

National Indian Law Library

NILL No. 013309 / 1987

# Native American Rights Fund

1987 Annual Report



benjamin hanjo JR. ©86

# Native American Rights Fund

The Native American Rights Fund is a non-profit organization specializing in the protection of Indian rights. The priorities of NARF are: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law.

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## Cover

*A Sacredness Of Their Own* by Benjamin Harjo, Jr. (Shawnee-Seminole)

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

Founded in 1970 and incorporated in 1971 in Washington, D.C.

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## Chairman's Message



Since 1970, the Native American Rights Fund has successfully represented Native American tribes and individuals. In the court and in Congress, NARF has provided expert legal representation on behalf of tribes and individuals to protect their inherent rights.

This past year NARF was successful in assisting the Alabama-Coushatta Tribe and Ysleta del Sur Pueblo of Texas restore their status as federally recognized tribes. NARF's past accomplishments include establishing a homeland for the Traditional Kickapoo in Texas, asserting treaty fishing rights of the Bay Mills Community in Michigan, and settling historic land claims for the Passamaquoddy and the Penobscot Tribes of Maine.

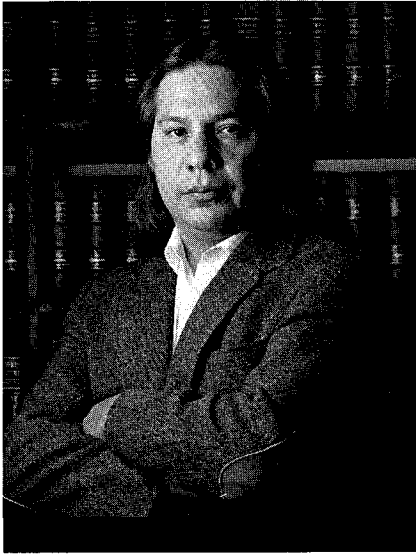
Despite these victories, there remains much work to be done. Presently, NARF is involved in many ongoing disputes which would have far-reaching effects on Indians in this country. The issues involve land claims, tribal recognition, water rights claims, taxation and jurisdiction. These rights of Native Americans must continue to be protected.

NARF will continue its fight for Native American tribes and individuals in asserting their rights. As it has in the past, NARF intends to play a major role in Indian rights protection in the coming years.

However, in order to continue to provide legal assistance to Native Americans throughout the country, it is critical that we secure the necessary financial support. Federal budget cuts and the increasing competitiveness for available funds have made NARF's job even harder. We thank everyone who has supported us these past years and we hope you will continue to assist us in protecting the rights of all American Indians.

Norman Ration  
Chairman

## Executive Director's Report



In 1987 the Native American Rights Fund continued to provide legal advice and representation to Indian tribes, organizations and individuals on issues of major significance to Indian people throughout the nation. The access to justice made possible by NARF's assistance resulted in several important legal victories in fiscal year 1987 for Native Americans.

NARF successfully represented the Gay Head Wampanoag Tribe of Massachusetts in its petition for federal recognition of its tribal status to the Bureau of Indian Affairs. Following federal recognition, Congress then passed land claim settlement legislation resolving a land claim lawsuit filed by NARF for the Tribe in 1974. Under the terms of the settlement legislation, the Tribe gains 428 acres in the Town of Gay Head on Martha's Vineyard. The \$4.5 million cost of the settlement to purchase the land for the Tribe from non-Indian claimants was shared equally by the State of Massachusetts and the federal government.

NARF was also successful in representing the Alabama-Coushatta Tribe and the Ysleta del Sur Pueblo of Texas when Congress passed legislation restoring their federal trust relationship, which had been terminated in 1954. Through restoration, the two

Texas tribes attained the same legal and political status and protection as other Indian tribes.

The Ely Colony Shoshone in Nevada regained criminal and civil jurisdiction over its reservation when the Department of the Interior was persuaded by NARF to accept the State of Nevada's offer to retrocede jurisdiction. Nevada had been given such jurisdiction by Congress in 1955, but a 1968 amendment allows retrocession back to the Tribe if accepted by the Interior Department.

NARF succeeded in challenging the Department of the Interior's refusal to place certain off-reservation tribally-owned lands in federal trust status for the St. Croix Chippewa Tribe of Wisconsin. The Tribe claimed that the refusal was unlawful because the Department of the Interior relied on a rule which they adopted illegally. A federal court in Washington, D.C., agreed and ordered the Interior Department to review the Tribe's petition under its previous policy and without any recourse to the illegal rule.

The Muckleshoot Tribe in the State of Washington will have its salmon fishery in the White River restored as the result of an out-of-court settlement secured by NARF. The power company whose hydroelectric dam has been diverting most of the White River away upstream from the reservation since 1910 agreed to a fourfold increase in the amount of water flowing through the dam which will allow restoration of the tribal fishery. The company also agreed to construct and maintain a large fish hatchery for the Tribe.

In Alaska, NARF negotiated for the right of Alaska Natives from the Village of Mentasta to fish for subsistence purposes in 1987 at their traditional site on a nearby river for the first time since 1964, when the State intervened. The basis for the settlement is NARF's enforcement of laws allowing priority for Alaska Native subsistence fishing over commercial fishing.

NARF was also successful in assisting the Kootenai Indians of Montana, Idaho and British Columbia in stopping the construction of a hydroelectric dam on the Kootenai River in Montana. The dam would have diverted the River around Kootenai Falls, a sacred religious site for the Kootenai religion. The denial of a project license by the Federal Energy Regulatory Commission ended a nine-year struggle for the Kootenai.

Amicus curiae briefs were also filed by NARF on behalf of tribal clients in two Indian cases decided favorably by the United States Supreme Court in 1987. In California v. Cabazon Band of Mission Indians, the Court held that California did not have jurisdiction to apply its gaming laws to reservation gaming enterprises governed by federal and tribal law, recognizing that gaming is a legitimate method of raising revenue for tribal governments as it is for state governments. In Iowa Mutual v. LaPlante, the Court held that when a citizen of another state brings a suit against a reservation resident, the case must first be brought in tribal court and not federal court, but that a federal court may later review the case to determine if tribal jurisdiction was proper.

These and other significant developments in 1987 prove that the American system of justice can work for Native Americans. In hundreds of cases since 1970, NARF has made the legal process work for the benefit of Indian people. We thank all of you who have supported us financially and hope that your support for tribal progress and development will continue.

John E. Echohawk  
Executive Director

## Board of Directors

NARF is governed by a thirteen-member Board of Directors composed entirely of Native American people from throughout the country. The Board of Directors decides the direction of NARF's activities under the priorities and policies they have established. Members are chosen on the basis of their involvement in and knowledge of Indian affairs and issues.

Members of the Board of Directors are:

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**Anthony L. Strong** (*Tlingit*)

Alaska

**Bill Thorne** (*Pomo*)

Utah

**Wade Teeple** (*Chippewa*)

Michigan (Resigned)

**Verna Williamson** (*Isleta Pueblo*)

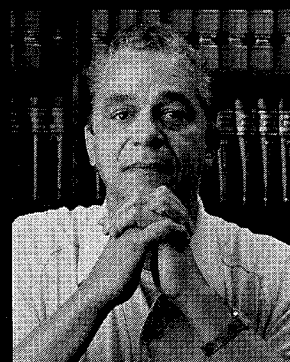
New Mexico



Norman Ration



George Kalama



A. Kenneth Custalow



Ada Deer



Danny Little Axe



Chris McNeil, Jr.



Leonard Norris, Jr.



Caleb Pungowiyi



# National Support Committee

The National Support Committee was established in 1978 to assist NARF with its fundraising efforts nationwide. Some of the individuals on the Committee are prominent in the field of business, entertainment and the arts. Others are known advocates for the rights of the underserved. All of the volunteers on the Committee are committed to upholding Indian rights for America's Native Americans.

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**David Brubeck**

**Rep. Ben Nighthorse Campbell**  
(*Northern Cheyenne*)

**Iron Eyes Cody** (*Cherokee-Cree*)

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(*Laguna Pueblo*)

**Connie Stevens**

**Maria Tallchief** (*Osage*)

**Studs Terkel**

**Ruth Thompson**

**Tenaya Torres** (*Chiricahua Apache*)

**Thomas N. Tureen**

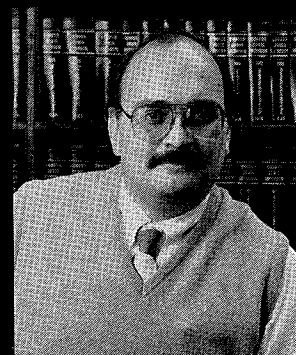
**Dennis Weaver**



Gene Gentry



Harvey Paymella



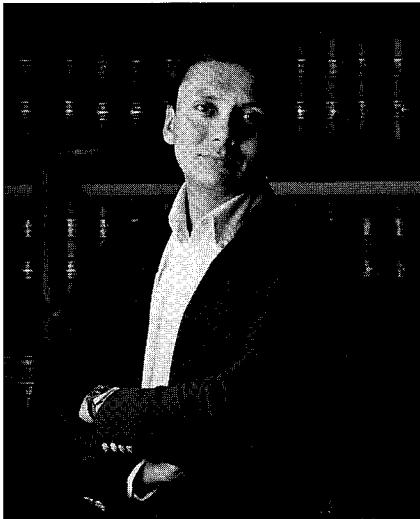
William A. Thorne, Jr.



*"The central (Indian) issues have not changed much since the times of Francisco de Victoria, George Washington, Seneca, Andrew Jackson, John Marshall, Samuel Worcester, or Lone Wolf. Congress, the courts, the tribes, and the states still wrestle with questions relating to the nature of Indian property rights; the rights of individual Indians; and the powers of federal, tribal and state governments in Indian country. And it is a process that will continue."*

Handbook of Federal Indian Law (1982 Edition)

## Introduction



Henry Sockbeson (*Penobscot*), Staff Attorney



Jerilyn DeCoteau (*Turtle Mountain Chippewa*), Staff Attorney

In 1987, the Native American Rights Fund observed its 17th Anniversary. As the national Indian legal defense fund, NARF has represented Native Americans in almost every state in the nation. During the year, NARF argued cases before federal courts and administrative agencies to protect the rights of Native Americans. These rights ranged from ensuring fair voting practices for Native Americans to major land claims and water rights cases which affect thousands of Indian people. NARF also drafted legislation and monitored developments in Indian law.

Over the years, NARF has gained, through its hundreds of cases and many pieces of legislation, the mark of a proven advocate in Indian law issues which will affect this and future generations of Native Americans.

### The Founding of NARF

Many federally-funded legal services programs were established around the country in the 1960's. These programs were aimed at providing legal representation for poor and disadvantaged people. It was through these legal services programs that the special needs of Indian people became apparent. The hundreds of treaties, thousands of federal statutes and numerous regulations and administrative rulings have created a unique body of law called Indian law which governs the lives of Indian people.

