

Native American Rights Fund

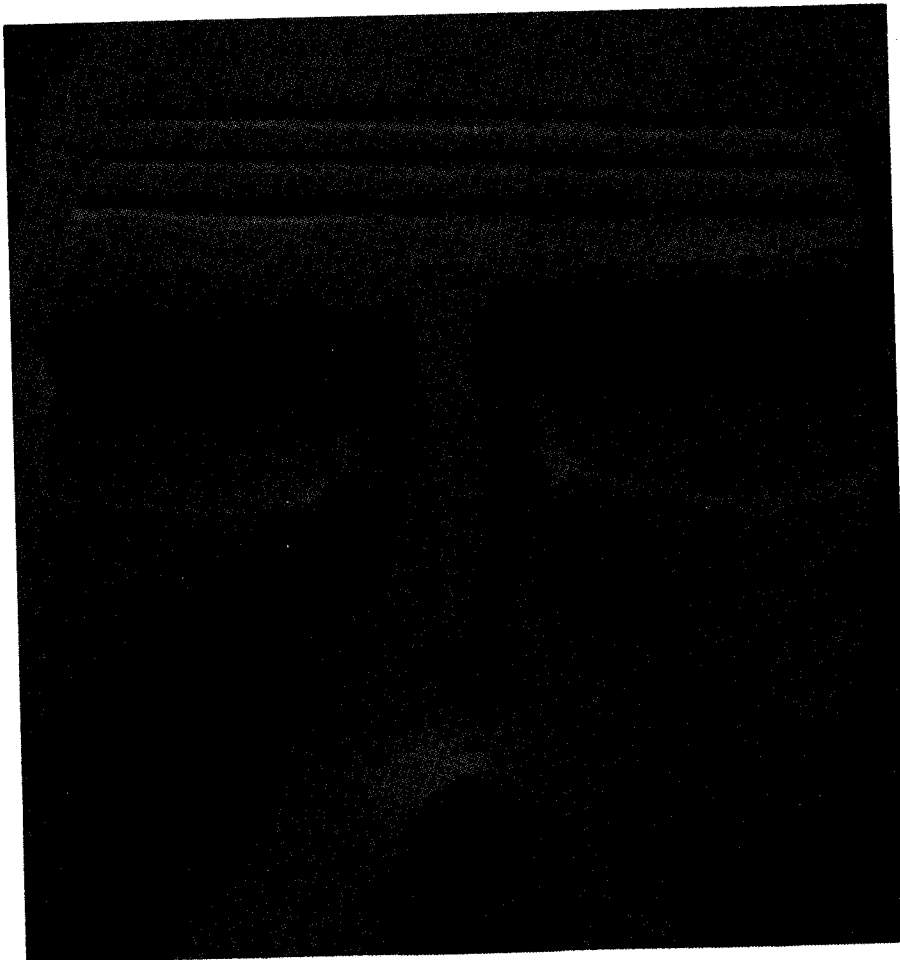
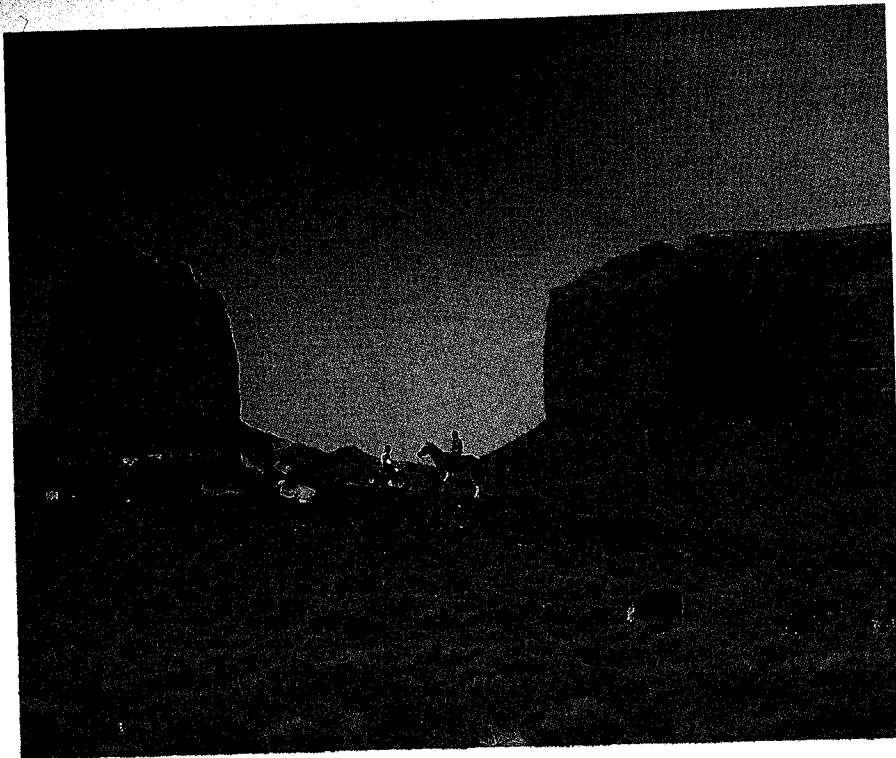
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*Annual
Report
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Native American Rights Fund



