity to examine the witnesses in open court if they wished. A substantial brief has been filed on behalf of the Indian Tribe with supporting testimony demonstrating that the Indians by the decision in Kimball v. Callahan, 493 F.2d 564 (9th Cir., 1974), have never relinquished their hunting and fishing rights and have continued to hunt for subsistence purposes. The brief answers the question of whether hunting and fishing rights are property rights entitled to a federally reserved water right for their support. Further, the United States of America as trustee for the Indian tribe supports the Tribe's claim for a water right including the claim for an immemorial priority date for that right. It is expected that the Court will hold an additional hearing on this matter before the briefs are taken under submission for decision. That is expected sometime in late spring or early summer.

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

Negotiations aimed at settlement of the Maine Indian land claim continued through 1978 with at least two new settlement proposals being offered by members of the State's congressional delegation. The latest proposal was introduced in October, 1978, by former U.S. Senator William D.

Hathaway (D-Maine) which would provide the Penobscot and Passamaquoddy Tribes with \$37 million. Of this sum, \$10 million would be used toward the purchase of 100,000 acres of land now held by 14 large landholders. The actual Tribal claim seeks 12.5 million acres, roughly two-thirds of the State of Maine, and \$25 billion in trespass damages.

In a statement, which was not made public, the large landholders indicated their willingness to sell 200,000 acres of land to be held in trust for the benefit of the Tribes. This proposal was endorsed by President Jimmy Carter; Maine's Governor James Longley; Attorney General Joseph Brennan, who is now Governor; Congressman David Emery; Senator William Cohen; and Senator Edmund Muskie. The leaders of the two Tribes termed the offer a "constructive proposal", but did not actually endorse it.

Since the Hathaway proposal was made public, the Tribes have been involved in negotiations with the large landholders concerning the price, location and method of acquisition of lands which those companies are willing to convey. The Tribes have also been involved in discussions with the Department of Interior concerning various benefits which will be available to the Tribes if the settlement is accomplished. Discussions with the State of Maine concerning jurisdictional matters had not begun as of the end of the year, although a preliminary meeting had been held with Governor elect Brennan.

Last June, the Maine congressional delegation also introduced legislation drafted by Congressman William Cohen, who is now Senator. This legislation provided for the outright extinguishment of the Passamaquoddy and Penobscot claims. In place of the claim, the Cohen legislation provided for an action in the U.S. Court of Claims in which recovery would be limited to the difference between the value of the land when taken and the amount paid, plus simple interest. The Tribes objected vigorously to this course of action and President Carter indicated that he did not support the measure. President Carter had earlier indicated in a public appearance in Bangor, Maine, that he would veto legislation extinguishing the Tribal claims on terms other than those which had been negotiated by the Special Task Force which he had appointed in October, 1977, and the Tribal negotiating committee. Matters remained at a stalemate until October when former Senator Hathaway proposed a totally-Federally funded settlement.

United States v. Michigan
Civil No. M26-73 (U.S.D.C. Western District of Michigan)

1978 was the most critical year in the history of this important fishing rights litigation. The case was originally filed in 1973 by the United States of America on behalf of the Bay Mills Indian Community and later on behalf of the Sault Ste. Marie Tribe of Chippewa Indians against the State of Michigan. The Tribes intervened in their own right and NARF represents the Bay Mills Indian Community and has acted as lead counsel throughout the proceedings. Plaintiffs asked the Court to declare that the intervenor tribes, as descendants to signatories to the 1836 Treaty (7 Stat. 291), had reserved rights to fish in a substantial portion of the Great Lakes. Under the 1836 Treaty, the Indians ceded a large portion of the lower peninsula of Michigan, the eastern half of the upper peninsula of Michigan, together with approximately half of Lake Superior, most of Michigan's waters in Lake Michigan, approximately 20% of Lake Huron and the St. Mary's River system connecting Lakes Huron and Superior. Plaintiffs contended that even though this area was ceded, they retained the right to go onto the ceded waters and fish for commercial and subsistence purposes.

In 1978, after three years of intensive discovery, the case finally came to trial, which began in March and continued for almost four weeks at different times during the year. The last day of testimony was December 18, 1978. The trial transcript is contained in ten volumes and totals somewhat under 3,000 pages. At trial approximately 300 exhibits were introduced by the United States, the Tribes, and the State of Michigan. The trial was characterized by extensive expert testimony of historians, ethnohistorians, archeologists, and anthropologists. In addition, several Tribal witnesses testified regarding oral tradition in their community as it pertained to the meaning of the Treaty of 1836 and the other treaty at issue, the Treaty of 1855.

At the conclusion of trial, all parties submitted post-trial briefs and closing argument was held on February 2, 1979. The District Court's decision is awaited.

United States v. Truckee Carson Irrigation District, et al.
Nos. 78-1115 and 78-1493, Appeal pending in the
United States Court of Appeals for the Ninth Circuit

In December, 1977, the district court entered an order dismissing this action insofar as it sought a water

right to maintain and preserve the Pyramid Lake and the Truckee River fisheries. During 1978 NARF attorneys prepared the record for appeal of the case and the Tribe's opening brief urging reversal of the district court's decision. Additional efforts were spent coordinating the Tribe's position with that of the government, in preliminary negotiations with the government concerning possible settlement of the controversy and coordinating the ongoing Pyramid Lake and Truckee River biological studies.

United States v. Tucson
Papago Tribe of Indians, et al. v. Tucson
No. 75-39 TUC (JAW), (U.S.D.C. Arizona)

These are consolidated actions brought by the United States and the Papago Indian Tribe to determine the Tribe's Winters Doctrine rights to groundwater beneath the San Xavier Papago Indian Reservation. For the last three years, the United States has been preparing a list of defendants to be included in an amended complaint. The defendants include all groundwater users in the Upper Santa Cruz River Basin. Pending the filing of the amended complaint, all of the groundwater users in the area, primarily the City of Tucson, the major mining companies, the Papago Indian Tribe, and the State of Arizona, have undertaken extensive discussions toward reaching a settlement of this water allocation dispute out of court. In this regard the parties have retained the services of the United States Army Corps of Engineers to develop a plan for the utilization of groundwater and imported surface water from the Central Arizona Project. It is anticipated that this Corps of Engineers study will be completed in May, 1979. At that point, serious negotiations will be commenced. If the negotiations are successful, the water needs of the metropolitan Tucson area will be allocated and determined through a settlement process which relies heavily on importing water from the Central Arizona Project. Alternatively, if settlement does not proceed, then it is anticipated that the United States will file an amended complaint and proceed with the litigation.

Ute Water Rights Cases

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.

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.

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.

These cases were brought against the United States in the state courts of Colorado and New Mexico to determine the water rights of the Southern Ute and Ute Mountain Ute Indian Tribes. NARF represents both Tribes in these cases as well as in other water matters, such as their interest in two federal reclamation projects. During 1978 the two cases proceeded only with respect to fact gathering. There was considerable action respecting the reclamation projects, including work on a contract with the Bureau of Reclamation. NARF also handled an off-reservation water case in state court for the Ute Mountain Ute Tribe.

Waccamaw-Siouan Land Claim

In 1975, NARF undertook an investigation of the potential land claim of the Waccamaw Tribe of southeastern North Carolina. Scant historical accounts indicated that the Tribe, perhaps as late as 1900, might have been in possession of and had aboriginal title to a large 500,000 acre swamp known as the Green Swamp. At about that time, several timber companies apparently acquired deeds to the land and began their timber operations, without the participation or consent of the federal government as required by the Indian Trade and Intercourse Acts.

After an investigation of available historical resources, NARF attorneys concluded that there was insufficient

historical documentation to support a legal claim to the land. In 1978, NARF so informed the Tribe and furnished to the Tribe several bound copies of a compilation of the legal and historical documents which had been utilized in NARF's investigation.

Walker River Paiute Tribe of Nevada v.
Southern Pacific Transportation Company
Civ. No. 2707 BRT (U.S.D.C. for the District of Nevada)

In 1972, the Walker River Paiute Tribe, represented by NARF, brought suit against Southern Pacific Transportation Company alleging that the railroad had never acquired a valid right-of-way across the lands of the Walker River reservation. In 1974, the Tribe filed a Motion for Partial Summary Judgment on the issue of whether the railroad was a trespasser. The district court held while the railroad had not acquired a valid right-of-way across reservation lands, it had acquired an implied license which had not been revoked by the Tribe until the filing of the suit. Cross appeals were taken to the Ninth Circuit Court of Appeals and in 1976, the Ninth Circuit ruled that the railroad had never acquired a valid right-of-way, nor did it have a license to operate its railroad across reservation lands, and, that therefore, it is and always had been a trespasser. The case was remanded to the district court for further proceedings. The major issues yet to be resolved are the question of damages and the propriety of ejecting the railroad from reservation lands.

In March 1978, the defendant filed a motion to amend its answers, a motion for summary judgment in favor of Southern Pacific Land Company (a co-defendant with the Transportation Company), a suggestion of lack of jurisdiction for the court to hear the claims of the plaintiff class of allottees, and a motion to join the United States as an indispensable party. The proposed amended answer was directed primarily at condemning a present right-of-way for the railroad across the lands of the allottees. Oral argument on the motions to amend the answer and join the United States as an indispensable party was held in December, 1978, and the motions were denied. Argument on the motion for summary judgment and jurisdiction over the class of allottees has been scheduled for March, 1979.

NARF attorneys will meet in early 1979 with United States Department of Justice attorneys to finalize damages theories in preparation for trial. Settlement negotiations

with the defendants have been resumed in the past six months, and several meetings have been held. If the case is not settled, trial may be scheduled on the damages and ejectment issues in late summer or fall of 1979.

Wampanoag Tribal Council of Gay Head
v. Town of Gay Head, et al.
U.S.D.C., District of Massachusetts
(filed November, 1974)

In this action, the Gay Head Wampanoag Tribe has been trying to secure the return of approximately 240 acres of town-owned land, although the Tribe's potential claim includes the entire town of Gay Head, approximately 3,600 acres.

During the past year time was spent in negotiations in which Dean Albert Saks of the Harvard Law School served as mediator. These negotiations produced an agreement which by the end of the year was all but in final form. Under the agreement the Gay Head Tribe would receive approximately 500 acres in the Town of Gay Head. The settlement agreement is modeled after the Narragansett legislation and provides that the lands will be held in a state chartered, Tribally-controlled corporation.

Western Pequot Tribe of Indians v. Holdridge Enterprises, Inc.
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 Schaghticoke 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.

These two claims moved rather slowly during 1978. While there was some activity by way of discovery in both cases, the parties to these actions were generally looking to the final Narragansett Tribal Settlement before proceeding. With the successful settlement in the Narragansett land claim, it is now expected that the Connecticut claims will be resolved in a similar manner.

White Mountain Apache Tribe--Water Resources

NARF has been assisting the White Mountain Apache Tribe of Arizona in quantifying its water rights. In this regard, NARF has assisted the Tribe in obtaining the expert water engineering services of HKM Associates of Billings, Montana who are preparing a comprehensive water use inventory for the Fort Apache Reservation. Currently, the Tribe has been undertaking preliminary discussions along with other tribes in the Salt River Project area. The Salt River Project represents water users in the metropolitan Phoenix area. The tribes along the Salt River, including the White Mountain Apache Tribe, may have to initiate federal court action if the negotiations fail or if the State of Arizona carries through in its threat to undertake state water adjudication. Overall, this is a very complex matter involving the Salt River, the principal river flowing through the interior of Arizona. The water needs of five tribes and over a million non-Indians are at issue in this matter.