Indian legal services programs could not assist Indians everywhere, so the need for a national program to provide these services also became apparent. The Native American Rights Fund emerged in California in 1970 to fill this need. NARF was re-

cated to Boulder, Colorado, a more central location to Indian country, in 1971. Since the beginning, the national scope of legal work undertaken by NARF as a nonprofit organization has been supported by foundation and government grants; corporate, individual and tribal contributions; and limited client fees.

The accomplishments and growth of NARF over the years confirmed the great need for Indian legal representation on a national basis. This legal advocacy on behalf of Native Americans is as crucial now as ever. NARF strives to protect the most important rights of Indian people within the limit of available resources. To achieve this goal, NARF's Board of Directors has defined five priority areas for NARF's work. These five priority areas are: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments to Native Americans; and (5) the development of Indian law.



Yvonne Knight (*Ponca-Creek*), Staff Attorney  
and Deana Harragarra Waters (*Kiowa/Otoe-Missouria*), Law Librarian



# The Preservation Of Tribal Existence

The most critical issue facing Indian tribes today is the preservation of their existence as governmental entities with all the power and authority that governmental status entails. Thus, the focus of NARF's work involves issues relating to the preservation and enforcement of the status of tribes as sovereign, self-governing bodies. For some tribes, the issues are very basic — persuading the federal government to recognize their status as tribes or, in some cases, convincing Congress to reverse the termination of their tribal status and restore them as tribes. In both cases, such "recognized" status allows the particular tribe to exercise vital governing powers and entitles them to basic health, education and other governmental services.

## Tribal Sovereignty

Tribes possess the power to regulate the internal affairs of their members and the activities within their reservations since they are sovereign governments. Conflicts often arise with states, the federal government, and others over these powers. During the year, NARF handled several major cases that affected the sovereign powers of tribes. These cases involved issues of taxation, jurisdiction, and tribal government.

Federal Indian law exempts tribal property and assets from state and federal taxation. Several states have taxed or tried to implement taxes on Indian trust property and assets. In the past several years, NARF has successfully worked on tax cases that have reaffirmed and strengthened the tax immunity of tribal governments and tribal members.

In *Michigan, in Teeple v. Commissioner of Internal Revenue Service*, NARF is challenging the federal government's authority to tax the fishing income of Bay Mills Chippewa fishermen who are exercising their Indian treaty fishing rights. To help resolve the issue, legislation has been introduced in Congress to exempt the revenue derived from treaty fishing. NARF is monitoring the legislation to

ensure that treaty fishing rights are protected.

NARF is representing two Alaska Native villages in *State v. Native Village of Venetie* and *Alyeska Pipeline Company v. Kluti Kaah Native Village of Copper Center*. In both cases, NARF is assisting the Tribes in their effort to collect tribal taxes. NARF helped the Villages develop and implement their tribal tax ordinances in order to create additional revenue for needed governmental services.

NARF is also representing the Pyramid Lake Paiute Tribe of Nevada in litigation involving the Tribe's taxation ordinance in *Pyramid Lake Paiute Tribe v. Burchett*. In addition, NARF is also assisting the Tribe in further developing and amending its tax ordinance.

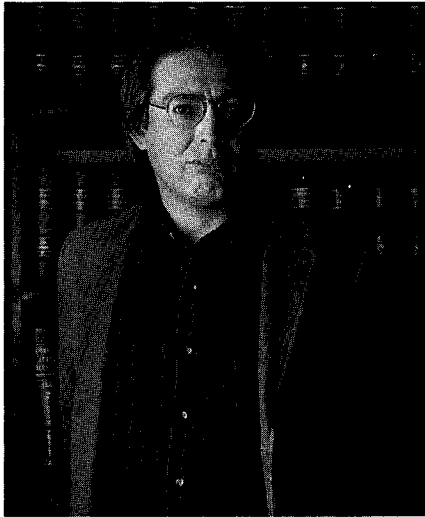
Most tribes, as governments, have the power to regulate activities on their reservations. For years, control over bingo and gaming on reservations has caused several major conflicts among federal, state and tribal governments. Several states have tried to regulate bingo games on Indian reservations. In *California v. Cabazon Band of Mission Indians*, the issue of gaming came before the U.S. Supreme Court. In a 6-3 decision, the Court held that the State of California did not have the authority to enforce state gambling laws within the Tribe's reservation. The ruling upholds the Tribe's assertion that states do not have jurisdiction over tribal gaming on reservation land and that tribal gaming is a legitimate method of raising revenue for tribal governments. NARF filed an *amici curiae* brief in the case on behalf of twenty Indian tribes.

In *U.S. v. Bay Mills Chippewa Indian Community*, NARF is defending the Community's tribal gaming operations against a challenge by the United States under the Organized Crime Control Act of 1970. The Act makes it a federal crime to run a gambling operation in violation of state law, but NARF asserts that the State of Michigan has no jurisdiction to regulate tribal gaming.

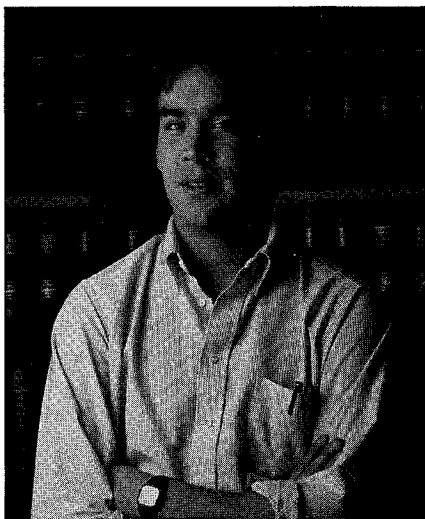


*"It may be hard for us to understand why these Indians cling so tenaciously to their lands and traditional tribal way of life. The record does not leave the impression that the lands of their reservation are the most fertile, the landscape the most beautiful or their homes the most splendid specimens of architecture. But this is their home — their ancestral home. There, they, their children, and their forebears were born. They, too, have their memories and their loves. Some things are worth more than money."*

Justice Hugo Black,  
U.S. Supreme Court



Walter Echo-Hawk (Pawnee), Staff Attorney



Bob Anderson (Nett Lake Chippewa), Staff Attorney

NARF was successful in assisting the Ely Colony Shoshones in Nevada to obtain criminal and civil jurisdiction over their reservation. This year, the Assistant Secretary of the Interior accepted Nevada's offer to retrocede jurisdiction over to Ely Colony. The State of Nevada has been exercising jurisdiction over Ely Colony since 1955, pursuant to Public Law 83-280, when Congress ceded civil and criminal jurisdiction over some reservations to certain states. However, in 1968, Congress enacted legislation that permits states, with tribal consent, to retrocede this jurisdiction back to the United States and tribes.

NARF represents the Turtle Mountain Chippewa Tribe of North Dakota in an *amicus curiae* capacity in *Twin Cities v. Parisien*. The issue in the case is whether a state court or a tribal court has jurisdiction to resolve a contract dispute between an Indian and a non-Indian owned construction company doing business on the reservation.

In *Iowa Mutual v. La Plante*, the U.S. Supreme Court ruled that when a citizen of another state tried to sue a reservation resident in federal court, the suit must be first heard in tribal court. The Court held also that for remedies in tribal court to be exhausted, the case must be appealed to the tribal appellate level before being taken to federal court to determine if tribal jurisdiction was proper. NARF filed an *amicus curiae* brief on behalf of several tribes with the Court.

The North Carolina Supreme Court ruled in *Jackson County North Carolina v. Swayney* that tribal courts, not state courts, had exclusive jurisdiction over paternity actions where the mother and father were tribal members. The State of North Carolina asked the U.S. Supreme Court to review the decision. On behalf of the Eastern Band of Cherokees, NARF filed a brief arguing that the state court decision was correct and there was no need for review. The Court declined to review the case.

The land claims of Alaska Native tribes were settled in 1971, but much

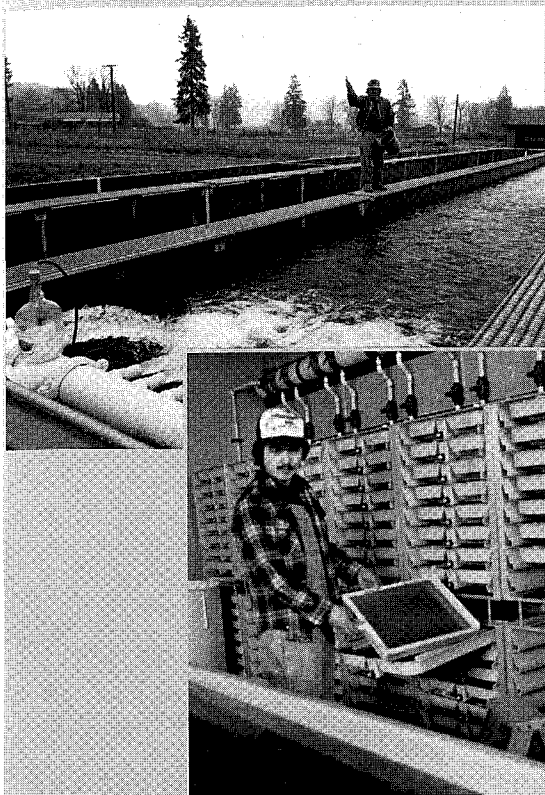
of what was gained in the settlement could soon be lost. The danger to continued Native land ownership has arisen because of the unique terms of the Alaska Native Claims Settlement Act (ANCSA). Although ANCSA settled the aboriginal land claims of Alaska Native tribes, the 44 million acres received in the settlement were not placed in tribal ownership. Rather, they were transferred to newly created corporations with the stock held by individual Natives who were alive on December 18, 1971. To protect Native ownership during an interim period, sale of stock was prohibited for 20 years, during which time all undeveloped land was also immune from taxation. On December 18, 1991, however, the shares become freely alienable and shortly thereafter all land becomes subject to taxation. Thus, after 1991, Native Corporations and their land will be in jeopardy of being taken over by non-Native interests. A major effort to amend ANCSA is underway to extend the stock protections and provide a mechanism to transfer land back to tribal ownership. NARF represents the Alaska Native Coalition, an organization of Alaska Native Villages, in its effort to obtain legislation to protect Native stock, the land and to ensure that no erosion of tribal rights of self-government occurs in the process.

On behalf of five California tribes, NARF is also seeking general Congressional legislation which would streamline the process of obtaining federal approval for amendments to tribal constitutions. The legislation grows out of a case previously won by NARF and California Indian Legal Services, *Coyote Valley Band of Indians v. United States*, which limited the ability of the Secretary of the Interior to delay consideration of tribal constitutional amendments.

### Recognition and Restoration

Gaining federal recognition of tribal status or Congressional restoration of tribal status previously terminated is a lengthy administrative or





legislative process. Years of legal assistance are often needed by tribes involved in these processes.