Annual Report - 1990

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Cover Painting: "We Are Part Of The Earth," by Jaune Quick-To-See Smith. Jaune Quick-To-See Smith is a member of the Flathead Tribe of Montana. She is a painter who exhibits internationally and is an activist/spokeswoman for both traditional and contemporary Native artists. She has founded two cooperatives: the Coup Marks on the Flathead Reserve and the Grey Canyon Artists in Albuquerque, NM. She lectures and does consulting as well as curates exhibitions for the Native Community. Smith's writing, poetry and illustrations have been published in numerous periodicals and books. She has also served on the boards of the Institute of American Indian Art (Santa Fe), American Indian Contemporary Art Gallery (San Francisco) and currently serves on the boards of ATLATL (Phoenix) and MICA (Montana Indian Contemporary Arts). Her painting, "We Are Part Of The Earth," is on exhibit with NARF's "Artists and Advocates" benefit art show touring the U.S.

Photo Credits

Monty Roessel; Tom Casey; Daniel Kane, Colombia River Intertribal Fish Commission; and the Smithsonian Institution.

National Indian Law Library
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Tax Status

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.

Main Office

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1506 Broadway
Boulder, CO 80302
303-447-8760

Washington, D.C. Office

Native American Rights Fund
1712 N Street, N.W.
Washington, D.C. 20036
202-785-4166

Alaska Office

Native American Rights Fund
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Anchorage, Alaska 99501
907-276-0680

Chairman's Message

How and why Native American Tribes continue to struggle for survival as sovereign cultural and political entities is something that some folks agree with, some folks disagree with and other folks just do not understand. From "time immemorial" our ancestors have passed on the teachings of a way of life, belief and community that is at the heart of our soul and is the thread of our being. Our sense of family, community, and tribalism has evolved with time and weather; like the great rivers to the sea, rising, falling, expanding, shrinking and in some cases even disappearing; and like the river, always seeking to find its way back to its beginnings. So it is with our struggle to exist and survive; and survive we must in a more rapidly changing world to come. May the Great Spirit lead and guide us to the source of our creation and our reason for being.

As we enter the nineties we face tough economic times, with a war in the Persian Gulf, failing banks, talk of a "New World Order," merging economies, shortages of food, bankruptcies, layoffs, increasing crime rate, a lack of qualified teachers in our educational institutions, a trillion dollar national debt, the effects of global warming, water shortages, and severe environmental issues. The stress that these and other issues will have on the future and well-being of this nation's people and its native nations and tribes remains yet to be seen. These worldwide and national issues unquestionably frame the social and economic atmosphere in which all Americans, individually and collectively, chart the future of our country.

Native Americans and their respective governments face, in addition to these challenges, the continuing responsibility to determine to the greatest degree possible the atmosphere in which our children will live. This responsibility of each Indian person and each tribal government has remained within each native community from ancestral times to the times in which we now find ourselves. Now, perhaps more than ever before, Native

people and their respective leadership must be guiding national policy that deeply affects the parameters that frame the development of tribes and its people.