Yankton Sioux Tribe v. Nelson Civ. No. 76-4066 (U.S.D.C. of South Dakota)

This suit has been pending since November, 1976. NARF, as lead attorney for the tribe, filed a motion for summary judgment claiming tribal ownership of Lake Andes, a once navigable lake in the middle of the original Yankton Reservation. In July, 1977, Judge Nichol asked the state, an intervening defendant, to do a motion for summary judgment. The state served its motion and memorandum in July, 1978. NARF has responded to the state's motion and argument on the motion has been scheduled for April 30, 1979.

Zuni Water Rights

NARF responded to the requests of the Zuni Pueblo Tribe to investigate the subterranean water situation on that Reservation. This action is in the fact gathering stage and consequently NARF's efforts have been largely in the research phase thus far.

HUMAN RIGHTS

Summary of Education Cases or Matters

American Indian Higher Education Consortium

The American Indian Higher Education Consortium (AIHEC), headquartered in Denver, Colorado, is a non-profit organization providing various forms of training and technical assistance to its seventeen member institutions. Its member institutions are all tribally-controlled Indian community colleges located on or near Indian reservations.

NARF rendered legal assistance to AIHEC during the past year on matters pertaining to their constitution and by-laws and in regard to some rather complex tax questions. Perhaps most importantly, NARF assisted AIHEC in drafting legislation which eventually came to be known as the Tribally Controlled Community Colleges Assistance Act, H.R. 9158. This Act, passed by the 95th Congress and signed by President Carter, assures continued vitality and a more stable funding base to the Indian community colleges.

Berger v. Califano Civil No. A77-1060 (D. N.D. 1977).

The subject of this lawsuit originated in Cannonball and Solen, North Dakota and involves one of the few cases of deliberate discrimination by a school district.

On September 20, 1977, a group of non-Indian parents sued the Solen School District and Office of Civil Rights officials claiming that a proposed 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.

During 1978, NARF continued to respond to requests by the Indian parents to ensure that the educational plan is not disrupted by the efforts of the new school board or by dissatisfied non-Indian parents.

Board of Regents v. Bakke
No. 76-811 (Supreme Court of the United States)

The United States Supreme Court issued its celebrated Bakke decision in 1978 holding that race could be a factor in the school admissions process at the University of California at Davis and that the admissions process at the school was unconstitutional since it established a "racial quota" which was not justified by appropriate findings of the past discrimination at the school. In light of the Court's decision, NARF deemed it necessary to fully interpret and understand the implications of the Bakke case as it applied to Indian issues. Accordingly, NARF was represented at a national symposium called, "Amici at Wing Spread." The full implications of the Bakke decision were discussed at this symposium. NARF attorneys have since analyzed and adopted the legal principles enunciated in Bakke to employment preference legislation which specifically applied to Indian people.

Coalition of Indian Controlled School Boards

The Coalition of Indian Controlled School Boards, Inc., is a national association of Indian school board representatives and individuals working in tribally-controlled education programs. The Coalition provides technical assistance and on-site training for its member organizations. NARF attorneys are often asked to serve as trainers for the annual December membership meetings and to provide legal advice on various issues.

During the early part of 1978 the Coalition staff was experiencing difficulty in locating suitable office space. At the staff's request, NARF evaluated the proposed lease and pointed out those provisions which may have been detrimental. NARF then met with staff members and attorneys for the realty company which drew up the lease and negotiated a mutually acceptable agreement under which the Coalition office is presently operating.

Cornelius v. United States
Civil No. 78-4002 (D. S.D. 1978)

In January, 1978, NARF was contacted by the representative of an Indian student who allegedly had been wrongfully expelled from an Indian boarding school in violation of the student's due process rights. The school maintained that it would not reinstate the student pending an administrative

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appeal through the Bureau of Indian Affairs. Since those
) appeals could take months and since the student had already
been out of school for one semester, NARF immediately began
work on the legal proceedings necessary to reinstate the
student. In Federal court in South Dakota, NARF attorneys
) argued to Judge Nichols that the student was denied due
process of law and that he was entitled to a preliminary
injunction reinstating him in school. Judge Nichols agreed
and the student was back in school several days later.
Later that month, the United States agreed to drop all
administrative appeals in light of Judge Nichols' findings.

) The Cornelius case was the first known case which
interpreted the Indian student rights regulations under 25
CFR Pt. 35. These regulations were approved in 1974; how-
ever, they have been seldom used to insure student rights
despite many purported violations by BIA school administra-
) tors. After the opinion was rendered in the Cornelius case,
the Office of the Associate Solicitor for Indian Affairs
) agreed to contact Indian boarding school administrators and
inform them that they must abide by these regulations.

)
Denetclarence v. Board of Education
Civil No. 8872 (D. N.M. filed February 15, 1974)

) In this case NARF attorneys obtained the first
court ordered settlement with a public school district which
recognized the right of Indian students to a bilingual and
bicultural education program. In addition, the school
) district involved, located in a central area of New Mexico,
was also forced to halt the misuse of federal funds and
adopt corrective measures.

) During 1978 NARF met with Navajo Legal Service
(DNA) attorneys in order to review the terms of the Denet-
clarence decision and assure that the terms of the decision
) were being carried out. DNA and NARF will continue to
monitor school district activities.

Fontana School District

) NARF was asked to provide assistance in a dispute
involving the election of Johnson O'Malley (JOM) Committee
members to the parent committee in the Fontana School Dis-
trict, located near Riverside, California.

) Some of the parents alleged that the Fontana
School Board was controlling the election process for JOM

Committee members. NARF worked with attorneys from the Inland County Legal Services Program in negotiating an agreement for the election of JOM Committee members. The agreement stipulated that the election be in compliance with JOM program regulations.

Handicapped Students' Rights

As a direct result of the Section 504 of the Handicapped Act and the Education for all Handicapped Children's Act, Congress has indicated that the Bureau of Indian Affairs (BIA) cannot deny Indian students access to its schools on the basis of being handicapped. Most importantly, the BIA must provide special services to these students. During the past year NARF attorneys worked with Indian education associations and parents to assure that the BIA was in compliance with these provisions for the handicapped.

Jenkins Medical School Dismissal

NARF was asked to assist a second-year medical student at the University of California at Irvine when he was dismissed for academic reasons. The student asked NARF for assistance because he believed the University had failed to follow correct procedures in his dismissal and because he felt that the University had been discriminatory in dismissing him. NARF contacted the University's counsel calling attention to the procedural and discriminatory problems with the dismissal. Unfortunately, a recent Supreme Court case held that procedural due process requirements are extremely minimal in academic dismissal cases. In addition, NARF's investigation into the case indicated there may be difficulty in proving evidence of discrimination. NARF is continuing to work with the University in trying to reach a compromise in the matter.

The student has also filed a complaint with the Office of Civil Rights in the Department of Health, Education and Welfare. DHEW has investigated the complaint and a decision from them is anticipated. If the investigation uncovers new information with regard to the discrimination issue, NARF may review the case once again.

Johnson-O'Malley Act (JOM) Regulations

In 1974, in the case entitled Natonabah v. Board of Education, 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. JOM funds are allocated to public schools by the Bureau of Indian Affairs (BIA). As a result of the decision in Natonabah, NARF attorneys were instrumental in organizing a national Indian position on provisions for new JOM regulations. These regulations were promulgated on September 12, 1974, and incorporated in 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 JOM program.

During 1978, NARF attorneys were again asked to review JOM Program regulations in light of the introduction of Senate Bill 991 which called for creation of a separate Department of Education. Many Indian tribes were concerned that if all education programs were transferred from the Department of Interior's BIA, the Federal government would not be meeting its trust responsibility to Indian people in providing for the special educational needs of Indian children. The National Congress of American Indians' Education Concerns Committee and several other Indian groups were successful in keeping Indian programs in the Interior Department for the time being. Indian leaders anticipate that there will be a renewed effort in the 96th Congress aimed at transferring all Indian education programs to a new Department of Education.

Los Angeles School District Busing Matter

In June, 1978 NARF was contacted by parents of Indian children who attend school in the Los Angeles School District. The school district was under a court order to desegregate its schools and the the Indian parents were fearful that this order would have an adverse impact on special educational programs for their children. From previous desegregation efforts in Denver and Milwaukee, NARF attorneys knew that desegregation often caused a dispersal of Indian students throughout all of the schools in the school system. This scattering of Indian students was inimical to special education programs for Indians since they require a concentration of students to take advantage of special programs.

In late June, NARF met with L.A. School District Administrators in an effort to discuss special problems of Indian students in the district. School officials expressed

sensitivity to the Indian position and also indicated they felt the problem may be resolved prior to the first day of school in September. The problem was not resolved prior to the beginning of school primarily due to uncertainties regarding implementation of the desegregation plan. Consequently, nothing was done to protect the special Indian education programs prior to the beginning of school.

During the fall of 1978, school officials have attempted to remedy the disruption to special education programs caused by their oversight, but they have met with limited success. NARF continues to monitor the situation and has suggested that the school district officials implement a long term plan for implementing special Indian educational programs. NARF is also working with them in discussing alternative techniques for dealing with these problems which may be implemented during the next school year.

National Indian Education Association

The National Indian Education Association is the largest Indian education group in the country and is dedicated to the advancement of the educational goals of Indian people. This organization was established to combat the effects of low educational levels and high drop-out rates which have consistently hampered Indian people.

During 1978, NARF attorneys have rendered assistance regarding constitution and by-law refinement and interpretation. In addition, NARF participated in the 1978 NIEA membership convention which was held in New York.

Native American Bilingual Education Conference

In May, 1978, NARF attorneys were asked to assist in preparation and training for this Native American Bilingual Education Conference, held in Denver, Colorado. This conference drew participants from across Canada and the United States who were interested in sharing information about bilingual, bicultural education programs.

An estimated 1,200 people participated in this four day meeting. NARF assisted in contracting funds for the conference and in conducting workshops for conference participants. The Ford documentary, "Indian Rights, Indian Law," was also viewed by participants. The 1979 conference will be held in Canada.

Natonabah v. Board of Education
355 F.Supp. 716 (D. N.M. 1973)

This case was literally the first major Indian education case of any kind. The case had had immense significance both nationally and in the district which was specifically involved. Judge Bratton of the U.S. District Court of New Mexico ruled in his decision that there was widespread discrimination against the Navajo and Zuni students who attended the 26 schools in the Gallup-McKinley County School District in Western New Mexico. The Court entered a far-reaching injunction which directed the district to develop a building program to alleviate the seriously overcrowded conditions in the schools attended by Indian students. Judge Bratton ordered the district to reallocate its equipment inventory and to reform its expenditure practices so that the Indian students in the district would receive their fair share of the district's resources.

In August, 1978, an independent audit was conducted of the school district to determine whether the school district was in compliance with the 1973 decision in Natonabah. NARF was asked to monitor audit developments and it was determined that the district was in compliance with the 1973 decision.