NARF successfully represented the Alabama-Coushatta Tribe and the Ysleta del Sur Pueblo of Texas in their effort to seek restoration of the federal trust relationship. On August 18, 1987, Congress restored their federal status. Through restoration, the Tribes attained the same legal and political status and protection as other Indian tribes of this country. Enactment of the restoration legislation negated the need for further litigation in *Alabama-Coushatta Tribe v. Mattox*, and NARF was successful in having the State of Texas withdraw its appeal of the 1986 decision rendered in the Tribe's favor in that case. While that decision held that the State still maintained its trust responsibility to the Tribe and that the Tribe's lands still constituted an Indian reservation, enactment of the

restoration legislation created full trust responsibility in the federal government.

NARF successfully represented the Gay Head Wampanoag Tribe of Massachusetts in its petition for federal recognition and in its land claim settlement. Under the terms of the settlement legislation, the Tribe will acquire 178 acres of land for tribal housing and an additional 250 acres of land will be held in trust for the Tribe. The cost of the settlement is \$4.5 million and is being shared equally by the State and Federal governments.

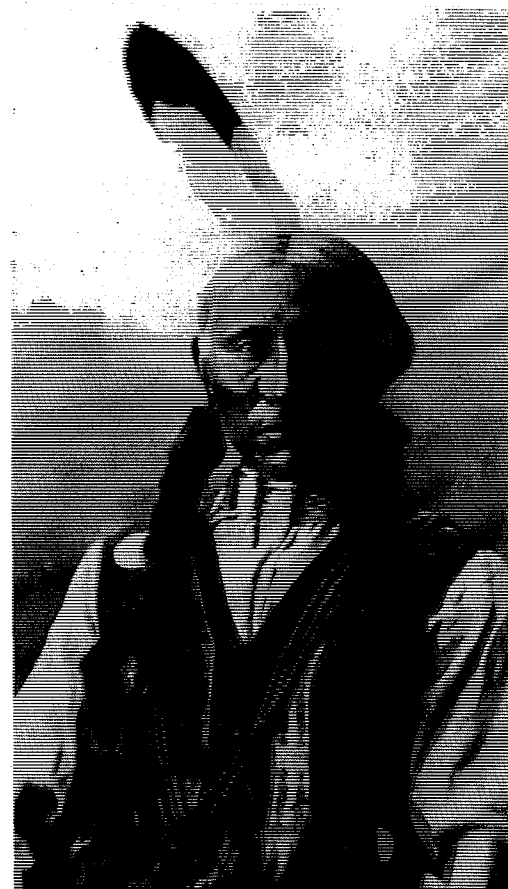
NARF continues to assist the Mashpee Wampanoag Tribe of Massachusetts, the Houma Tribe of Louisiana, the Brotherton Tribe of Wisconsin, the Little Shell Band of Chippewas in Montana and the Village of Nuiqsut in Alaska in obtaining federal recognition of their tribal status from the Bureau of Indian Affairs.



Mary Hanewall, Development Officer



Rose Brave (Oglala Sioux), Office Manager



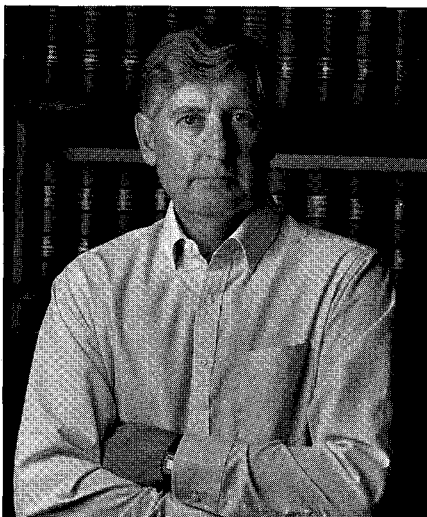
*"I'm glad it's finally happened (land claim settlement). It's a great day for the Tribe and will provide housing and employment opportunity for us. There is still much to be done but thanks to the settlement our tribal future looks brighter than it has for a long, long time."*

Gladys Widdiss, Chairperson  
Gay Head Wampanoag Tribal  
Council, Gay Head Wampanoag  
Land Claim Settlement

# The Protection Of Tribal Natural Resources



Melody McCoy (Cherokee), Staff Attorney



Lare Aschenbrenner, Staff Attorney

The protection of tribal natural resources is closely linked to the preservation of tribal existence. Without a sufficient natural resource base to sustain it, tribal existence is difficult to maintain. In this area, NARF helps Indian people establish and maintain ownership and control of land, water rights, and hunting and fishing rights.

## Protection of Indian Lands

NARF is helping the Swinomish Tribe prepare for trial in a land rights case in the State of Washington. In *Swinomish Tribal Community v. Burlington Northern, Inc.*, the Community is seeking to regain tidelands and other submerged lands adjoining the uplands on its Reservation. To date, NARF has negotiated settlements with half of the defendants in the suit that recognize the Community's title. NARF is also assisting the San Juan Paiutes in Arizona in asserting title to a land base and the Pamunkey Tribe in defining its reservation boundaries in Virginia.

In *Walker River Paiute Tribe v. Southern Pacific*, NARF is conducting negotiations on behalf of the Tribe with Southern Pacific Railway to collect trespass damages for use of the railroad on their reservation in Nevada without tribal consent and to negotiate the future of the railroad on the reservation. In *United States v. Colianni*, NARF is helping the Shoshone-Bannock Tribes recover 10 lots of land within the City of Pocatello, Idaho. The lots in question were never validly sold under an 1888 Act and still belong to the Tribe. In 1987, a \$41,000 settlement covering three lots was reached.

Unfortunately, in *Yankton Sioux Tribe v. Nelson*, the United States Supreme Court declined to review an appeals court decision which held that the Yankton Sioux Tribe of South Dakota did not have aboriginal title to the lakebed of Lake Andes on their reservation. NARF represented the Tribe in its effort to recover the lakebed.

In 1987, the U.S. Supreme Court also denied review in two allotment cases. In *Potter v. South Dakota* and *Jones v. United States*, earlier court rulings held that the statute of limitations had barred the claims. In *Potter*, NARF represented individuals who lost their land allotments when the federal government illegally changed their trust title to fee title, which was subsequently lost. The issue affected thousands of Indians and title to millions of acres of land in several states. In *Jones*, NARF represented an individual allottee in an effort to recover damages for sale of allotments without proper consent. With no judicial remedy available, NARF will consider seeking Congressional legislation that might provide some relief to these allottees despite the statute of limitations.

In *St. Croix Chippewa Indians of Wisconsin v. United States*, NARF successfully challenged the Secretary of the Interior's refusal to place certain off-reservation tribal lands in federal trust status for the Tribe. The Tribe claimed that the refusal was unlawful because it relied on a rule illegally adopted in violation of the Administrative Procedure Act. A federal court ordered the Department of Interior to review the Tribe's petition under its previous policy and without any recourse to the illegal rule.

NARF was successful in helping the Colorado River Indian Tribes challenge the right of non-Indians to question the Tribes' reservation boundaries. In *Metropolitan Water District v. United States*, NARF is assisting the Tribes to protect their reservation boundaries which will provide a basis for obtaining additional water rights for the Tribes to these lands. This additional land and water will afford the Tribes increased agricultural development potential.



In *Cheyenne-Arapaho Tribe v. United States*, NARF is representing the Tribe in its suit to stop the Bureau of Indian Affairs (BIA) from renegotiating tribal oil and gas leases without tribal consent. The BIA has been renegotiating oil and gas leases at below market value and the Tribe wants the right to negotiate its own leases at fair competitive rates. Earlier this year, a federal court in Oklahoma ordered the Secretary of Interior to re-determine whether he properly performed his duties and whether the oil and gas leases in question negated the Tribe's right to consent.

NARF filed an *amicus curiae* brief in *Pawnee v. U.S.* In the case, a federal appeals court ruled that the United States has a trust obligation to individual Indian allottees in the management of oil and gas leases involving their lands. The court held that governing statutes and regulations create a trust relationship that requires the United States to respond in money damages for breach of trust.

### Eastern Land Claims

NARF began representing many Eastern tribes in their land claims during the 1970s. Most of these claims are based on the Indian Non-Inter-course Act of 1790 prohibiting the transfer of Indian land without federal consent, which is lacking in each of the cases.



Arlinda Locklear (Lumbee), Staff Attorney

NARF conducted negotiations on behalf of the Oneida Tribe of Wisconsin to settle two land claims with the State of New York. The first claim, *County of Oneida v. Oneida Indian Nation*, was successful in 1985 when the U.S. Supreme Court upheld the Tribe's 175 year-old claim to 250,000 acres of land in New York. The Court found that the land had been transferred in violation of the 1790 Indian Non-Inter-course Act and could find no applicable statute of limitations to bar the claim and no legal basis to deny the claim. The second claim, *Oneida Indian Tribe of Wisconsin et al. v. State of New York* is still in litigation. Under the Articles of Confederation, the Tribe is challenging the legality of transactions concluded with the State of New York prior to 1790 in which the Oneidas lost 5 million acres of aboriginal territory. A federal court dismissed the Tribe's claim and an appeal is pending in the case. However, the decision does not affect the previous case or negotiations currently being conducted.

In *South Carolina v. Catawba Indian Tribe*, NARF represents the Tribe in determining the impact of a ruling that holds that the Tribe's claim to 144,000 acres of land is subject to the State's statute of limitations. NARF is also assisting the Schaghticoke Tribe of Connecticut and the Stockbridge-Munsee Tribe of Wisconsin in settlement negotiations on their land claims and is appealing an adverse decision for the Alabama-Coushatta Tribe of Texas on their land claim.

### Water Rights

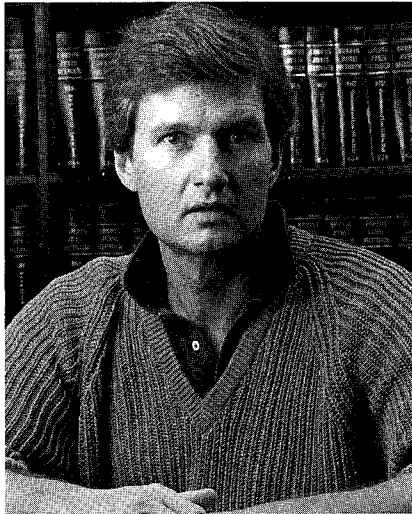
Since most Indian tribes are located in the western states where water is scarce, water rights are of central importance to many tribes whose reservation economies and futures are dependent upon access to water. Nearly all the Western tribes are involved in either litigation or negotiations to establish their reserved water rights which guarantee water for both present and future uses with priority over most non-Indian users.