The opportunity to guide, rather than follow, national policy issues affecting Indian people is here as I share this message with each of you. The Bureau of Indian Affairs is in the midst of self-examination, the Environmental Protection Agency is seeking to grasp a national policy affecting tribes and tribal lands, the White House is calling for a national conference on the future of Indian education, the Department of Housing and Urban Development is addressing its programs that govern Indian housing and community development and the Administration for Native Americans is facing re-authorization for funding that support an array of locally determined development strategies. Each of these federal agencies and these respective issues will in some manner and in varying degrees shape the future of tribes and individual Indian people.

I may not have all the answers to all of the concerns raised by these national policy considerations, but I know that my heart and my mind direct me to share in the responsibility of guiding the direction they may take.



Because the determination of Native American individual and tribal futures is affected by these issues of national policy, I am compelled to embrace a philosophy that guiding and shaping these policies is, to the greatest possible degree, a responsibility that all Native Americans and tribal governments will share. I know that it is one that I will share.

I call upon you to work together in the nineties to strengthen ourselves spiritually, educationally, and economically. Let us, the Tribes, develop a sense of friendship and brotherhood, a sense of sharing and a sense of calm in a troubled time; let us set an example for helping to make our entire nation strong again. We, through our long journey as tribes, have been for one reason and another creatures of adaptation. In these times our survival relies upon an even closer adaptation, a symbiotic relationship, if you will, with the non-Native peoples and communities around us. As populations grow and technologies increase and we move toward and into the twenty-first centuries, may we prosper as tribes and Native Americans.

Finally, as many of you know, this past July, the Native American Rights Fund celebrated its 20th anniversary. Coming from a Tribe that was struggling for its survival as a people, I, on behalf of my tribe, would like to thank the NARF organization for being there to play a key role in helping us retain our rightful status as a tribe. To John Echohawk, Board members, staff and supporters, I thank you.

Richard A. Hayward
(Mashantucket Pequot)
Chairman, Board of Directors
Native American Rights Fund

Executive Director's Report

In 1990, the Native American Rights Fund celebrated the 20th anniversary of its founding. The occasion was marked with a profound sense that Native American people had made very real progress during this period and that NARF, through its successful legal representation of many previously-unrepresented Indians on key Indian law issues, had played a major role in bringing about this positive change.

We understand, too, that new times bring new issues and that much remains to be done to improve the social and economic conditions of Native American people. NARF continued its national program of providing Indian legal advice and representation during fiscal year 1990 and that assistance again resulted in several important legal victories for Native Americans.

The San Juan Southern Paiute Tribe of Arizona was officially acknowledged as an Indian tribe by the U.S. Department of the Interior. Federal recognition of their tribal status came several years after the Tribe first petitioned the government for acknowledgement. NARF represented the Tribe throughout the petition process.

In *Walker River Paiute Tribe v. Southern Pacific*, NARF successfully concluded settlement negotiations on behalf of the Tribe with the railroad and the U.S. Army to collect trespass damages and future rent for use of a railroad line built across the Tribe's reservation in Nevada many years ago without the Tribe's consent. The settlement provided \$2.2 million to the Tribe and individual Indian land owners for past trespass damages and over \$300,000 for a future right-of-way.

After many years of litigation and negotiations, the Fort McDowell Indian Community, the United States, the State of Arizona, and affected non-Indian water users reached a settlement on the Tribe's water rights claims and it was approved by Congress. The right of the Fort McDowell Yavapais to use 36,350 acre-feet of water from the Verde River was recognized. The Tribe will also receive \$25 million for economic development and a \$13 million loan to assist the Tribe in putting its water rights to use.

The skeletal remains and burial offerings of 398 deceased Pawnee Indians were returned to the Pawnee Tribe of Oklahoma by the Nebraska State Historical Society and reburied in Pawnee ancestral homelands near Genoa, Nebraska. The reburials resulted from NARF's work on behalf of the Tribe in 1989 to obtain passage of the Nebraska Unmarked Burial Sites and Skeletal Remains Protection Act. Similarly, Pawnee remains were also reburied during the year in Kansas and the result of the Kansas Unmarked Burial Sites Preservation Act passed in 1989 through NARF's efforts on behalf of the Tribe.