Non-Profit Tax Conference

The majority of NARF's Indian education clients are organized as non-profit corporations. In order to better serve client needs and to become more familiar with such structures, NARF participated in a two-day non-profit corporation tax conference. The conference was beneficial for studying specific 1976 Tax Reform Act provisions applicable to organizations such as NARF.

Pary v. Institute for Southern Plains

In this action the Institute for the Southern Plains, located in Anadarko, Oklahoma, was sued on a civil rights violation by a former employee. NARF was asked to research various legal issues by the Institute's local attorney.

Phoenix Area Inter-Tribal School Board and Intermountain Inter-Tribal School Board

The Bureau of Indian Affairs operates a number of boarding schools for Indian students throughout the United States. These boarding schools are administered by BIA officials; however, they have also recruited advisory school boards from among Indian educators and Indian parents in the region of the inter-tribal school. During the past year, NARF was asked to assist these school boards in reviewing their articles of incorporation and by-laws in an effort to determine exactly what powers these school boards did possess.

Both the Phoenix Area Inter-Tribal School Board and the Intermountain Area Inter-Tribal School Board, which meets in Brigham City, Utah, were interested in contracting the operation of the schools under the terms of the Indian Self-Determination and Education Assistance Act of 1975. A NARF attorney interpreted the powers of the board for the members and at last report the members were still contemplating a move toward contracting.

Rocky Boy School District

During the past year NARF continued to work with the Rocky Boy School District in Montana in efforts aimed at allowing the School District to open a high school. This effort continued to involve negotiations 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 school could be built. NARF will continue to monitor developments with the school district and provide legal advice when needed.

Ronan, Montana, Education Matter

NARF's assistance was requested by the Johnson-O'Malley (JOM) Parent Committee in Ronan, Montana, because the Committee had experienced difficulty in working with the school district. Several years ago, the Ronan School Board made the decision not to apply for Title IV Indian education funds or to allow the JOM program to operate within the schools. At that time, extensive negotiations were conducted by the Community Relations Service of the Department of Justice with the school board and the parent committee. The negotiations resulted in an agreement between the school board and the parent committee which

required close cooperation between the two, although the JOM Program was to be operated outside the school system.

NARF attorneys plan to meet with the school board soon in order to discuss the status of the agreement and to attempt to gain more cooperation for the continued operation of the JOM Program. NARF has also received a resolution in support of the parent committee efforts from the Confederated Salish and Kootenai Tribes, located near Ronan. Non-Indian parents have been contacted for support and this effort has been quite successful. Finally, NARF has requested the Community Relations Service to participate in the pending school board meeting and they have consented to attend.

Sac & Fox Tribal Education Matter

The Sac & Fox Indian Settlement is located in central Iowa. The Tribe originally contacted NARF for assistance because the local school board had issued a statement saying that the Indian children would not be allowed to attend the school system. The school district based that decision on a BIA opinion holding that the Tama School District was not entitled to government aid due to the fact that the Sac & Fox settlement was not located within that school district, or within any other school district. NARF attorneys assisted Tribal officials in resolving the matter without resorting to the courts.

Subsequently, the Sac & Fox contacted NARF regarding another matter. The Tribe was appropriated \$210,000 in 1975 for the purpose of doing a feasibility study and plan for a new school facility at the settlement. This appropriation was the result of a mandate by the federal court in Iowa which stated that it was the BIA's responsibility to educate Indian children and the Tribe should be allowed to keep its school. BIA inspections conducted at the time indicated that the proposed kindergarten through eighth-grade school rated the highest priority. However, despite repeated efforts on the part of the Sac & Fox Tribe, the Minneapolis BIA area office and the Iowa congressional delegation, the BIA has failed to release the funds.

The Sac & Fox Tribe was understandably concerned that their educational funding may have been re-programmed for other purposes by the BIA. Thus far NARF's efforts aimed at releasing the funds have been unsuccessful. If future efforts by NARF on behalf of the Sac & Fox Tribe continue to be fruitless, the issue may have to be resolved through litigation.

Santee School District (Goetz v. Lundak)
260 N.W.2d 589, Sup. Ct. Neb. 1977

A 1976 taxpayers' suit threatened to close down the Santee School District in northeastern Nebraska. The District is on the Santee Sioux Reservation and is Indian-controlled. NARF attorneys successfully defended the District in the Nebraska Supreme Court in 1977.

The same taxpayers attempted to get the Nebraska Legislature to abolish the District at both its 1977 and 1978 sessions, and NARF attorneys assisted the District in opposing those attempts successfully. NARF has also continued to advise the District on miscellaneous matters.

Satellite Community College

The Satellite Community College is a two-year institution located in Nebraska, chartered and run by the Winnebago, the Omaha and the Santee Sioux Tribes. Classes are offered by the College on several locations within each of the three reservations.

Because of this unique configuration, the directors of the College requested NARF's assistance in re-designing its Charter so as to comply with the requirements of the recently enacted Tribally-Controlled Community College Assistance Act. NARF has responded by providing the requested assistance.

Senate Bill 991

As a part of President Carter's reorganization plan, this bill was introduced in the Senate to establish a separate, cabinet-level Department of Education. Among other concerns, the educational functions of the Bureau of Indian Affairs were originally scheduled to be part of such a transfer. In an effort to better understand more detailed intricacies of such an action, several of the country's national Indian organizations requested NARF's assistance in analyzing the bill.

NARF responded to a request from the American Indian Higher Education Consortium, the National Indian Education Association and various tribal groups.

Because the clients felt that the Bill failed to adequately address problems relating to tribal sovereignty

and the federal government's trust responsibility to Indian people, NARF assisted the clients in drafting appropriate legislative testimony.

After intensive lobbying efforts on the part of the National Congress of American Indians' Education Concerns Committee and other individuals, the "Indian" portion of the bill was deleted. It is anticipated that this issue will surface again in the 96th Congress.

Sinajini v. Board of Education
Civil No. C-74-346 (D. Utah, filed Oct. 31, 1975)

Several years ago NARF represented Navajo people in southeastern Utah in a dispute with the San Juan County Board of Education. The most important issue was the lack of any high school in the southern part of this huge district, the part where most of the Indian children live. Some children were spending six hours a day on the school bus. A consent decree was achieved by which the District agreed to build two new high schools to serve the Indian children, to institute bilingual education, and to equalize expenditures.

NARF's continuing work on the case involves monitoring compliance with the decree. One of the promised new high schools has been built and is operating. The other has experienced some delays, but is progressing. A bilingual program has begun although it could use some improvement. Expenditures are in compliance.

Sinte Gleska College

The Sinte Gleska Community College is a tribally-chartered college operating on the Rosebud Reservation in South Dakota. At the request of the Sinte Gleska Board of Directors, NARF attended a board session in early February, 1978. The meeting agenda included discussion on interpretations of the College by-laws and charter as they relate to corporate and administrative authority. In return for such assistance, NARF was one of the honored guests at the school's graduation ceremonies the next day. NARF has continued to provide legal advice and assistance to the college when requested by the College President Mr. Lionel Bordeaux.

Sisseton-Wahpeton Sioux Community College

The Sisseton-Wahpeton Sioux Community College is a two-year Indian-controlled college located on the Lake

Traverse Indian Reservation in South Dakota. The school is relatively new and therefore requested legal assistance from NARF with regard to its operations. NARF has responded by assisting the college in drafting up a Charter of Incorporation and a set of appropriate by-laws under which the college will function. NARF plans to continue to assist the Community College so that it may become a viable educational institution by providing guidance to insure that the College conforms to the requirements of the recently passed Tribally-Controlled Community College Assistance Act.

South Dakota Indian Education Association (SDIEA)

NARF has assisted SDIEA in a number of matters during the past couple of years. In October, 1977, NARF provided assistance to the Executive Committee of SDIEA in drafting resolutions for submission to the organization's general membership during a statewide convention. At that time, NARF advised and consulted with SDIEA officers and members concerning problems with state certification of teachers and accreditation of the St. Francis Indian School on the Rosebud Sioux Reservation. As a result, the resolutions were passed, teachers were temporarily certified and these events helped increase the school's chances of securing accreditation.

In addition, in March, 1978, SDIEA contacted NARF for the purpose of securing a speaker at a membership meeting in order to discuss the topic of "Student Rights in Indian Schools." Since NARF had been successful in vindicating an Indian student's rights in the case known as Cornelius v. United States, NARF agreed to discuss the topic at the general membership meeting.

White House Pre-Conference on Indian Libraries

NARF was asked to work with the White House pre-conference on Indian Library and Information Services located on or near reservations. This pre-conference, held October 19-22, 1978 in Denver, was a part of the White House Conference on Library and Information Services, authorized by Public Law 93-568.

A NARF Staff Attorney was designated to serve as the official parliamentarian at the pre-conference. The Staff Attorney was asked to advise the Chairman and Planning Committee on questions of procedure arising during the course of the pre-conference and to assist in monitoring the

election of delegates and alternates to the National White House Conference on Library and Information Services. The meeting is scheduled to be held October 28 to November 21, 1979.

Four delegates and several alternates were elected to represent the needs of Indian people living on or near reservations at the national White House Conference. Delegates elected were: Dr. Joseph "Bud" Sahmaunt (Kiowa), Professor, Oklahoma City University; Chief Calvin Isaac (Choctaw), Chairman, Mississippi Choctaw Tribe, Philadelphia, Mississippi; Mr. Forrest Cuch (Ute), U and O Tribal Business Council, Fort Duchesne, Utah; Dr. Cheryl Metoyer-Duran (Cherokee), Professor, University of California at Los Angeles. Alternates include: Sister Kateri Cooper (Papago), Papago Education Office, Sells, Arizona; Mrs. Lucy Covington (Colville), Councilwoman, Colville Tribal Council, Nespelem, Washington; Mr. Joseph Hardy (Navajo), Director, Navajo Small Business Development Corporation, Inc., Fort Defiance, Arizona; Ms. Mary Alice Tsosie (Navajo), Library, University of Wisconsin-Stevens Point; Professor Lotsee Smith (Comanche), Texas Women's University, Denton Texas.

Wilbur v. Board of Education
United States District Court
Western District of Wisconsin

This case was originally filed in 1973 against the Shawano, Wisconsin School Board for deprivation of Indian students' civil rights. In April, 1977, the school district agreed to pay \$8,500 in damages to the eight named plaintiffs in this suit. During the past year NARF devoted time toward locating the plaintiffs and paying damages in this suit.

Prison-Related Cases or Matters

Bear Ribs, et al. v. Taylor, et al.
Civ. No. 77-3985 RJK(G)
(C. D. Calif., filed October 25, 1977)

This is a class action lawsuit brought by Indian inmates at Lompoc Federal Correctional Institution in California. The inmates are trying to secure access to a sweat lodge for use in religious worship. The inmates claim that the defendants' refusal to provide access to a sweat lodge

violates their rights to religious freedom. In 1978, NARF successfully resisted the defendants' motion for summary judgment. Discovery has been completed in preparation for the trial and the parties are presently awaiting a trial date to be set by the court.

Inmates of the Nebraska Penal and Correctional
Complex v. John B. Greenholtz
567 F.2d 1368 (8th Cir. 1977)

This is another class action case brought by American Indian and Mexican-American prisoners against the Nebraska Parole Board charging racial discrimination in the granting of paroles. The Eighth Circuit Court of Appeals upheld the District Court's ruling in this case saying that the inmates failed to prove a prima facie case of racial discrimination.