*"The agreement signed between Puget Sound Power and Light Company and the Muckleshoot Indian Tribe of Washington is in repayment for the power company's 1910 diversion of the White River. It achieves in settlement what the Tribe had sought in its litigation efforts since 1972."*

NARF  
Muckleshoot v. Puget Sound  
Power and Light Company





Don Miller, Staff Attorney



Jeanette Wolfley (Navajo/Shoshone-Bannock), Staff Attorney

During 1987, NARF successfully helped the Muckleshoot Tribe of Washington restore its White River fishery in the State of Washington. In *Muckleshoot Tribe v. Puget Sound Power and Light Company*, the power company agreed to construct and, for a designated period of time, maintain a large fish hatchery on the White River for the Tribe's operation and to provide additional water from its upstream dam to facilitate migration of adult fish in the River below the dam through the reservation. This agreement represents a fourfold increase in water flowage in the White River through the Reservation from 30 cubic feet per second to 130. The agreement is also repayment for the power company's diversion of the White River away from the reservation since 1910. NARF is now assisting the Tribe with its intervention in the power company's licensing proceeding before the Federal Energy Regulatory Commission. The intervention is necessary to protect the Tribe's water and fishing interests.

NARF assisted the Southern Ute Tribe of Colorado in seeking implementation of its water rights agreement through Congressional legislation. The agreement signed earlier with government officials provides the Tribe with \$20 million for economic development and over 40,000 acre feet of water for industrial, agricultural and other beneficial purposes.

In *Fort McDowell Indian Community v. Salt River Project*, NARF is preparing the Fort McDowell Mohave-Apaches' claim to additional water from the Verde River in Arizona and has assisted the Tribe in extensive negotiations with the State, the federal government and non-Indian water users.

NARF is also assisting the Northern Cheyenne Tribe in its negotiations with the Montana Reserved Water Rights Compact Commission to settle its water claims. NARF continues to

investigate the Walker River Paiute Tribe's claim to additional water from the Walker River in Nevada and is also assisting the Klamath Tribe to quantify its water rights in the Klamath River Basin in Oregon.

NARF is helping the Pyramid Lake Paiute Tribe of Nevada in three cases against the Cities of Reno and Sparks and EPA involving the discharge to the Truckee River from the Cities' sewage treatment plant. The Truckee River flows into Pyramid Lake on the reservation and provides critical spawning habitat for the Tribe's fishery.

### Hunting and Fishing

For both subsistence and commercial purposes, the right to hunt and fish in traditional areas both on and off reservations remains a vital issue in Indian country. NARF has long been instrumental in assisting tribes to establish their hunting and fishing rights that are guaranteed by treaty or other federal law.

For the first time since 1964, members of the Alaska Native Village of Mentasta are allowed to legally fish for subsistence purposes at their traditional site on a nearby river. In *Katy John v. State of Alaska*, NARF was successful in negotiating fishing rights for the 1987 season for Native fishermen. NARF continues to negotiate with the State of Alaska for future fishing rights.

In the lower 48 states, NARF is assisting the Bay Mills Chippewa Indian Community in implementing its settlement agreement of approximately \$5 million that includes a tribal trust fund and the development of tribal conservation programs. The settlement was previously reached in *U.S. v. Michigan*, where the courts affirmed the Tribe's treaty right to fish under tribal regulations and to have exclusive access to fish in certain parts of the Great Lakes.

# The Promotion Of Human Rights

In addressing human rights, NARF seeks to enforce laws which are designed to address the unique needs and problems of Native Americans in this area. In 1987, NARF provided assistance in problems involving religious freedom, voting rights and education.

## Religious Freedom

The protection of traditional Native American religions is synonymous with the preservation of traditional cultures of those peoples. Indian religions are entitled to the same First Amendment protection as other religions. This includes access to and protection of sacred objects and sites and the freedom to practice traditional religious ceremonies.

NARF was successful in assisting the Kootenai Indians of Montana, Idaho and British Columbia in stopping the construction of a dam and hydroelectric project at a sacred religious site. The Federal Energy Regulatory Commission denied a construction license to Northern Lights, Inc., a rural electric cooperative, to build the dam and utility project at Kootenai Falls, Montana. The Falls serves as a sacred center of the Kootenai religion. The FERC decision ended a nine-year battle for the Kootenai.

NARF filed *amicus curiae* briefs in two religious freedom cases in the U.S. Supreme Court. In *Lyng v. Northwest Indian Cemetery*, the Court will determine whether the construction of a forest service road in an area of religious significance to the Yurok, Karok and Talowa Tribes violates those Indians' First Amendment right to free exercise of their religion. In the second case, *Employment Division, Department of Human Services of the State of Oregon v. Smith*, the Court will decide if members of the Native American Church who were discharged from their jobs for peyote use during religious ceremonies are entitled to unemployment compensation benefits from Oregon's unemployment fund by virtue of their First Amendment free exercise rights.

In *Brown v. Aravae*, NARF and the Idaho Legal Services successfully assisted prisoners to protect their rights to possess sacred religious objects and to practice their Native American religion in the Idaho corrections system. The Indian plaintiffs had initially filed suit claiming that the correctional institution was violating their freedom of religion under the First and Fourteenth Amendments to the Constitution.

Protecting Indian burial sites from excavation and desecration has been the objective of NARF's advocacy for a new federal Indian burial policy. The policy would provide for the reinterment of over 300,000 Indian bodies stored in federal and state institutions, and would also establish a new federal policy properly recognizing the cultural and religious rites of Native Americans relating to burial sites on public lands. On a state level, NARF is assisting the State of Kansas to draft legislation to stop the desecration of Indian burial grounds there.

NARF is representing Native Hawaiians in their effort to prevent development of a geothermal project on the island of Hawaii. The Natives allege the island is a sacred religious site and that the proposed development would infringe on their religious beliefs and practices. However, the Hawaii Supreme Court ruled in favor of the geothermal project. The case, *Dedman v. Hawaii Board of Land*



*"The intent in interring objects with the deceased is that they will remain there perpetually, and not that they are available for someone to recover and possess as owner."*

Court of Appeal of Louisiana  
First Circuit  
Charrier v. Bell

*"Under Section 10(A)(1) of the Federal Power Act it is in the public interest to 'protect the religious and cultural practices and sites of the Kootenai people' in the Falls area from the proposed development."*

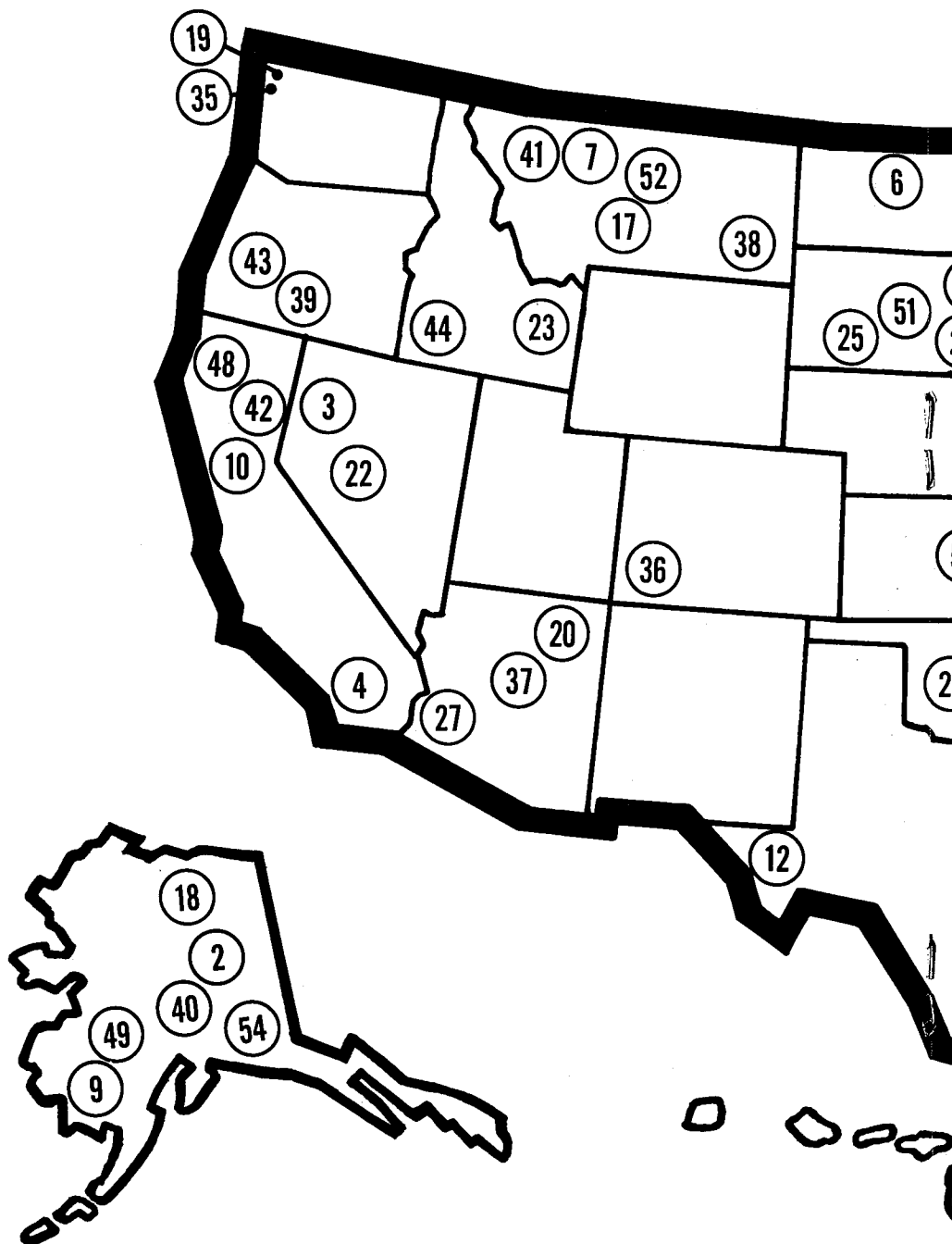
Federal Energy Regulatory  
Commission, Kootenai Falls