During the past year NARF filed a petition for review with the United States Supreme Court. However, in the fall of 1978, the Supreme Court denied the review petition.

Left Hand Bull v. Carlson
Civ. No. 3-77-404, (U.S.D.C., Minnesota)

This lawsuit was originally filed by inmate Merle Left Hand Bull, as a class action suit against the Warden at the Sandstone (Minnesota) Federal Correctional Institution and Mr. Carlson, Director of the Federal Bureau of Prisons. The suit alleged that the inmates were being denied reasonable access to their religion by prison officials.

Left Hand Bull and other Indian inmates requested NARF's legal assistance. Thereafter NARF entered the case for the purpose of assisting these inmates in their religious requests and to protect NARF's interest in related lawsuits which are still pending. NARF's efforts in this action thus far have been limited to attempting to negotiate a settlement on as many of the issues as possible. NARF is working in a support capacity on this lawsuit with the Legal Aid to Minnesota Prisoner Program and Leech Lake Legal Services.

Little Raven v. Crisp
Civ. No. 77-165-C (E.D. Okla.)

This suit was originally filed by Alan Little Raven against the Oklahoma State Department of Corrections. At the request of other Oklahoma Indian inmates and local

attorneys, NARF noticed its appearance in the case in order to protect the legal rights of all Indian inmates at the Oklahoma State Penitentiary. The lawsuit alleged deprivation of the inmates' First Amendment Rights by the State's failure to provide them with access to a spiritual medicine man and by its failure to allow Indians' right to possess religious articles.

During the course of prosecuting this lawsuit, NARF attorneys worked closely with U.S. Justice Department and ACLU attorneys who were working on a somewhat related case against the Oklahoma Department of Corrections. As a result, NARF was able to obtain a consent decree which effectively disposed of the case by granting to the inmates everything which they had filed suit for. Thus, NARF's victory in the Little Raven lawsuit resulted in a new Oklahoma Department of Corrections policy which allows the Indian inmates at all state corrections facilities reasonable access to their native religions.

White Eagle, et al., v. Storie, et al.
Civ. No. 77-L-245 (D. Neb., filed December 1, 1977)

This is a class action suit brought by Indian prisoners against the Thurston County Jail in Nebraska. The litigation challenges the constitutionality of the jail's physical conditions, medical practices, staffing policies, visitation rights, law library facilities and unlawful confinement.

During 1978, NARF attorneys were able to obtain several preliminary orders, including injunctive relief against unlawful confinement. Discovery was also completed in the matter. The plaintiffs are now ready for trial and the parties are presently exploring settlement possibilities.

NARF attorneys continue to work with staff attorneys from Inter-Tribal Legal Services of Winnebago, Nebraska and Omaha Legal Service attorneys.

ACCOUNTABILITY

Summary of Major Cases and Activities

Chase v. McMasters
573 F.2d 1011 (8th Cir. 1978)
cert. denied, 58 L.Ed.2d 423

This suit involves an action filed on behalf of a member of the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota. The plaintiff Tribal member Mrs. Chase successfully petitioned the Secretary of the Interior to take land into trust so that she would be immune from state taxation. Mrs. Chase had bought the land from the city of New Town and she also applied for water and sewer service from the city. However, after the council learned she had put the land into trust status it denied Mrs. Chase's request for service and refused to hook up the utilities to her property.

Subsequently North Dakota Legal Services sued the city council members both individually and in their official status alleging that the denial of service infringed on the plaintiff's civil rights. Federal District Court Judge Van Sickle denied plaintiff's motion for a preliminary injunction. He then denied the plaintiff's request for a final injunction finding neither violation by the council of any of the plaintiff's civil rights nor any discriminatory action by the council in its denial of services.

On appeal to the Eighth Circuit Court of Appeals Mrs. Chase argued the Judge committed substantial errors of law in that he erred in finding there was no discrimination and no violation of her civil rights by virtue of the council's action. The Eighth Circuit found that the defendants had violated Mrs. Chase's civil rights in denying her municipal services, since the plaintiff was a beneficiary of a special Federal statute, 25 U.S.C. § 465, which conferred a right on her that had been violated by the defendants. Consequently, these facts warranted a cause of action under 43 U.S. § 1903. However, the Court of Appeals agreed with the District Court on the issue of racial discrimination saying that the motive of the City Council in denying Mrs. Chase services was to save money, not to discriminate against Indians.

New Town City Councilmen filed a petition for review before the U. S. Supreme Court. NARF attorneys filed with the Supreme Court a statement in opposition to the petition for review. Recently, the U. S. Supreme Court denied the City Council's request and let stand the decision of the Eighth Circuit Court of Appeals.

Fort Belknap Builders

In conjunction with the Tribal attorney for the Fort Belknap Indian Community of Montana, NARF continues to assist the Tribe in negotiating a settlement with a local bank involving a loan from the bank to the Tribe. The Tribe was sued by the bank after a Tribal business for which the money was borrowed experienced financial difficulties and ceased operation. Negotiations with the Bureau of Indian Affairs are also under way concerning the Bureau's failure to give proper advice to the Tribe in the business venture.

Logan v. Andrus
Civ. No. 77-C-363-C (U.S.D.C.,
Northern District of Oklahoma)

In this litigation, NARF attorneys represent a group of Osage Indians seeking to clarify the nature and extent of the governmental powers of the Osage Tribal Council. The Tribal Council was created in 1906 when Congress allotted the Osage Reservation. Under that Act, the surface estate was parceled out to members of the Osage Tribe and the subsurface estate was reserved in the Tribe, to be managed by the Osage Tribal Council. For a number of years, the Tribal Council expanded its powers into many areas unrelated to the reserved mineral estate. NARF's clients believed these areas of expanded power and authority were unlawful because the Council was acting beyond the scope of authority granted to it by Congress. The case, originally filed in Washington, D.C., was transferred to the District Court in Tulsa, Oklahoma. Plaintiffs filed a motion for summary judgment, which was briefed in part in 1978 and argued in the summer of that year.

In October, 1978, Judge Cook issued a decision ruling in part in the plaintiffs' favor and in part against plaintiffs. The Court ruled that the Osage Tribal Council was a general governing body which owed its existence, not to the 1906 Allotment Act, as plaintiffs urged, but instead to the 1881 Osage Tribal Constitution. He also ruled that to the extent that the Tribal Council had expended mineral

estate monies on matters unrelated to the mineral estate, the Council had acted beyond the scope of its authority. In 1979, NARF's clients will be required to determine whether to appeal the decision or to concentrate their efforts on revitalizing the 1881 Osage Tribal government.

Lummi Tribe of Washington
Revenue Sharing Matter

The State and Local Fiscal Assistance Act (Revenue Sharing) provides that Indian tribes, as units of government, shall share in the monies allocated to each county according to the ratio which the population of that tribe within the county bears to the total population of the county. The Office of Revenue Sharing, however, determines the entitlement of an Indian tribe based upon the number of Indians residing within the reservation boundaries plus those who reside on adjacent trust land. For the Lummi Tribe of Washington, this results in a revenue sharing population which is less than half of the Tribe's population within Whatcom County.

During 1978, NARF, at the request of Evergreen Legal Services, attempted to negotiate a settlement with the Office of Revenue Sharing. In August, 1978 the Office of Revenue Sharing denied the Tribe's request for a revised definition of Indian population. The Tribe has since authorized Evergreen Legal Services and NARF to initiate federal court litigation and a complaint is currently being drafted.

Minnesota v. Zay Zah
Civ. No. 77-1307, United States Supreme Court

In this case, an Indian allottee had prevailed through the Minnesota State Court System on the taxability of mixed-blood allotments on the White Earth Reservation. The state courts ruled that the so-called "Clapp Amendment" to the General Allotment Act did not deprive the allottee of his 25-year tax exemption and, consequently, the tax foreclosure on his allotment was void within the 25-year period. The attorneys for the state asked the United States Supreme Court to review the case. Legal service attorneys who had handled the case in the state courts requested NARF's assistance on the brief which was filed in opposition to Supreme Court review. NARF worked as co-counsel with legal service attorneys on the brief and the Supreme Court declined to review the case.

Montana Contractors Association v.
Secretary of Commerce
(Federal District Court, Montana)

NARF was contacted in early November, 1978, with respect to a case pending in Federal Court in Montana. This action involved the constitutionality of the ten percent set aside for minority contractors to receive public works contracts under the Federal Public Works Employment Act of 1977. In the Montana context, practically all of the minority contractors are Indian. Therefore, NARF concluded that it would be worthwhile to file a friend of the court brief to support the constitutionality of the Act as it applied to the Indians. The federal Judge gave the parties in the suit ten days to brief this issue at the conclusion of trial. NARF attorneys researched and prepared the brief within the assigned time and filed it with the court. The Court later decided that the ten percent set aside provision was an unconstitutional racial quota.

Since NARF was not a party to the suit, it could not appeal on its own. However, NARF has engaged the Federal government to appeal the Federal District Court's decision directly to the U. S. Supreme Court. The United States, however, is inclined not to appeal for reasons of possible mootness and because the appeal of a similar case is already pending before the U. S. Supreme Court. Since the appeal in the California case does not involve any Indian issues, NARF is encouraging the Federal Government to appeal both the Montana and California cases together.

Standing Rock Sioux Tribe v. Andrus
Civ. No. 78-0963, (U.S.D.C., District of Columbia,
Stipulation of Settlement filed June 12, 1978)

NARF attorneys worked in cooperation with Zuni Legal Services and the Standing Rock Sioux Tribal attorney in filing a class action suit against the Secretary of Interior. The suit was brought to enjoin him from reducing BIA welfare payments by 20 to 30 percent for the remainder of the fiscal year.

The suit was filed on May 26th and on May 31, 1978, following a hearing, Judge Charles R. Richey issued a temporary restraining order against Secretary Andrus. On June 9, 1978, the Secretary withdrew his opposition to the Tribes' request and agreed to continue BIA welfare payments at the 100 percent level until further notice. In addition, NARF attorneys assisted various tribes and the

Interior Department in securing passage of a supplemental appropriation bill by Congress for continued financing of the BIA's Social Services program.

Thurston County v. Andrus
On Petition for Writ of Certiorari
United States Supreme Court

This case involves the interpretation of a federal statute, the Brown-Stephens Act of December 30, 1916, which bears on the tax liabilities of Omaha and Winnebago allottees. The case was filed by the County of Thurston against the Secretary of the Interior and various officials of the Bureau of Indian Affairs to collect the taxes. The Omaha and Winnebago Tribes of Indians intervened as defendants.

The District Court upheld the vested allotment tax immunities and construed the Brown-Stephens Act as requiring the consent of the allottees before the County could tax the land. The case was appealed to the Eighth Circuit by Thurston County, and NARF was primarily responsible for representing the Tribes in the appeal. The Eighth Circuit affirmed the lower court's decision in an opinion issued in November, 1978. Thurston County has recently petitioned for review of the decision by the Supreme Court.

INDIAN LAW DEVELOPMENT

Summary of Major Activities

American Indian Cattlemen's Credit Consortium

During 1978 NARF continued to meet with officers and directors of the Cattlemen's Credit Consortium for the purpose of finding agreement on the particulars to be included in the Consortium's Articles of Incorporation. During this period, research was also conducted on alternatives for attaining tax exempt status under federal and state laws. These alternatives were presented to the Consortium and it is anticipated they will pursue one of those alternatives during 1979. NARF also assisted the Consortium in trying to secure legal counsel for them once NARF had completed its job of incorporating and securing tax exempt status. In September, 1978, the Consortium was incorporated under the laws of the District of Columbia.

Cohen Revision

In 1942 the federal government published Felix Cohen's Handbook of Federal Indian Law. Cohen's Handbook is widely recognized as the leading authority on federal Indian law. In 1958 the government published a revision of the 1942 book, but the revision is considered an inferior work by many Indian legal advocates. In matters involving the duties and responsibilities of the federal government, Cohen had forthrightly acknowledged the government's obligations. The 1958 revision retreated substantially from that position. The latter also reflected too much the termination policy of the 1950's.

In 1968, Congress mandated a new revision of Cohen's work -- 25 U.S.C. 1341. A few years later funds were appropriated to do that work, and an office was set up in the Interior Department. Unfortunately, the revision was never accomplished and Interior later abandoned the project. The right to do the revision was then turned over to the University of New Mexico, which in turn established an editorial board headed by Professor Rennard Strickland of the University of Tulsa Law School. The revision has been progressing and should be completed in 1979. Staff Attorney Richard Collins has worked on portions of the revision during 1977 and 1978.

Conferences and Organizational Assistance

Every year NARF attorneys are asked to participate in a variety of conferences and strategy sessions sponsored by Indian organizations and agencies. During 1978, NARF assisted the following organizations: National Congress of American Indians, Association on American Indian Affairs, Native American Treaty Rights Organization and the Administration for Native Americans in the Department of Health, Education and Welfare.

Staff attorneys also participated in seminars on a variety of other subjects including two sessions on water rights held in Reno, Nevada and Sacramento, California as well as a seminar on Indian Law held at Iowa State University.

Indian Law Support Center Indian Law Training Conference

NARF co-sponsored an Indian law training session with the Office of Program Support of the Legal Services Corporation on August 23-25, 1978 in Denver, Colorado. Over 130 attorneys, tribal court advocates, Indian paralegals and Indian client board members attended this conference and received substantive law training in the major areas of Indian law. Three different training sections for the participants were offered depending on their experience and area of specialization. This included training in new lawyer skills, natural resources and jurisdiction.

NARF believes that training new Indian lawyers to be effective advocates for their clients is an integral function of the Support Center.

At least nine NARF attorneys participated in this seminar. Another session is anticipated during 1979.

Indian Law Support Center General Requests

Indian Law Support Center attorneys devoted more than 784 hours to answering general requests for assistance and information from field legal services program attorneys during the past year. Center attorneys did letter and telephone advice, reviewed draft pleadings, reviewed legislation, assisted in the development of tribal codes, and numerous other activities. Requests came from such diverse places as New Mexico, California, Nevada, North Dakota, South Dakota, Oklahoma, Alaska, Wisconsin, Michigan, New York, as well as

locally in Colorado. Although many of these requests involved only a few hours of research or other work, nonetheless this constituted an important service to field programs which sometimes have very limited access to Indian legal materials as well as a very limited background in Indian law.

Law Review Article

On March 6, 1978, the Supreme Court in Oliphant v. Suquamish Tribe held that tribal courts have no criminal jurisdiction over non-Indians for crimes against Indians within tribal reservations. The University of Washington Law Review has requested that staff attorney Richard Collins prepare an article reviewing the case and related questions. The article should be published in 1979.

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 the March-June 1978 supplement to the Catalogue, adding 150 holdings to those already published. The total number of holdings now published is 2,750. There were 158 NILL Catalogues distributed during the past year, bringing the total number distributed to 882.

The library is in 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, three more bound volumes of the Commission Decisions were published and distributed. The complete set consists of Volumes 1 through 43 with publications of Volumes 42 and 43 scheduled for 1979.

NCAI/NTCA Joint Water Rights Committee

The two major national Indian organizations, the National Congress of American Indians and the National Tribal Chairmen's Association, have formed a joint committee to deal with Indian water rights issues and a NARF attorney serves on that committee. During the past year, the committee formulated Indian recommendations for President Carter's National Water Policy and analyzed that policy from an Indian perspective when it was announced in June. The policy recognizes the unique nature of Indian water rights, encourages negotiated solutions for Indian water rights cases, and promises development of Indian water resources. The committee has been meeting with government officials to monitor the implementation of the policy.

Review of Recognition Regulations

For some time the Department of the Interior has been involved in promulgating regulations concerning federal recognition of Indian tribes. Initial regulations were published in 1977 and NARF submitted comments which questioned the intent and purpose of the regulations. Revised regulations were published in 1978 and NARF again submitted comments. Attorneys from NARF also attended an NCAI Conference on Recognition of Tribes in Nashville, Tennessee.

Final regulations were published in late 1978 in which a procedure for petitioning for acknowledgment of tribal status was set up. A special office within the Bureau of Indian Affairs was also set up for reviewing the petitions. NARF continues to advise a number of tribes on their petitions to the Department of the Interior.

Trust Responsibility Review

In May, 1977, Attorney General Griffin Bell announced a high level policy review of the Justice Department's duties and obligations to represent Indian tribes in litigation under the federal Indian trust relationship. Concerned about the implications of such a review on the federal trust responsibility, NARF Joined the American Indian Law Center and Tribal leaders from the Southern Ute, Cheyenne River Sioux, Quinault, Umatilla, Alaska Federation of Natives, Yakima, Northern Cheyenne and All Indian Pueblo Council in a lengthy letter to the Attorney General. The letter pointed out how the Attorney General's public statements on the trust responsibility were inconsistent with law, Congressional policy and the Administration's Indian policy and asked for a meeting on the issue. In December a meeting was held with several Justice Department representatives involved in the review. NARF and other Indian representatives called for a reaffirmation of the trust responsibility and an opportunity to comment on any Justice Department position on the trust responsibility before it becomes final.

TREASURER'S REPORT

The Native American Rights Fund (NARF) is a non-profit organization which was formed to serve the legal needs of American Indian tribes and individuals. It was incorporated under the laws of the District of Columbia in July, 1971 and operates under a Certificate of Authority for a foreign, nonprofit organization in the State of Colorado. NARF's revenue sources include private foundations, agencies of the federal government and contributions from the general public.

Financial records of the Native American Rights Fund are maintained in a fund balance accounting system, on an accrual basis, in the central office in Boulder, Colorado. NARF's Treasurer is responsible for the financial management of the corporation.

The Internal Revenue Service has classified NARF a charitable organization under Section 501(c)(3) of the IRS Code. It has also classified NARF as being not a private foundation, but an organization described in Section 170(b)(1)(A)(VI) and Section 501(a)(1). Such classification relieves private foundations who make grants to NARF from expenditure responsibility for funds given. All contributions to the Native American Rights Fund are tax-deductible by the donor.

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

A list of NARF's publications is included after this report, on page 119.

The Native American Rights Fund is endeavoring to build a larger base of public support through a direct mail solicitation program. The campaign is directed and handled by NARF staff members, although consultants are retained to advise NARF in the matters of donor files and use of mailing lists. The consultants work on a contract, not a percentage, basis; no merchandise of any kind is sent with the appeals.

The program has been in effect since 1972 and has consistently contributed an increasing amount to the annual revenues of NARF since that time. Net gain from the direct mail solicitation program in fiscal 1978 was \$45,704. NARF currently has a contributor constituency of approximately 15,000 members. Individual contribution records may be obtained from NARF upon request of the donor.

Endowments and bequests are also encouraged and appreciatively accepted from individual contributors as building blocks for NARF's future financial stability.

NARF's fiscal year runs from October 1st through September 30th. In the fiscal period ended September 30, 1978, NARF's revenue of \$1,735,518 was received in the following proportions:

Private foundations	43.5%
Government agencies	43.8%
Contributions	9.4%
Other sources	3.3%

A detailed list of grantors and contributors is appended to this report.

Operating expenses of the Native American Rights Fund totalled \$1,699,210 in fiscal 1978. That amount supported the activities of an average of 17.19 attorneys over the year, the operations of the National Indian Law Library, and the administration of NARF's program and fund raising components. The expenditures by natural expense category were:

Salaries and wages	\$780,887
Fringe benefits	88,903
Contract fees and consultants	247,043
Travel	164,216
Space costs	68,934
Office expenses	236,766
Equipment maintenance and rental	12,439
Litigation costs	49,919
Library costs	<u>17,334</u>
Expenses before depreciation	\$1,666,441
Depreciation	<u>32,769</u>
Total expenses	<u>\$1,699,210</u>

Total expenses for the year were higher by \$147,793 than in fiscal 1977. Costs for litigation and client services account for most of the increase; expenses rose by \$135,284, most of which is attributable to consultants, contract services and litigation costs which were necessitated by heavy trial and negotiation actions in NARF's Eastern land claim cases.

The National Indian Law Library operations cost \$2,727 over fiscal 1977; the increase was in staff salaries in the form of annual salary raises.

Management and general expenditures were lower by \$12,929 than in the previous year for two reasons: first, major improvements to NARF's Washington, D.C. office building were completed in fiscal 1977 and thus were not a factor in this year's management costs; and, second, office expense costs allocable to the management expenditure category from the NARF/National Indian Law Library Press were lower than in the previous year.

Fund raising costs were up \$22,711 from fiscal 1977. The increased expenses were largely caused by materials and mailings for 1978's accelerated donor-acquisition campaign.

Shown below are the percentage of total operating expenditures by function for NARF's last two fiscal years:

<u>Program Expenses:</u>	<u>9/30/78</u>	<u>9/30/77</u>
Litigation and client services	75%	73%
National Indian Law Library	5%	6%
Management and general	13%	15%
Fund raising	<u>7%</u>	<u>6%</u>
	100%	100%

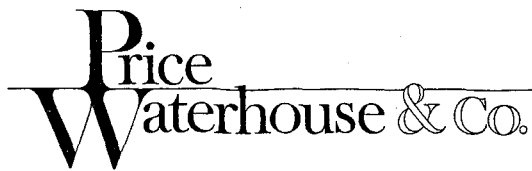
NARF attempts to keep management and fund raising costs as low as possible and compares favorably with most other nonprofit organizations in those areas of spending.

The audited financial statements of the Native American Rights Fund for the fiscal year ended 30 September 1978 are reproduced on the pages immediately following for your additional information.

Susan R. Hart
Treasurer

FINANCIAL STATEMENTS
SEPTEMBER 30, 1978

Native American Rights Fund



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

November 22, 1978

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

We have examined the accompanying balance sheet of Native American Rights Fund, Inc. as of September 30, 1978, and the related statements of support, revenue, expenses and changes in fund balances, of changes in cash and of functional expenses for the year then ended. Our examination was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

As explained in Note 2, effective October 1, 1977, Native American Rights Fund, Inc. revised its financial reporting and changed its method of revenue recognition for restricted grants to conform to the American Institute of Certified Public Accountants' statement of position titled Accounting Principles and Reporting Practices for Nonprofit Organizations Not Covered by Existing AICPA Audit Guides.