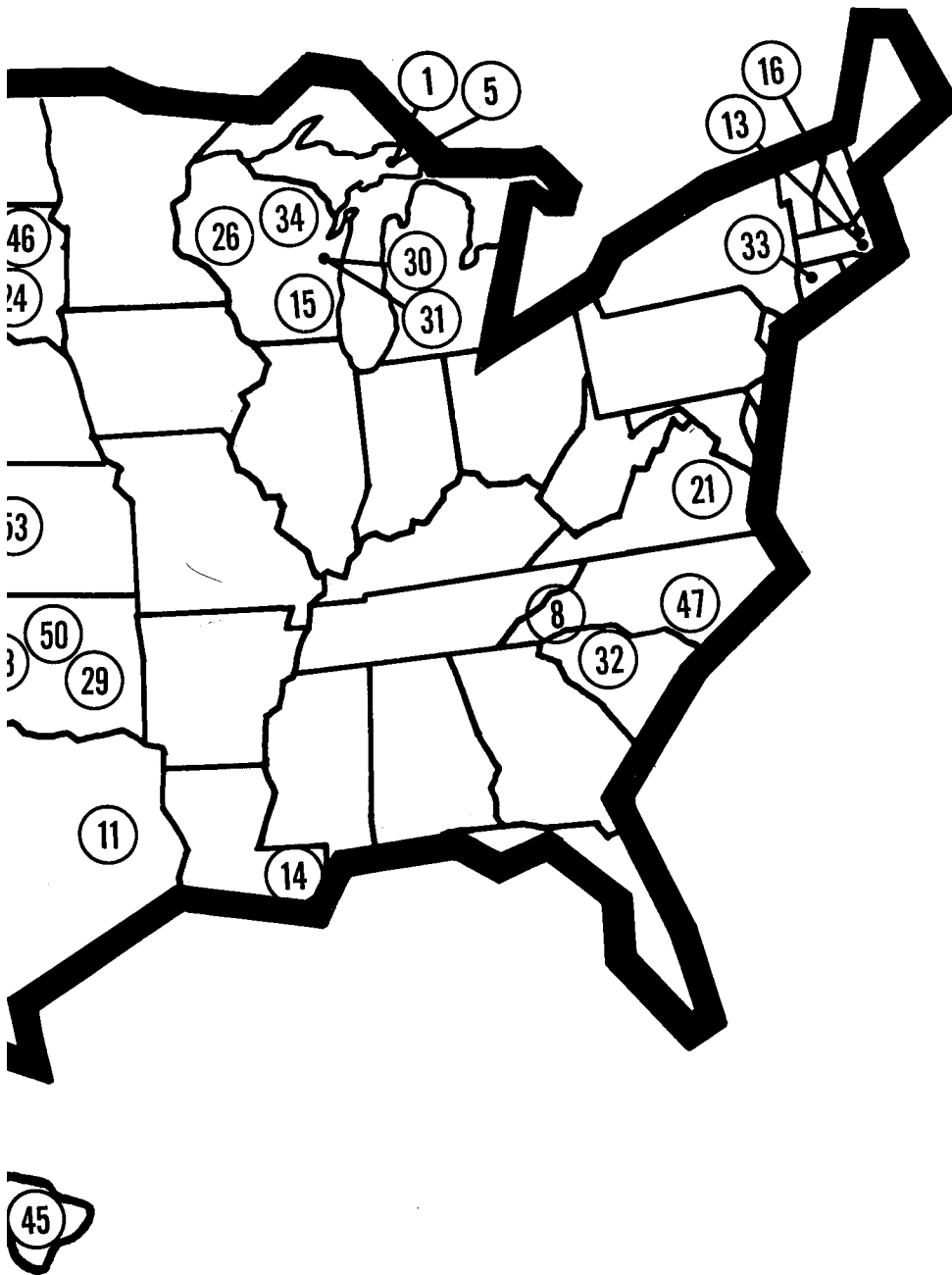
Marilyn Pourier (Oglala Sioux),  
Development Assistant



- |    |    |                                                         |
|----|----|---------------------------------------------------------|
| MI | 1  | Teeple v. Commissioner of IRS                           |
| AZ | 2  | State v. Native Village of Venetie                      |
| NV | 3  | Pyramid Lake Paiute Tribe v. Burchett                   |
| CA | 4  | California v. Cabazon Band of Mission Indians           |
| MI | 5  | U.S. v. Bay Mills Chippewa Indian Community             |
| ND | 6  | Twin City v. Parisien (amicus)                          |
| MT | 7  | Iowa Mutual v. LaPlante (amicus)                        |
| NC | 8  | Jackson County North Carolina v. Swayney                |
| AK | 9  | Alaska Native Coalition                                 |
| CA | 10 | Coyote Valley Band of Indians v. U.S.                   |
| TX | 11 | Alabama-Coushatta Tribe v. Mattox                       |
| TX | 12 | Ysleta del Sur Pueblo of Texas                          |
| MA | 13 | Mashpee Wampanoag Tribe of Massachusetts                |
| LA | 14 | Houma Tribe of Louisiana (recognition)                  |
| WI | 15 | Brotherton Tribe of Wisconsin (recognition)             |
| MA | 16 | Gay Head Wampanoag of Massachusetts (recognition)       |
| MT | 17 | Little Shell Band of Chippewas (recognition)            |
| AK | 18 | Village of Nuiqsut                                      |
| WA | 19 | Swinomish Tribal Community v. Burlington Northern, Inc. |
| AZ | 20 | San Juan Paiutes (land claim)                           |
| VA | 21 | Pamunkey Tribe (land claim)                             |
| NV | 22 | Walker River Paiute Tribe v. So. Pacific                |
| ID | 23 | U.S. v. Colianni                                        |
| SD | 24 | Yankton Sioux Tribe v. Nelson                           |
| SD | 25 | Potter v. South Dakota and Jones v. U.S.                |
| WI | 26 | St. Croix Chippewa Indians of Wisconsin v. U.S.         |
| CO | 27 | Metropolitan Water District v. U.S.                     |



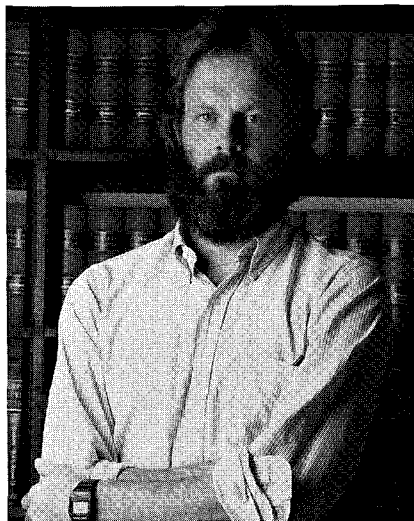
During this reporting period NARF processed approximately 400 requests from Tribes, individuals and organizations.



- OK 28 Cheyenne-Arapaho Tribe v. U.S.
- OK 29 Pawnee v. U.S. (amicus)
- WI 30 County of Oneida v. Oneida  
Indian Nation
- WI 31 Oneida Indian Tribe of Wisconsin  
et al. v. State of N.Y.
- SC 32 So. Carolina v. Catawba Indian Tribe
- CT 33 Schaghticoke Tribe of Connecticut
- WI 34 Stockbridge-Munsee Tribe of  
Wisconsin
- WA 35 Muckleshoot Tribe v. Puget Sound  
Power & Light Co.
- CO 36 Southern Ute Tribe of Colorado
- AZ 37 Ft. McDowell Indian Community  
v. Salt River Project
- MT 38 Northern Cheyenne Tribe  
(water rights)
- OR 39 Klamath Tribe (water rights)
- AK 40 Katy John v. State of Alaska —  
Alaska Native Village of Mentasta
- MT 41 Kootenai Indians of Montana,  
Idaho, British Columbia
- CA 42 Lyng v. Northwest Indian Cemetery  
(amicus)
- OR 43 Employment Division, Dept. of  
Human Services of the State of  
Oregon v. Smith
- ID 44 Brown v. Aravae
- HI 45 Dedman v. Hawaii Board of Land  
& Natural Resources
- SD 46 Buckanaga v. Sisseton School District
- NC 47 Lumbee Tribal Members  
(voting rights)
- CA 48 Hoopa Valley Tribe of California  
(education)
- AK 49 Native Village of Akiachak v. Notti
- OK 50 Kauley v. Hodel
- SD 51 Rosebud Sioux Tribe (government)
- MT 52 McNabb v. Bowen (amicus)  
(human rights)
- KS 53 Assisting State of Kansas (Religious)
- AK 54 Alyeska Pipeline Co. v. Kluti Kaah  
Native Village of Copper Center



Faith Roessel (Navajo), Staff Attorney



Steve Moore, Staff Attorney

and *Natural Resources*, is on appeal to the U.S. Supreme Court. NARF serves as co-counsel with the Native Hawaiian Legal Corporation and private attorneys.

### Voting Rights

In 1982, Congress amended Section 2 of the 1965 Voting Rights Act to prohibit discriminatory electoral practices and procedures. However, various election methods are still in place that prevent Indian people from fully participating in various city, county and state elections. Currently, NARF is working to end discriminatory voting practices in school board elections.

In South Dakota, NARF is challenging the issue of at-large district voting procedures which prevent minority representation on a school board in *Buckanaga v. Sisseton School District*. A court of appeals ruled that a lower federal district court had failed to consider relevant historical voting facts in the trial. The Court remanded the case back to the district court for further proceedings. NARF asserts that an election system of single-member districts would provide the Indian voters an equal opportunity to elect candidates of their choice and would comply with the Voting Rights Act. Although the school district has a large Indian population, very few Indians have ever been elected to the school board.

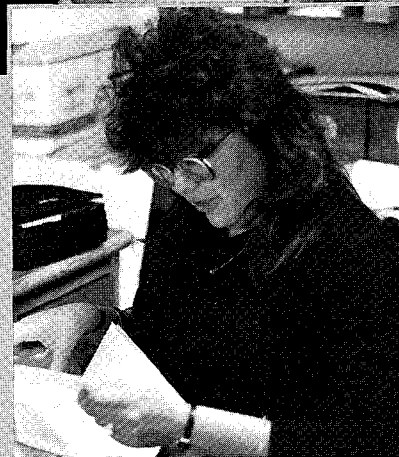
On behalf of several Lumbee tribal members, NARF is investigating the effects of annexation on school districts in Robeson County, North Carolina. The annexations have resulted in a decrease in the minority populations in the school districts thereby possibly resulting in a dilution of the minority vote in the area.

Susan Arkeketa (Otoe-Missouria/Creek), Grant Writer/Editor and Robert Peregoy (Flathead), Staff Attorney

### Education

Education is especially important for Native Americans since it is essential for developing the skills necessary for tribal self-sufficiency. NARF has worked successfully with tribes, parent groups, and national Indian organizations to assure that Native Americans have an active and participative voice in deciding the educational future for their children.

On behalf of the Hoopa Valley Tribe of California NARF commented on proposed BIA higher education regulations for governing eligibility for undergraduate scholarship monies. This year, NARF also disseminated an education questionnaire to tribes and educators to help assess the legal issues that Indian people face in the area of Indian education. The information derived from the questionnaire will help NARF attorneys better address Indian education needs.



Debbie Raymond (Navajo)  
Administrative Assistant



# The Accountability Of Governments

NARF works to hold all levels of government accountable for the proper enforcement of the many laws and regulations which govern the lives of Indian people. NARF continues to be involved in several cases which focus primarily on the accountability of the federal and state governments to Indians.