In our opinion, the financial statements examined by us present fairly the financial position of Native American Rights Fund, Inc. at September 30, 1978 and the results of its operations and changes in fund balances and the changes in its cash for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year after giving retroactive effect to the change, with which we concur, referred to in the preceding paragraph.

Price Waterhouse & Co.

NATIVE AMERICAN RIGHTS FUND, INC.

BALANCE SHEET

SEPTEMBER 30, 1978

	<u>Current funds</u>		<u>General fixed</u>	<u>Total</u>
	<u>Unrestricted</u>	<u>Restricted</u>	<u>asset fund</u>	<u>all funds</u>
<u>ASSETS</u>				
Cash (including short-term, interest bearing investments of \$253,576)	\$275,053			\$ 275,053
Marketable securities, at market (Note 3)	59,091			59,091
Grants receivable (Notes 2 and 7)		\$17,774		17,774
Other receivables	3,375			3,375
Prepaid expenses	11,873			11,873
Interfund receivable (payable)	(55,326)	55,326		
Property and equipment, at cost (Notes 4 and 5):				
Land and buildings, pledged			\$ 313,938	313,938
Improvements to land and buildings			62,321	62,321
Office equipment and furnishings			170,565	170,565
Professional library			46,124	46,124
			592,948	592,948
<u>Less - Accumulated depreciation</u>			<u>(102,046)</u>	<u>(102,046)</u>
Net property and equipment			490,902	490,902
	<u>\$294,066</u>	<u>\$73,100</u>	<u>\$ 490,902</u>	<u>\$ 858,068</u>
<u>LIABILITIES AND FUND BALANCES</u>				
Accounts payable	\$105,998			\$ 105,998
Accrued expenses (Note 6)	81,628			81,628
Deferred revenue (Notes 2 and 7)		\$73,100		73,100
Interfund loan payable (receivable) (Note 8)	(38,295)		\$ 38,295	
Mortgages and notes payable (Note 5)			221,449	221,449
	149,331	73,100	259,744	482,175
Fund balances (Note 2)	144,735		231,158	375,893
	<u>\$294,066</u>	<u>\$73,100</u>	<u>\$ 490,902</u>	<u>\$ 858,068</u>

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

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF SUPPORT, REVENUE, EXPENSES AND
CHANGES IN FUND BALANCES
FOR THE YEAR ENDED SEPTEMBER 30, 1978

	<u>Current funds</u>		<u>General fixed</u>	<u>Total</u>
	<u>Unrestricted</u>	<u>Restricted</u>	<u>asset fund</u>	<u>all funds</u>
Support and revenue:				
Grants		\$1,515,090		\$1,515,090
Contributions	\$162,399			162,399
Other (Note 3)	58,743			58,743
Loss on disposal of fixed assets			\$ (714)	(714)
Total support and revenue	<u>221,142</u>	<u>1,515,090</u>	<u>(714)</u>	<u>1,735,518</u>
Expenses:-				
Program services:				
Litigation and client services	428	1,247,724	25,232	1,273,384
National Indian Law Library	12,316	64,723	1,966	79,005
Total program services	<u>12,744</u>	<u>1,312,447</u>	<u>27,198</u>	<u>1,352,389</u>
Support services:				
Management and general	57,599	161,611	4,588	223,798
Fund raising	102,988	19,052	983	123,023
Total support services	<u>160,587</u>	<u>180,663</u>	<u>5,571</u>	<u>346,821</u>
Total expenses	<u>173,331</u>	<u>1,493,110</u>	<u>32,769</u>	<u>1,699,210</u>
Excess (deficiency) of support and revenue over expenses	<u>47,811</u>	<u>21,980</u>	<u>(33,483)</u>	<u>36,308</u>
Other changes in fund balances:				
Acquisition of fixed assets	(3,534)	(17,377)	20,911	
Reduction in mortgage payable	(4,406)	(4,603)	9,009	
Other transfers	1,983		(1,983)	
	<u>(5,957)</u>	<u>(21,980)</u>	<u>27,937</u>	
Fund balances, beginning of year, as previously reported	102,881	174,798	236,704	514,383
Restatement for change in method of revenue recognition for restricted grants (Note 2)		(174,798)		(174,798)
Fund balances, beginning of year, as restated	<u>102,881</u>	<u>-0-</u>	<u>236,704</u>	<u>339,585</u>
Fund balances, end of year	<u>\$144,735</u>	<u>\$ -0-</u>	<u>\$231,158</u>	<u>\$ 375,893</u>

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

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF CHANGES IN CASH
FOR THE YEAR ENDED SEPTEMBER 30, 1978

	<u>Current funds</u>		<u>General fixed</u>	<u>Total</u>
	<u>Unrestricted</u>	<u>Restricted</u>	<u>asset fund</u>	<u>all funds</u>
Cash was provided by:-				
Excess (deficiency) of support and revenue over expenses	\$ 47,811	\$ 21,980	\$(33,483)	\$ 36,308
Add (deduct) items not using (providing) cash:				
Deferred contributions and grants receivable recognized as support and revenue		(192,572)		(192,572)
Depreciation			32,769	32,769
Decrease in unrealized depreciation of marketable securities	(7,000)			(7,000)
Loss on disposal of fixed assets			714	714
Net cash provided by (used for) operations	40,811	(170,592)		(129,781)
Deferred contributions received and grants receivable collected		189,624		189,624
Increase (decrease) in interfund payables (receivables)	(41,243)	2,948	38,295	
Net fund balance transfers	(5,957)	(21,980)	27,937	
Proceeds from sale of marketable securities	15,250			15,250
Proceeds from sale of fixed assets			1,983	1,983
Decrease in other receivables	13,568			13,568
Decrease in prepaid expenses	5,173			5,173
Increase in accounts payable and accrued expenses	23,888			23,888
Net cash provided	51,490	-0-	68,215	119,705
Cash was used for:				
Fixed asset additions			59,206	59,206
Repayment of mortgages and notes payable			9,009	9,009
Net cash used			68,215	68,215
Increase in cash	\$ 51,490	\$ -0-	\$ -0-	\$ 51,490

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

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF FUNCTIONAL EXPENSES
FOR THE YEAR ENDED SEPTEMBER 30, 1978

	<u>Program services</u>			<u>Support services</u>			
	<u>Litigation and client services</u>	<u>National Indian Law Library</u>	<u>Total</u>	<u>Management and general</u>	<u>Fund raising</u>	<u>Total</u>	<u>Total expenses</u>
Salaries and wages:							
Professional staff	\$ 476,613	\$28,622	\$ 505,235	\$ 64,999	\$ 9,971	\$ 74,970	\$ 580,205
Support staff	130,168	18,752	148,920	40,899	10,863	51,762	200,682
Fringe benefits	<u>71,015</u>	<u>5,121</u>	<u>76,136</u>	<u>10,999</u>	<u>1,768</u>	<u>12,767</u>	<u>88,903</u>
Total salaries and related costs	677,796	52,495	730,291	116,897	22,602	139,499	869,790
Contract fees and consultants	218,557	2,695	221,252	15,791	10,000	25,791	247,043
Travel	133,686	2,295	135,981	24,972	3,263	28,235	164,216
Space costs	27,293	2,851	30,144	38,085	705	38,790	68,934
Office expenses	119,977	14,696	134,673	17,351	84,742	102,093	236,766
Equipment maintenance and rental	4,734	1,553	6,287	6,061	91	6,152	12,439
Litigation costs	49,919		49,919				49,919
Library costs	<u>16,190</u>	<u>454</u>	<u>16,644</u>	<u>53</u>	<u>637</u>	<u>690</u>	<u>17,334</u>
Expenses before depreciation	1,248,152	77,039	1,325,191	219,210	122,040	341,250	1,666,441
Depreciation	<u>25,232</u>	<u>1,966</u>	<u>27,198</u>	<u>4,588</u>	<u>983</u>	<u>5,571</u>	<u>32,769</u>
Total expenses	<u>\$1,273,384</u>	<u>\$79,005</u>	<u>\$1,352,389</u>	<u>\$223,798</u>	<u>\$123,023</u>	<u>\$346,821</u>	<u>\$1,699,210</u>

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

NATIVE AMERICAN RIGHTS FUND, INC.

NOTES TO FINANCIAL STATEMENTS

SEPTEMBER 30, 1978

NOTE 1 - ORGANIZATION AND SUMMARY OF
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.

Revenue recognition:

A substantial portion of NARF's revenue is derived from restricted grants and contracts. Revenue from such restricted sources is deemed to be earned when NARF has incurred costs which satisfy restrictions imposed by the respective grants or contracts. Funds received from restricted sources in excess of costs incurred are reported as deferred revenues. Where costs have been incurred in excess of funds received from restricted sources, revenue and related receivables are recognized to the extent of such costs unless, in management's opinion, future grant or contract funds will be insufficient. In such cases, costs are charged to unrestricted funds.

In absence of a designated period for use, contributions and donations from unrestricted sources are generally recognized when received; however, enforceable pledges are recorded as revenue and receivables in the year made. Donations of marketable securities or other in-kind contributions are recorded as revenue at their estimated fair market value at the date of contribution.

Interfund receivables (payable):

Generally, funds 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. Segregation of revenue and expenditures applicable to restricted, unrestricted (including segregation within the restricted fund by grant source) and the general fixed asset funds is maintained in the accounting records. The interfund receivable (payable) results from the receipt of deferred revenue in excess of net assets specifically identifiable with the restricted fund at September 30, 1978.

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 accompanying financial statements 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 ACCOUNTING AND REPORTING:

In September 1978, the American Institute of Certified Public Accountants issued a statement of position titled Accounting Principles and Reporting Practices for Nonprofit Organizations Not Covered by Existing AICPA Audit Guides. Although implementation of this statement is not presently required, NARF considered it appropriate to

adopt the provisions of the statement effective October 1, 1977. Accordingly, the method of revenue recognition for restricted grants was changed and NARF expanded its financial reporting to include a statement of changes in cash. Under the revised method of restricted revenue recognition, current restricted grants, contributions or other income are recognized as revenue and support to the extent that costs have been incurred for the purpose specified by the grantor or donor during the period. Funds received in excess of revenue and support recognized are reflected as deferred revenue in the balance sheet until the restrictions are met. Previously, revenue and support had been recognized principally when funds were received. Where costs have been incurred in excess of restricted funds received, NARF has retained its policy of recognizing revenues and related receivables to the extent of such costs unless, in management's opinion, future grant funds will be insufficient.

Pursuant to the provisions for implementation of the statement, the change in restricted revenue recognition retroactively reduced the restricted fund balance and increased deferred revenue recorded in the current restricted fund by \$174,798 at September 30, 1977. This change reduced previously reported restricted support and revenue and the excess of restricted support and revenue over expenses for fiscal 1977 by \$38,597.

NOTE 3 - MARKETABLE SECURITIES:

Marketable securities consist of marketable corporate securities. These investments are stated at market value which was approximately \$17,000 less than cost at September 30, 1978. The net effect of realized and unrealized gains and losses recognized in the unrestricted fund during the year was as follows:

Net realized losses on security sales	\$ 387
<u>Less - Losses recognized in prior years</u>	<u>(625)</u>
Net gain on sales	238
Decrease in unrealized depreciation on other securities	<u>7,000</u>
Net gain	<u>\$7,238</u>

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 during the year:

Purchases of office equipment and furnishings	\$12,753
Improvements to land and buildings	2,033
Principal payments on mortgages and notes	9,009
Additions to professional library	6,125
Proceeds from dispositions	<u>(1,983)</u>
	<u>\$27,937</u>

NOTE 5 - MORTGAGES AND PROMISSORY NOTES
PAYABLE:

Long-term debt consisted of the following at September 30, 1978:

	Portion due within <u>one year</u>	<u>Total</u>
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	\$3,845	\$110,498
Mortgage loan payable in equal monthly instalments of \$482, including interest at 5 1/2%, through March 1985. Secured by land and building	3,925	35,579
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	<u>1,935</u>	<u>75,372</u>
	<u>\$9,705</u>	221,449
<u>Less</u> - Current portion of long-term debt		<u>9,705</u>
Portion due after one year		<u>\$211,744</u>

NOTE 6 - RETIREMENT PLAN:

Effective October 1, 1976, NARF adopted a money purchase pension plan for all full-time employees. 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 but are not required. Pension expense is provided at an amount equal to 5% of each full-time employee's compensation. 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 1978 was \$36,185. Pension expense provided in excess of funding requirements (due to forfeitures, etc.) is reserved for sabbatical leave for eligible employees, payments for which totaled approximately \$11,000 in 1978.

NOTE 7 - GRANTS RECEIVABLE AND DEFERRED
REVENUE:

Grants receivable and deferred revenue consisted of the following individual restricted grants or contracts at September 30, 1978:

	<u>Receivable</u>	<u>Deferred revenue</u>
Ford Foundation	\$ 3,653	\$37,514
Department of Health, Education and Welfare, Administration for Native Americans		32,479
National Indian Lutheran Board	2,500	
Legal Services Corporation		2,020
Donner Foundation	4,413	
Knistrom Foundation		1,087
Pawnee Indian Agency	<u>7,208</u>	
	<u>\$17,774</u>	<u>\$73,100</u>

NOTE 8 - INTERFUND LOAN PAYABLE
(RECEIVABLE):

During September 1978, NARF purchased a telephone system which replaced previously rented equipment. The cost of the telephone system was financed with funds borrowed from the unrestricted fund. Terms for repayment of the interfund loan have not, as yet, been finalized pending approval by the various grantors of the telephone

use allowance discussed below. However, NARF tentatively plans to repay amounts borrowed from the unrestricted fund over a five-year period with the unpaid balance bearing interest at 8% per annum.

NARF has requested approval to charge its grantors a telephone use allowance to recover the cost of the system (including interfund interest). To date, such approval has not been received from all grantors and no such charges were made to grantors during fiscal 1978.

NATIVE AMERICAN RIGHTS FUND

CONTRIBUTORS

10/1/77 - 9/30/78

Foundations

Candlelight Foundation

Carnegie Corporation of New York

William H. Donner Foundation

Field Foundation

Ford Foundation

Knistrom Foundation

Lilly Endowment, Inc.

Muskiwinni Foundation

Waters Foundation

Grant Purpose

General Support

Indian Lawyer Intern
Project

Tribal Sovereignty and
Natural Resources Research

Indian Water Rights

General Support
Indian Education Legal
Support

Eastern Indian Land Claims
Negotiations

Eastern Indian Legal
Support

General Support
Indian Woman Summer Law
Intern

General Support

Governmental and Public
Institutions

Bureau of Indian Affairs;
Muskogee Area Office

Bureau of Indian Affairs;
Office of Trust Responsibility

Department of Health, Education
and Welfare; Administration
for Native Americans

Grant Purpose

Title Research, Ponca Tribe

Consultant Contracting

National Indian Law Library;
Strengthening Tribal Govern-
ments; Protection of Indian
Natural Resources; Indian
Religious Freedom Act
Implementation

Governmental and Public
Institutions (cont'd)

Law Enforcement Assistance
Administration

Legal Services Corporation

University of New Mexico;
Law School

Grant Purpose

Swiftbird Corrections
Center - Operation
Guidelines

Indian Law Support Center

Revision, Cohen's Handbook
of Indian Law

Corporations - General Support

S. Forest Company, Inc.

Dieterich-Standard Corporation

Gulf Oil Corporation

International Business Machines

McGraw-Hill Corporation

San Francisco-Oakland Television

Storage Technology Corporation

Tribal Groups - General Support

Chemehuevi Tribal Council

Shoshone-Bannock Tribes, Inc.

Ute Indian Tribe of the Uintah
and Ouray Reservation, Utah

Walker River Paiute Tribe

INDIVIDUAL CONTRIBUTORS OVER \$100
FOR GENERAL SUPPORT

Mrs. Hilda Aarons
Mr. Scott Abbott
Ms. Pauline E. Ahl
Mr. Robert E. Almirall
Mr. David H. Anderson
Ms. Margaret Tolle Austin
Mrs. Barbara V. Ayre
Ms. Antoinette O. Bailey
Ms. Elizabeth E. Baker
Mr. L.E. Baker
Mr. Roger Baldwin
Mrs. Katrina McCormick Barnes
Mr. & Mrs. Walter J. Beadle
Mrs. Helen M. Beardsley
Miss Vera Behrin
Adm. & Mrs. R.S. Berkey
Ms. Ann Lurie Berlin
Mrs. Leon F. Bialosky
Mrs. Edith S. Binns
Mr. George O. Bird
Ms. Lois Blaese
Ms. Vivienne Blanquie
Mr. Howard Y. Blaustein
Mr. Roger Boone
Ms. Florence Borkey
Miss Marion Boyd
Mr. Joseph T. Braverman
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Mr. & Mrs. William Bretnall
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Ms. Gail G. Buchwalter
Mrs. Alger T. Bunten
Miss Romana Burke
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Ms. Linda Carter
Mr. Lance Cerny
Mrs. Roger S. Clapp
Ms. Nancy Claypool
Mrs. Lindsay Towne Clegg
Mr. Eugene H. Cloud
Dr. Bayard Coggeshall
Mr. John H. Cole
Miss Thelma E. Colley
Mrs. Margery Colman

Community Church of Chesterland
Mrs. Warren H. Corning
Mrs. John Hays Corson
Mr. Robert Cory, Jr.
Mr. S.F. Coxhead, Jr.
Mr. & Mrs. William D. Crandell
Mr. Edward H. Cutler
Davenport Spring Company
Mr. Allen A. Davis
Mrs. Frances B. Davis
Mr. & Mrs. Derwin R. De Mers
Mrs. Earle F. Denahan
Mr. & Mrs. Hugo De Neufville
Ms. Mabel Dennison
Mrs. Mary F. dePackh
Mr. M.M. Devore
Ms. Susan J. Dickey
Mr. S.L. Dickinson
Mr. Bertram Donn
Mrs. Jean B. Donnell
Mr. Lawrence Dorcy
Mrs. Alfred Douty
Mrs. Ethel L. Dupuis
Mr. Frederic O. Ebeling
Mrs. Corinne W. Eldredge
Ms. Nancy L. Elsberry
Mr. Jack E. Engleman
Ms. Jane Erickson
Mr. David C. Etheridge
Ms. Sara M. Ewing
Mr. & Mrs. W.H. Ferry
Mr. & Mrs. Ya'akov Firestone
Mr. Stephen H. Forbes
Mr. Seymour Fortner
Mrs. Edna T. Foster
Ms. Linda Foxworth
Mr. Glenn Frey
Mr. Jack Fry
Ms. Margaret M. Gage
Ms. Ruth Gage-Colby
Mr. James E. Gardner
Mr. Adam P. Geballe
Mrs. Frederick R. Gibbs
Mr. Steven Golden
Mr. Edgar W. Graham

INDIVIDUAL CONTRIBUTORS OVER \$100 (cont.)

Mrs. E. Snell Hall
 Mr. Arthur Stuart Hanisch
 Ms. Pamela P. Harlan
 Mr. B. Harvey
 Dr. H.W. Harvey
 Mr. Lawrence Hasbrouck, Sr.
 Mrs. Sara H. Haubert
 Mr. & Mrs. Joseph Havens
 Mr. William F. Hayden
 Mrs. Harriet M. Headley
 Mrs. Dimock Heath
 Ms. N. Rebecca Heath
 Mrs. Jeanne Henle
 Miss Lois M. Herring
 Ms. Sara S. Hinckley
 Mrs. Z. Pauline Hoakley
 Ms. Lillian Hollerbach
 Mr. Robert B. Honec, Jr.
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STAFF LISTING

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 reappointed 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.

Lawrence A. Aschenbrenner joined NARF as a staff attorney in March, 1977. Mr. Aschenbrenner possesses over 20 years litigation experience and is the directing attorney for NARF's Washington, D.C. office. He is a graduate of the University of Oregon Law School and did his undergraduate work there as well.

Prior to joining NARF's staff, Mr. Aschenbrenner served in a number of legal capacities including: Acting Associate Solicitor for Indian Affairs and Assistant Solicitor for Indian Affairs in the Department of Interior from 1974 through February, 1977. In addition, Lare has worked as a partner for a public interest law firm in Oregon as well as public defender for the State of Oregon and District Attorney for Josephine County, Oregon. Mr. Aschenbrenner's legal responsibilities have related primarily to issues and cases involving lands, minerals, hunting and fishing, water rights and the environment.

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 Advisor 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 sale, s 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.

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

B.A., 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 of Ponca/Creek descent 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 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.

Timothy A. 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 the 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 and Colorado.

Arlinda F. 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.

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 Washington, D.C. office for almost three years. Don 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 Americans, 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 to December, 1974); Native American Rights Fund (January, 1975 to present). Member of the Bars of Colorado and the District of Columbia.

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.

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

Thelma J. Stiffarm joined NARF's staff in October, 1978. She is Cree and Gros Ventre and is serving as Director of the Tribal Energy and Social Development Office Project. Prior to coming to NARF, Ms. Stiffarm served as Deputy Director of the American Indian Law Center in Albuquerque, New Mexico and as a consultant to the U.S. Commission on Civil Rights National Indian Project. Her special interest area is Indian juvenile law. She was the principal author of two Indian juvenile law publications and serves as advisor on several national juvenile research centers and projects.

B.A., University of Montana, 1970; J.D., University of New Mexico, 1974; Deputy Director of the American Indian Law Center, 1974 to 1977; consultant, U.S. Commission on Civil Rights, Denver, Colorado, 1977 to 1978; Native American Rights Fund, October, 1978 to present.

Thomas N. Tureen became the staff attorney in charge of NARF's 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.

B.A., Princetonn University, 1966; J.D., George Washington University, 1969; Reginald Heber Smith Fellow (1969 to 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.

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; University of California at Berkely, 1975, Native American Rights Fund (June, 1975 to present). Member of the Bar of Colorado.

Other Professional Staff

Lorraine P. Edmo, Secretary of the Corporation and Technical Writer, joined the staff of NARF in August, 1976. She is a member of the Shoshone-Bannock Tribe of southwestern Idaho. Prior to coming to NARF, Lorraine served as a consultant to the American Indian Policy Review Commission and the American Indian Lawyer Training Program in the spring of 1976. She worked as Executive Director of the Idaho Inter-Tribal Policy Board in Boise, Idaho for two years and also served as Resource Development Specialist for that organization of five tribes. Lorraine has also worked as a tribal newspaper editor and television reporter in 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.