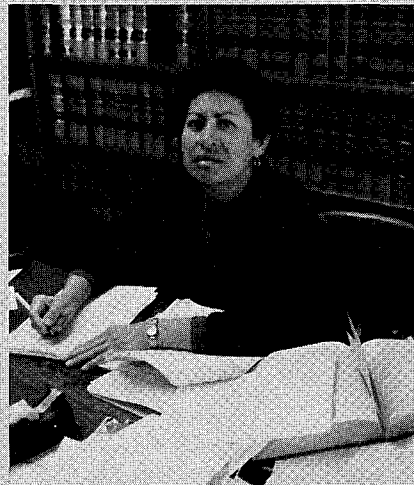
In Alaska, NARF has pending a suit on behalf of the Native Village of Akiachak and others to secure state revenue sharing funds for their tribal government. In *Native Village of Akiachak v. Notti*, NARF is challenging Alaska's position that the state cannot constitutionally allocate revenue sharing monies to tribal governments. NARF is asserting that the villages are governments with the same status as lower 48 Indian tribes and therefore they may be singled out for discrete beneficial treatment without running afoul of equal protection which the law guarantees. NARF is also assisting the Akiachak Native Community in its effort to dissolve its state-chartered municipality in order that its federally recognized tribal government will remain the paramount governing body in the community. Legislation has been introduced in the Alaska State Senate that would allow communities to dissolve state chartered municipalities in favor of tribal governments.

In *Kauley v. Hodel*, NARF and Oklahoma Indian Legal Services represent individual allottees in their effort to enforce the Federal Oil and Gas Royal Management Act (FOGMA) of 1983. FOGMA expressly vests in the Secretary of Interior the responsibility of administering federal and Indian oil and gas resources leased to private developers. The allottees allege that the federal government has been negligent in administering the Act.

NARF filed an *amicus curiae* brief in *McNabb v. Bowen*, an action to compel the federal Indian Health Service (IHS) to assume primary health care to reservation Indians. Initially filed

in Montana, the case challenged IHS's assertion that a county general welfare assistance program has primary responsibility to assist Indian patients and IHS has only a "residual" obligation. A federal appeals court ruled in 1987 that IHS has the primary responsibility.

NARF is also assisting the Rosebud Sioux Tribe of South Dakota negotiate payment of its outstanding Comprehensive Employment Training Act (CETA) debt. So far, the debt has been reduced by two-thirds.



Yvonne Knight (Ponca-Creek), Staff Attorney

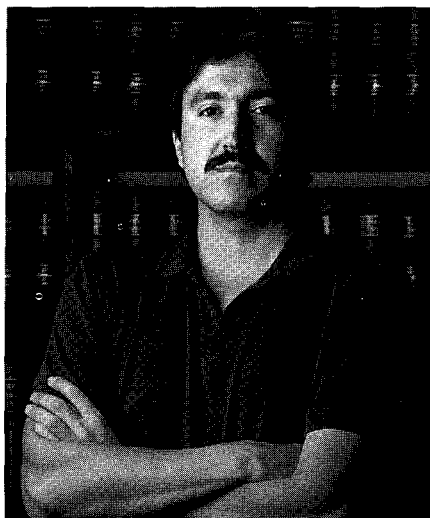


Marilyn White (Mohawk) Legal Secretary



*"The district court failed however, to discuss substantial contrary evidence that South Dakota officially excluded Indians from voting and holding office until the 1940's. Nor did the district court consider that even after the repeal of state laws expressly denying the Indians the right to vote, the State of South Dakota, as late as 1975, effectively denied Indians the right to vote in certain county elections."*

Eighth Circuit Court of Appeals  
Buckanaga v. Sisseton

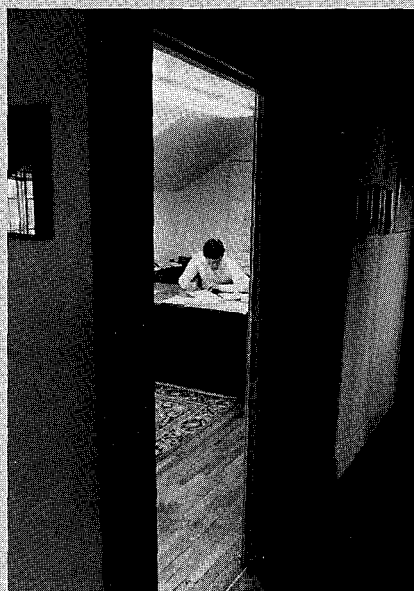


**Rick Dauphinais** (*Turtle Mountain Chippewa*),  
Deputy Director

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

### **Indian Law Support Center**

The first of these projects is the Indian Law Support Center (ILSC), which is one of 16 national support centers funded by the Legal Services Corporation. NARF has operated the ILSC since 1972, providing backup legal assistance to local legal services programs which serve Indians on reservations and in urban areas nationwide.



**K. Jerome Gottschalk**, Staff Attorney

During the fiscal year 1987, the ILSC provided assistance to local programs in all areas of Indian law. In responding to hundreds of requests, the Center's services have included letter and telephone advice, furnishing legal materials, co-counseling in cases, conducting legal research, reviewing drafts of court pleadings and briefs, analyzing legislation, and providing other services as requested by legal services field programs. The Center also conducted Indian law training conferences on Indian health and tribal jurisdictional issues in 1987. The publication of a monthly newsletter distributed to Indian law practitioners is another service performed by the Center.

The ILSC continues to assist directly in the litigation involving Klamath tribal water rights, enforcement of federal oil and gas laws and the federal trust responsibility for members of Oklahoma tribes, a tribal constitutional amendment for the Pomo and Karuk Tribes, the rights of Native prisoners in Idaho, California and Alaska, and the protection of First Amendment religious rights of Native Americans and Hawaiian Natives. Additionally, the ILSC has written and widely distributed six manuals on major areas of Indian law. The manuals include: *A Manual on Tribal Regulatory Systems*, *A Self-Help Manual for Indian Economic Development*, *A Handbook of Federal Indian Education Laws*, *A Manual for Protecting Indian Natural Resources*, *A Manual on the Indian Child Welfare Act and Laws Affecting Indian Juveniles*, and a manual on *Prison Law and the Rights of Native American Prisoners*. Updates to four of these manuals are completed or nearing completion.



# The Development Of Indian Law

## National Indian Law Library

Beginning its 15th year of existence is the National Indian Law Library (NILL), a NARF special project in the development of Indian law. The library serves as a clearinghouse and invaluable resource for Indian legal materials. During the 1987 fiscal year, the library staff processed over 4,673 requests for information from throughout the United States and many foreign countries. As a national resource center for Indian legal materials, access to NILL's holdings is essential for anyone working in the field of Indian law. Thus, the main users of NILL have been NARF attorneys, private attorneys, legal services attorneys, tribal officials, tribal advocates, tribal court judges, law students and law libraries.

The *National Indian Law Library Catalogue, An Index to Indian Legal Materials and Resources*, reflects NILL's current holdings which include cases, briefs, pleadings, orders, legal opinions, rulings, memoranda, treatises, studies, book articles, reports and legislative histories pertinent to Indian law. The *NILL Catalogue* is arranged by subject, author, title, a table of cases and by NILL number, and with its supplements lends ready access to NILL's extensive holdings. The *NILL Catalogue*, published every five years and updated annually by non-cumulative supplements, is available for purchase from the National Indian Law Library.

## Other Activities

In addition to its major projects, NARF staff is actively involved in national Indian conferences and legal education projects. During the past fiscal year, NARF attorneys and staff served in a formal or informal leadership capacity at numerous tribal, state, academic, and national Indian meetings such as the National Congress of American Indians, Association of American Indian Affairs, National Indian Education Association, Women and Law Conference, the Inter-American Indian Congress, the National Indian Youth Council, and United Indian Development Association.

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



## Treasurer's Report



Susan Rosseter Hart, Secretary/Treasurer

The Native American Rights Fund experienced a reduction in total fund balances in fiscal 1987. The reduction was brought about by a deficiency of support and revenue, relative to expenses, of \$94,861. Total fund balances stood at \$835,930 at September 30th.

Support and revenue totalled \$3,658,459 in fiscal 1987, an increase of 6.3% over fiscal 1986. A comparison of revenue sources as a percentage of total support and revenue is given below for your information.

Revenue Sources	FY 87	FY 86
Government	35	46
Foundations & Trusts	29	25
Individuals & Corporations	20	16
Legal Fees	9	2
Other	7	11
	100%	100%

Government grant dollars decreased by \$309,873 from fiscal 1986 due to declining grant award amounts and cessation of funding for certain, one-time projects. Foundation and trust grants increased by \$211,817. Contributions from individuals and corporations increased while moneys derived from other sources were lower than in fiscal 1986 by \$110,576.

The single largest increase in revenue was in the category of legal fees, which grew by \$250,018 (314%) over the previous year. NARF's revenue from legal fees has grown because more sources of funding for legal activity have become available to NARF's client tribes in the past year, helping to meliorate the impact of declining government grant awards. NARF is allowed to derive up to one-third of its annual revenue from legal fees without affecting its status as a 501(c)(3) charitable organization.

NARF's expenditures in fiscal 1987, which supported the work of sixteen attorneys in three offices, and the National Indian Law Library, totalled \$3,753,320. This was an increase of 8.7% over expenditures in fiscal 1986. Expenditures by function are compared, as a percentage of total expenditures for fiscal 1987 and 1986, below:

Functional Expenditures	FY 87	FY 86
Litigation & Client Services	72.5%	71.4%
National Indian Law Library	5.1%	5.1%
Program Services	77.6%	76.5%
Management & General	10.1%	11.8%
Fundraising	12.3%	11.7%
Support Services	22.4%	23.5%
	100.0%	100.0%

Expenditures for program services increased by 1.1%, with a mirror decrease in percentage of spending for support services. NARF continues to make an effort to provide as much direct client service as possible for each dollar spent.

On the pages immediately following, NARF's audited financial statements for the fiscal year ended September 30, 1987 are presented for your further information.





December 18, 1987

To the Board of Directors of  
Native American Rights Fund, Inc.