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

Grace B. Gillette, a member of the Arikara Tribe of the Fort Berthold Reservation in North Dakota, joined NARF's staff as Business Manager in October, 1978. Her duties in this capacity will involve office management, personnel administration and funding research and development.

Ms. Gillette came to NARF with four years office management experience with Osoro and Associates of Englewood, Colorado. She also served as Logistical Support Coordinator for this training firm. In addition, she has worked as administrative assistant for the American Indian Commission on Alcohol and Drug Abuse and possesses expertise in office management, conference planning and organization and proposal development.

Susan R. Hart, Controller and Corporate Treasurer, has been with NARF for more than seven years. Ms. Hart worked as NARF's Head Bookkeeper from October, 1975 through May, 1978. She joined the staff as an assistant bookkeeper in 1971. Prior to this she worked as bookkeeper to the Boulder Valley Head Start Program.

Ms. Hart is pursuing studies with Loretto Heights College in Denver, Colorado to obtain her B.A. degree in business.

Marian Heymsfield joined the NARF staff as bookkeeper in January 1976 and was promoted to Head Bookkeeper in January, 1979. She received her B.A. in Economics from the University of California at Los Angeles, summa cum laude, in 1974.

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.

Elizabeth Meyer came to NARF in December, 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.

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December 31, 1978

Announcements, Native American Rights Fund newsletter, some issues list National Indian Law Library holdings. Subscriptions \$10.00 per year for libraries and non-Indian organizations; no charge to Indian tribes, organizations and individuals by contribution.

The Borough Concept in Alaska: The Inupiat People, David H. Getches, Attorney, Native American Rights Fund, Inc. (1972), NILL Acquisition No. 001128. No charge for single copies.

Consolidated Wounded Knee Cases: Transcript of the Trial on the Motion to Dismiss for Want of Jurisdiction. Reprint of the transcript of the trial before the Hon. Warren K. Urbom, Lincoln, Nebraska, December 16, 1974 to January 2, 1975, NILL Acquisition No. 002900. \$50.00 per copy.

Handbook on Bureau of Indian Affairs General Assistance for Attorneys and Advocates, Sarah W. Barlow and Martha Ward (1973), NILL Acquisition No. 002143. \$5.00; no charge to tribes or legal services.

Indian Claims Commission Decisions, 41 Volumes prepared by Native American Rights Fund, Inc. Single Volumes \$18.50 each for Volumes 1-27; \$20.00 each for Volumes 28-41. Two volumes to follow.

Index to the Indian Claims Commission Decisions, prepared by Native American Rights Fund, Inc. (1973). Covers the first 38 volumes of the Indian Claims Commission Decisions providing access to the Decisions by subject, tribe and docket number. Library of Congress Card No. 73-89021. \$25.00; annual subscription service for pocket updates is available for an additional \$7.50 per year.

Justice and the American Indian, National American Indian Court Judges Association, reprinted with permission, 1976, NILL Acquisition No. 002577. \$5.00 per 5-volume set or \$1.00 per volume. (Out of print.)

Menominee Restoration Act: Legal Analysis, Charles F. Wilkinson, Yvonne T. Knight, and Joseph F. Preloznik, Native American Rights Fund, Inc., National Indian Law Library Press (1973), NILL acquisition No. 001971. \$5.00 per copy.

Native American Rights Fund National Indian Law Library
Catalogue: An Index to Indian Legal Materials and Resources,
1976 Cumulative Edition. Library of Congress catalog card
number 73-89020. \$20.00 includes subscription to quarterly
update service; no charge for first copy to Indian tribes or
Indian legal services organizations.

Index to NARF Cases by State

	PAGE
<u>Alaska</u>	
Native Village of Tyonek.	26
Tanana Chiefs Conference.	34
 <u>Arizona</u>	
Arizona v. California.	39
Fort McDowell Water Rights.	45
Orme Dam.	52
Pascua Yaqui Association v. Asta.	27
Pascua Yaqui Federal Recognition.	26
Phoenix Area Inter-Tribal School Board and Intermountain Inter-Tribal School Board	72
United States v. Tucson and Papago Tribe of Indians v. Tucson	60
White Mountain Apache Tribe v. Arizona.	37
White Mountain Apache Tribe--Water Resources.	64
 <u>California</u>	
Bear Ribs, et al. v. Taylor, et al.	77
Board of Regents v. Bakke	66
California v. Quechan Tribe	22
FERC Project No. 176.	44
Fontana School District	67
Jenkins Medical School Dismissal.	68
Los Angeles School District	69
Point Conception Matter	28
Rincon Band of Mission Indians v. Escondido Mutual Water Company.	54
Rincon v. Gonzales.	29
 <u>Colorado</u>	
American Indian Cattlemen's Credit Consortium	85
American Indian Higher Education Consortium	65
American Indian Religious Freedom Project	21
Coalition of Indian Controlled School Boards.	66
Cohen Revision.	85
Indian Law Support Center-Indian Law Training Conference and General Requests	86

	PAGE
National Indian Law Library	87
Native American Bilingual Education Conference.	70
Sand Creek Massacre	30
<u>Ute Mountain Tribe v. Colorado.</u>	36
<u>Ute Water Rights Cases.</u>	60

Connecticut

<u>Western Pequot Tribe of Indians v. Holdridge Enterprises, Inc. and Schaghticoke Tribe of Indians v. Kent School District</u>	63
---	----

Florida

<u>Askew v. Seminole Tribe</u>	21
<u>Seminole Tribe v. Florida</u>	54

Georgia

Lower Muskogee Creek.	47
-------------------------------	----

Idaho

<u>Brooks v. Nez Perce County.</u>	40
<u>Fort Hall Airport Matter and Land, Water Matters.</u>	44

Iowa

<u>Sac and Fox Tribal Education Matter</u>	73
<u>Sac and Fox v. Licklider.</u>	30

Kansas

<u>Prairie Band of Potawatomie v. Jackman.</u>	28
--	----

Louisiana

Tunica-Biloxi Land Claims	36
-------------------------------------	----

Maine

<u>United States v. Maine.</u>	57
--	----

Massachusetts

<u>Mashpee Tribe v. Town of Mashpee.</u>	24
<u>Wampanoag Tribal Council of Gay Head v.</u> <u>Town of Gay Head.</u>	63

Michigan

<u>Burt Lake Band Land Claim</u>	41
<u>Keweenaw Bay Fishing Rights</u>	45
<u>Sault Ste. Marie v. Andrus.</u>	30
<u>United States v. Michigan</u>	59

Minnesota

<u>Left Hand Bull v. Carlson</u>	78
<u>Minnesota v. Zay Zah.</u>	82
<u>Topash v. Minnesota Commission of Revenue</u>	35

Mississippi

<u>Mississippi Choctaw Tribal Corporation.</u>	25
<u>Smith John v. Mississippi</u>	31

Montana

<u>Blackfeet Oil and Gas Tax Case.</u>	22
<u>Crow--Section II.</u>	43
<u>Fort Belknap Builders</u>	81
<u>Montana Contractors Association v. Secretary</u> <u>of Commerce</u>	83
<u>Northern Cheyenne Tribe v. Adsit.</u>	49
<u>Rocky Boy School District</u>	72
<u>Ronan, Montana, Education Matter.</u>	72

National

Conferences and Organizational Assistance	86
Handicapped Students' Rights.	68
Johnson O'Malley Act (JOM) Regulations.	68
Non-Profit Tax Conference	71

Nebraska

<u>Inmates v. Greenholtz</u>	78
<u>Satellite Community College</u>	74
<u>Santee School District (Goetz v. Lundak)</u>	74
<u>Thurston County v. Andrus</u>	84
<u>White Eagle v. Storie</u>	79

Nevada

<u>Carson Truckee Water Conservancy</u>	
<u>District v. Andrus</u>	41
<u>Knight v. Gardner</u>	46
<u>Pyramid Lake Paiute - EPA Matter</u>	53
<u>Pyramid Lake Paiutes v. Sierra Pacific</u>	53
<u>United States v. Truckee Carson Irrigation District</u>	59
<u>Walker River Paiutes v. Southern Pacific</u>	
<u>Transportation Company</u>	62

New Mexico

<u>Denetclarence v. Board of Education</u>	67
<u>Natonabah v. Board of Education</u>	71
<u>Zuni War God Statue</u>	38
<u>Zuni Water Rights</u>	64

New York

<u>National Indian Education Association Conference</u>	70
<u>Oneida Land Claims</u>	51
<u>Shinnecock Land Claim</u>	55
<u>St. Regis Mohawk Environmental Matter</u>	54

North Carolina

<u>Eastern Band of Cherokees v. North Carolina</u>	24
<u>Waccamaw-Siouan Land Claim</u>	61

North Dakota

<u>Berger v. Califano</u>	65
<u>Chase v. McMasters</u>	80
<u>Fort Berthold Zoning Ordinance</u>	24

Oklahoma

<u>Arkansas Riverbed Matter</u>	39
<u>Cheyenne-Arapahoe Tribes v. Oklahoma</u>	23
<u>Little Raven v. Crisp</u>	78
<u>Logan v. Andrus</u>	81
<u>Pary v. Institute of Southern Plains</u>	71
<u>Pawnee Food Co-op Tax Matter</u>	27

Oregon

<u>Coos, Siuslaw, Lower Umpqua Restoration</u>	23
<u>Kimball v. Callahan</u>	45
<u>Siletz Restoration</u>	31
<u>Schonshin v. Sexson</u>	46
<u>United States v. Ben Adair</u>	57

Rhode Island

<u>Narragansett Land Claims</u>	49
---	----

South Carolina

<u>Catawba Land Claim</u>	41
-------------------------------------	----

South Dakota

<u>Cornelius v. United States</u>	66
---	----

	PAGE
Sinte Gleska Community College.	75
Sisseton-Wahpeton Community College	75
South Dakota Indian Education Association	76
<u>Standing Rock Sioux Tribe v. Andrus</u>	83
<u>Yankton Sioux Tribe v. Nelson</u>	64

Utah

Central Utah Project.	42
<u>Sinijini v. Board of Education.</u>	75

Virginia

Pamunkey Land Claim	52
-------------------------------	----

Washington

Law Review Article.	87
Lummi Tribal Revenue Sharing.	82
<u>Muckleshoot Tribe v. Trans-Canada Enterprises</u>	48
<u>Olympic Pipeline Company v. Swinomish Community</u>	50
<u>State of Washington v. Eagle Elk.</u>	31
<u>Stillaguamish Tribe v. Kleppe</u>	33
<u>Swinomish Allotments.</u>	55
<u>Swinomish Community v. Burlington Northern Railway.</u>	56
<u>Swinomish Community v. FERC</u>	33
<u>Trans-Canada Enterprises v. Muckleshoot Tribe</u>	35

Washington, D.C.

NTCA/NCAI Joint Water Rights Committee.	88
Review of Recognition Regulations	88
Senate Bill 991	74
Trust Responsibility Review	89
White House Pre-Conference on Indian Libraries.	76

Wisconsin

Menominee Water Rights.	48
<u>State of Wisconsin v. Baker</u>	32

	PAGE
<u>Wilbur v. Board of Education.</u>	77
<u>Wisconsin Taxation of Fee Lands</u>	37
 <u>A Project for Tribal Energy Offices</u>	 56

6

7

8

9

10

11

12

13

14

15

16