*In our opinion, the accompanying balance sheet and the related statements of support, revenue, expenses and changes in fund balances, of changes in cash and of functional expenses present fairly the financial position of Native American Rights Fund, Inc. at September 30, 1987 and the results of its operations and changes in fund balances and the changes in its cash for the year, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Our examination of these statements 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.*

*Price Waterhouse*

**NATIVE AMERICAN RIGHTS FUND, INC.**

**Balance Sheet**

**SEPTEMBER 30, 1987**

	<u>Current funds</u>		<u>General fixed asset fund</u>	<u>Total all funds</u>
	<u>Unrestricted</u>	<u>Restricted</u>		
<b>ASSETS</b>				
Cash, including certificates of deposit of \$270,132 - partially pledged (Note 4)	\$320,890			\$ 320,890
Marketable securities, at cost (Note 2)	221,393			221,393
Grants receivable (Note 3)		\$257,020		257,020
Other receivables	356,885			356,885
Prepaid expenses	48,752			48,752
Interfund receivable (payable)	(156,899)	156,899		
Property and equipment, at cost:				
Land and buildings			\$ 313,938	313,938
Improvements to land and buildings			145,328	145,328
Office equipment and furnishings			420,899	420,899
Professional library			99,687	99,687
Less accumulated depreciation			(468,037)	(468,037)
	<u>\$791,021</u>	<u>\$413,919</u>	<u>\$ 511,815</u>	<u>\$1,716,755</u>
<b>LIABILITIES AND FUND BALANCES</b>				
Accounts payable	\$151,915			\$ 151,915
Accrued sabbatical leave	68,709			68,709
Other accrued expenses	116,995			116,995
Deferred revenue (Note 3)		\$413,919		413,919
Mortgage and notes payable (Note 4)			\$ 129,287	129,287
Fund balances	453,402		382,528	835,930
Commitment (Note 5)				
	<u>\$791,021</u>	<u>\$413,919</u>	<u>\$ 511,815</u>	<u>\$1,716,755</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, 1987**

	<u>Current funds</u>		<u>General fixed asset fund</u>	<u>Total all funds</u>
	<u>Unrestricted</u>	<u>Restricted</u>		
Support and revenue:				
Governmental grants		\$1,269,681		\$1,269,681
Foundation and trust grants	\$ 193,794	859,997		1,053,791
Contributions	736,845			736,845
Legal fees	329,759			329,759
Other (Note 2)	268,383			268,383
Total support and revenue	<u>1,528,781</u>	<u>2,129,678</u>		<u>3,658,459</u>
Expenses:				
Program services:				
Litigation and client services	1,146,521	1,520,137	\$ 53,946	2,720,604
National Indian Law Library	80,888	107,383	3,811	192,082
Total program services	<u>1,227,409</u>	<u>1,627,520</u>	<u>57,757</u>	<u>2,912,686</u>
Support services:				
Management and general	159,382	211,410	7,503	378,295
Fund raising	194,779	258,390	9,170	462,339
Total support services	<u>354,161</u>	<u>469,800</u>	<u>16,673</u>	<u>840,634</u>
Total expenses	<u>1,581,570</u>	<u>2,097,320</u>	<u>74,430</u>	<u>3,753,320</u>
Excess (deficiency) of support and revenue over expenses	(52,789)	32,358	(74,430)	(94,861)
Fund balances, beginning of year	549,792		380,999	930,791
Other changes in fund balances:				
Acquisition of property and equipment	(66,142)	(19,175)	85,317	
Proceeds from mortgage and note payable issued	26,400		(26,400)	
Repayment of mortgage and notes payable	273	(17,315)	17,042	
Other	(4,132)	4,132		
Fund balances, end of year	<u>\$ 453,402</u>	<u>\$ -</u>	<u>\$ 382,528</u>	<u>\$ 835,930</u>

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

**NATIVE AMERICAN RIGHTS FUND, INC.**

**Notes to Financial Statements**

**SEPTEMBER 30, 1987**

**NOTE 1 — ORGANIZATION AND SUMMARY OF  
SIGNIFICANT ACCOUNTING POLICIES**

**Organization:**

Native American Rights Fund, Inc. (NARF) was incorporated 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, public contributions and a limited fee policy.

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. For costs

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.

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 receivable (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 excess of net assets specifically identifiable with the restricted fund over deferred revenue at September 30, 1987.

**Allocation of expenses:**

Expenses are allocated to grants based on time devoted to projects by attorneys, except where expenses are specifically identifiable with a particular grant or project.

# NATIVE AMERICAN RIGHTS FUND, INC.

## Statement of Changes in Cash

FOR THE YEAR ENDED SEPTEMBER 30, 1987

	<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 (used for):				
Excess (deficiency) of support and revenue over expenses	\$ (52,789)	\$ 32,358	\$ (74,430)	\$ (94,861)
Add (deduct) items not affecting cash:				
Deferred revenue and grants receivable recognized as support and revenue		(1,194,771)		(1,194,771)
Depreciation			70,179	70,179
Loss on disposal of property and equipment			4,251	4,251
Deferred revenue received and grants receivable collected		768,336		768,336
Increase in accrued sabbatical leave	2,627			2,627
Increase in other receivables	(147,210)			(147,210)
Increase in prepaid expenses	(10,362)			(10,362)
Increase (decrease) in interfund receivable/payable	(426,435)	426,435		
Increase in accounts payable	(58,822)			(58,822)
Increase in other accrued expenses	14,630			14,630
Cash provided by (used for) operations	(678,361)	32,358	-	(646,003)
Decrease in marketable securities	(11,544)			(11,544)
Proceeds from issuance of note payable			26,400	26,400
	(689,905)	32,358	26,400	(631,147)
Cash was used for:				
Net fund balance transfers	43,601	32,358	(75,959)	
Acquisition of property and equipment			85,317	85,317
Repayment of mortgage and notes payable			17,042	17,042
	43,601	32,358	26,400	102,359
Decrease in cash	\$ (733,506)	\$ -	\$ -	\$ (733,506)

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

### Professional staff:

Personnel classified as professional staff include attorneys, legislative assistant, librarians, interns 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.

### General fixed asset fund:

The general fixed asset fund accounts for NARF's recorded fixed assets and all debt obligations. Uses of current operating funds for acquisition of property and equipment and principal debt service are accounted for as transfers to the general fixed asset fund. Proceeds from issuance of debt obligations are accounted for as transfers to the current unrestricted and restricted funds.

### Depreciation:

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

### NOTE 2 — MARKETABLE SECURITIES

Marketable securities consist of marketable corporate securities and mutual fund investments. These investments are stated

at cost of \$221,393 which is lower than market of \$258,286 at September 30, 1987. Investment income for 1987 was \$12,404. Declines in market value from cost are recognized when the aggregate market value is less than the carrying amount. Recoveries of aggregate market amounts are recorded in the period realized subject to the limitation that the carrying amount does not exceed the original cost.

### NOTE 3 — GRANTS RECEIVABLE AND DEFERRED REVENUE

Grants receivable and deferred revenue consisted of the following individual restricted grants or contracts at September 30, 1987:

	<u>Grants receivable</u>	<u>Deferred revenue</u>
Ford Foundation		\$328,238
Department of Health and Human Services — Administration for Native Americans	\$140,982	
Legal Services Corporation		39,797
Bureau of Indian Affairs	112,537	5,378
New World Foundation		9,318
The Fanny and Svante Knistrom Foundation		22,396
Merck Family Fund		5,444
Other	3,501	3,348
	<u>\$257,020</u>	<u>\$413,919</u>

**NATIVE AMERICAN RIGHTS FUND, INC.**

**Statement of Functional Expenses**

**FOR THE YEAR ENDED SEPTEMBER 30, 1987**

	Program services			Support services			Total expenses
	Litigation and client services	National Indian Law Library	Total	Management and general	Fund raising	Total	
Salaries and wages:							
Professional staff	\$ 850,144	\$ 64,672	\$ 914,816	\$ 122,869	\$ 73,029	\$ 195,898	\$1,110,714
Support staff	197,064	46,572	243,636	79,854	44,189	124,043	367,679
Fringe benefits	193,647	20,883	214,530	27,852	18,753	46,605	261,135
Total salaries and related costs	1,240,855	132,127	1,372,982	230,575	135,971	366,546	1,739,528
Contract fees and consultants	569,064	3,103	572,167	38,378	36,691	75,069	647,236
Travel	203,220	3,022	206,242	50,056	16,117	66,173	272,415
Space costs	87,220	6,054	93,274	12,720	7,323	20,043	113,317
Office expenses	438,381	35,604	473,985	30,909	254,286	285,195	759,180
Equipment maintenance and rental	52,865	6,024	58,889	8,214	103	8,317	67,206
Litigation costs	39,683		39,683				39,683
Library costs	35,726	2,426	38,152		2,173	2,173	40,325
Expenses before depreciation	2,667,014	188,360	2,855,374	370,852	452,664	823,516	3,678,890
Loss on disposal of property and equipment	3,061	213	3,274	425	552	977	4,251
Depreciation	50,529	3,509	54,038	7,018	9,123	16,141	70,179
Total expenses	<u>\$2,720,604</u>	<u>\$ 192,082</u>	<u>\$2,912,686</u>	<u>\$ 378,295</u>	<u>\$ 462,339</u>	<u>\$ 840,634</u>	<u>\$3,753,320</u>

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

**NOTE 4 — MORTGAGE AND NOTES PAYABLE**

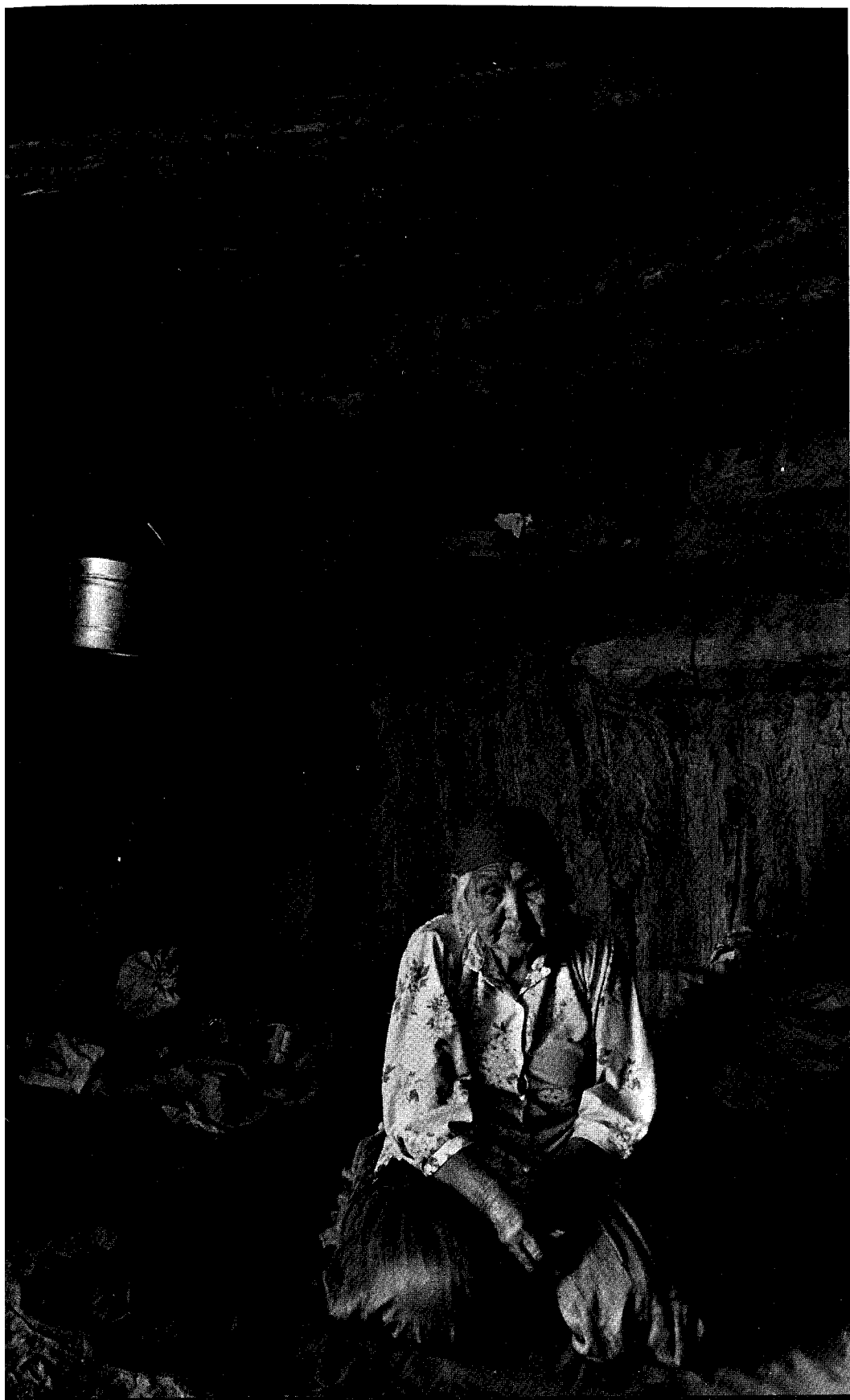
Mortgage and notes payable consisted of the following at September 30, 1987:

Mortgage payable in equal monthly installments of \$825, including interest at 12%, through March 1991. Secured by land and building	\$ 73,601
Promissory note payable in 60 monthly installments, including interest at 10.2%, through January 1989. Secured by \$70,131 certificate of deposit	29,253
Promissory note payable in 58 monthly installments of \$220 principal, plus accrued interest at 11%, with one final payment of principal plus accrued interest to date, due April 1992	25,740
Other	693
	<u>129,287</u>
Less current portion	<u>(29,933)</u>
	<u>\$ 99,354</u>

Annual maturity requirements on the mortgage and note payable are as follows (fiscal years): 1988 — \$29,933; 1989 — \$7,713; 1990 — \$4,086; 1991 — \$4,269; 1992 — \$17,016; and beyond — \$66,270.

**NOTE 5 — COMMITMENTS**

NARF leases equipment under operating leases. Future minimum rental payments under operating leases are \$7,582 in fiscal 1988 and \$744 in fiscal 1989. Rental expense for 1987 was \$28,994.





# In Appreciation

The Native American Rights Fund would like to acknowledge the generous support given by the following contributors during the 1987 fiscal year.

## Foundations

Carnegie Corporation of New York  
Edna McConnell Clark Foundation  
Ford Foundation  
General Service Foundation  
Fanny and Svante Knistrom Foundation  
J. Roderick MacArthur Foundation  
Merck Family Fund  
National Community Funds —  
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New Land Foundation  
New World Foundation  
North Star Fund  
Onaway Trust (Great Britain)  
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## Corporations And Other Private Donors

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and Jacobson  
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Research Council  
National Lawyers Guild  
Philip Morris Inc.  
Sonosky, Chambers, Sachse and Miller  
United Bank of Denver  
U.S. West

## Federal Programs

Administration for Native Americans  
Bureau of Indian Affairs  
Legal Services Corporation

## "Top Five"

*(Our special thanks to these people who supported NARF very generously in 1987. Listed largest first)*

Ruth S. Thompson  
Ann R. Roberts  
Anna Rhode Rozier  
Mr. and Mrs. Roger S. Clapp  
Abigail Disney

## Benefactors

*(Individuals donating \$1,000 or more during NARF's 1987 fiscal year)*

Judith Arledge  
Fanny Arnold  
Sarah Barlow  
Ann Berlin  
Mrs. Henry F. Berlin  
Oliver C. Binney  
Roger Boone  
Romana Burke  
Deborah S. Carmichael  
Mr. and Mrs. Roger Clapp  
Lindsay Clegg  
Versa Cole  
Arie and Ida Crown Memorial  
David Dawson  
Naomi Dempsey  
Harvey Dennenberg  
Abigail Disney  
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Pernell Roberts and Kara Knack  
Anna Rhode Rozier  
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Ruth Thompson  
Catherine Tilghman  
Thomas P. Van Buren  
Frances Vicario  
Dorothy Vondrasek  
Barbara Ziegler

## "Friends"

*(Individuals donating \$500-999 during NARF's 1987 fiscal year)*

Harold Allen  
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 Martha Tolman  
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 Walton Avenue Foundation  
 Faith P. Waters  
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 Marian Wyman  
 Bell Yaffe  
 Margareite Zerbe

*(Thank you to the more than 25,000 additional people throughout the United States who supported our efforts in 1987.)*

#### In-Kind Contributions

Victor Abbo, Esq. — Boulder, CO  
 Alaska Legal Services — Anchorage, AK  
 Alfalfa's Market — Boulder, CO  
 Art Hardware — Boulder, CO  
 BDF Reflections — Boulder, CO  
 Calvin Ball — Washington, D.C.  
 Earl Biss — Denver, CO  
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 John's Restaurant — Boulder, CO  
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 Millie and David Lester — Denver, CO  
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 Eve and Don Sears — Boulder, CO  
 Skyland Motel — Boulder, CO  
 Stage House II — Boulder, CO  
 Sturtz and Copeland — Boulder, CO  
 Tami Tanoue — Boulder, CO  
 Dr. Deward E. Walker, Jr. — Boulder, CO  
 Jeanne and David Whiteing — Boulder, CO  
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 Youngblut Photographics — Denver, CO

#### Bequests

Ruth B. Darsie  
 Marion Francis  
 Anna Gring  
 The Agnes Goldman Sanborn Trust  
 William Pigon

#### Memorials (\$100+)

Forrest M. Chapman by Susan Chapman  
 Tom W. Echohawk by Lucille Echohawk  
 Stanley Evaskus by David Evaskus  
 Theodore L. Gudeman by Marietta Gudeman  
 Carol P. Hewelcke by Miss Mary Frances Hewelcke  
 Billy Jo Hurley by Steve Hurley  
 Harold L. and Anna W. Ickes by Raymond Ickes  
 Dallas Johnson by Mrs. and C.K. Finch  
 Kevin Lalleau by Dr. Alexander Blain, III  
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 Mischa Titiev by Jeanne Henle  
 Vincent Two Lance by Elizabeth Dodds  
 Paula Uihlein by Angiola Sartorio

*(In addition to the \$100+ memorials, hundreds of smaller gifts were made through the Ot'u'han memorial and honoring program during the 1987 fiscal year.)*

#### Matching Gifts

David R. Askenhurst through the MacArthur Foundation  
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 Elizabeth Plaisted through Readers Digest Foundation  
 Theodore H. Plant through Joseph E. Seagram and Sons, Inc.  
 Seymour Preston, Jr. through Equitable Life Assurance Society  
 Kamesh Ramakrishna through Digital Equipment Corporation  
 Randolph Richardson through Chemical Bank  
 Ann W. Stramm through Dennison Manufacturing Company

#### Federated Work-Place Drives

Thank you to the thousands of federal employees and other individuals throughout the country, who, through a work-place deduction, contributed more than \$60,000 to NARF in 1987.

#### 1987 Tribal Contributions

Aqua Caliente Band — California  
 Eastern Band of Cherokee — North Carolina  
 Native Village of Fort Yukon — Alaska  
 Oneida Tribe of Wisconsin — Wisconsin  
 Southern Ute Tribe — Colorado

#### Our Special Thanks To

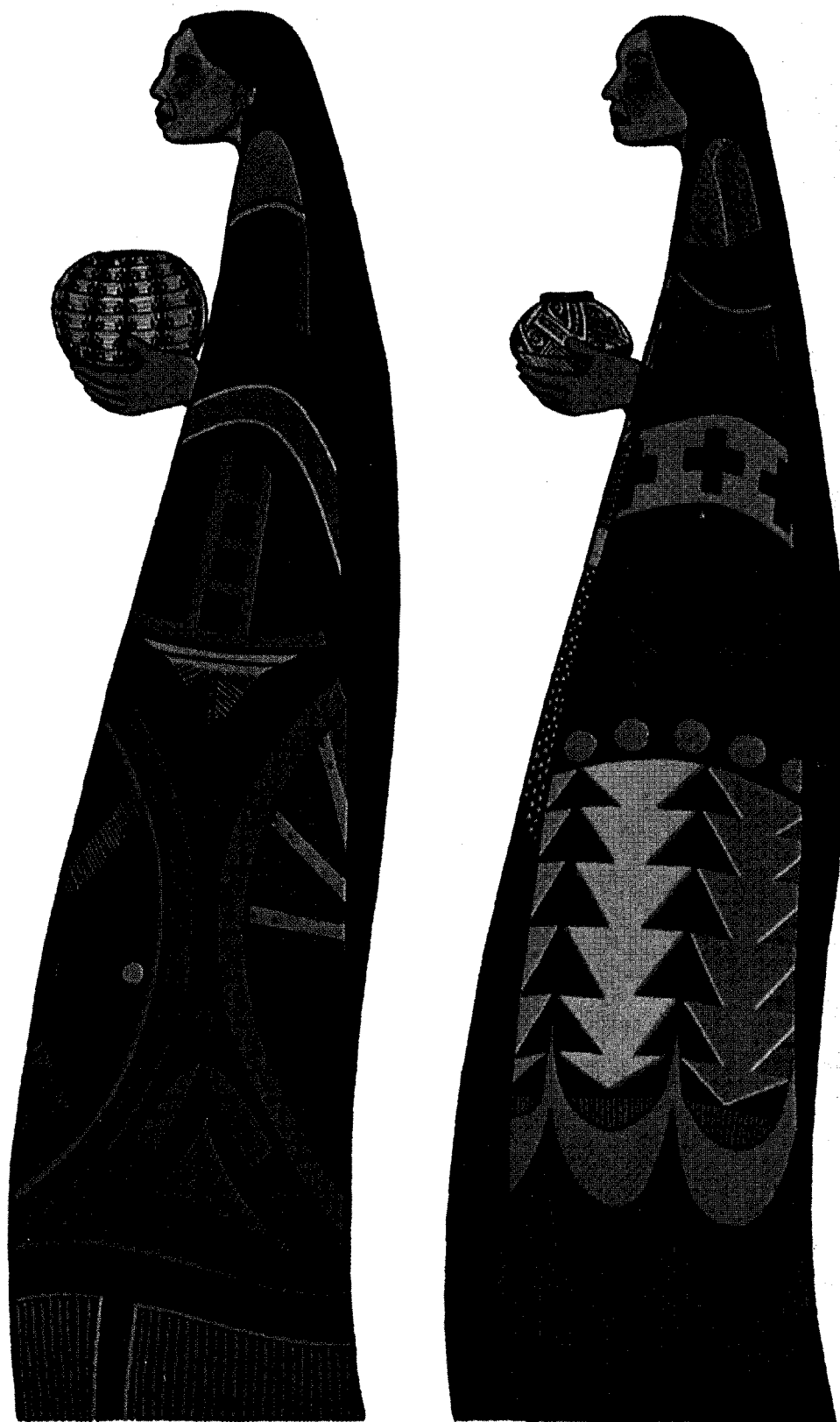
Working Assets Funding Service, San Francisco, CA, which donated \$2,000 to the Native American Rights Fund. The donation came from 1986 use of the Working Assets Visa Card.



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