NARF's national efforts to repatriate Native American human remains began with the Smithsonian Institution in Washington, D.C. Legislation passed by Congress early in the fiscal year creating the Museum of the Indian American as part of the Smithsonian included a provision requiring the Smithsonian to repatriate Indian remains in its collection upon tribal request when the remains are culturally affiliated with the requesting tribe. The repatriation provision was the result of extensive negotiations by NARF and other Indian organizations with the Smithsonian.

Similar repatriation requirements were extended to all federal agencies and private museums receiving federal

funds through the Native American Graves Protections and Repatriation Act passed by Congress and signed by the president in late fall, 1990. Significantly, the legislation also requires repatriation of sacred objects and objects of cultural patrimony rightfully belonging to a tribe. This historic Act was achieved by the collective efforts of NARF, the Association on American Indian Affairs and the National Congress of American Indians.

In an amended opinion, a federal appeals court in *Native Village of Noatak v. Hoffman* held that Alaska Native villages are tribes for purposes of invoking federal court jurisdiction and that the Eleventh Amendment to the Constitution does not bar suits for past damages against a state brought by tribes. The case challenges Alaska's position that it cannot constitutionally allocate revenue-sharing funds to tribal governments. The United States Supreme Court has decided to review the case in 1991.

In these cases and hundreds of others over the last 20 years, the Native American Rights Fund has provided access to justice for Native American people across the country on some of the most important Native American issues of our time and has proven that the legal system can work for Indian people. We could not have achieved this success without the financial support that we have received from throughout the nation. We thank all of you who have assisted us and encourage you to continue your support so that we may continue to make progress on behalf of Native American people.

John E. Echohawk
Executive Director



Board of Directors

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.

Richard (Skip) Hayward

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Ada Deer (*Menominee*)

Wisconsin
(Term ended Fall 1990)

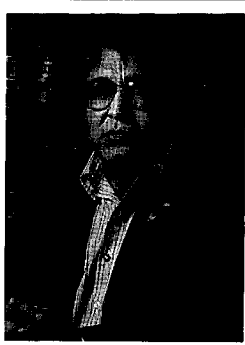
Caleb Pungowiyi (*Siberian Yupik*)

Alaska
(Term ended Fall 1990)

William Thorne (*Pomo*)

Utah (Resigned Fall 1990)

Not pictured: Rick Hill, Willie Kasayulie, Wilma Mankiller and Evelyn Stevenson



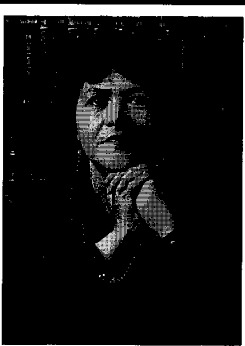
Lionel Bordeaux



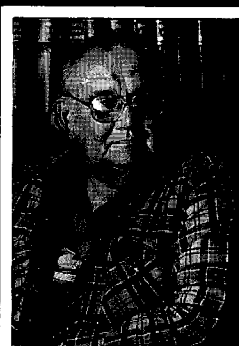
Richard (Skip) Hayward



Mahealani Kamaau



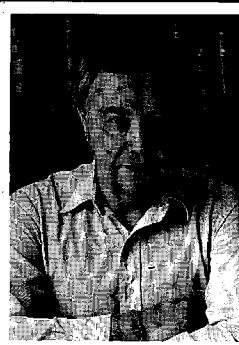
Twila Martin-Kekahbah



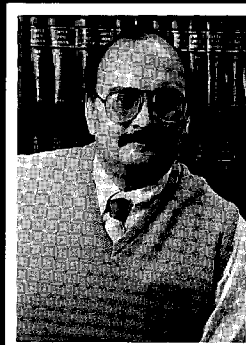
Calvin Peters



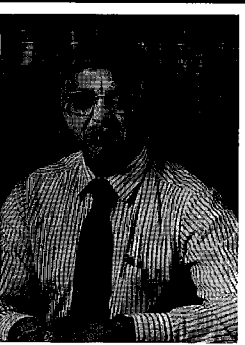
Caleb Pungowiyi



Anthony Strong



William Thorne



Eddie Tullis



Verna Williamson

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Introduction

1990 marks the 20th Anniversary of the Native American Rights Fund. During the past 20 years, NARF has successfully represented Indian tribes and individuals in nearly every state in the nation. The hundreds of cases it has been involved in have concerned every area and issue in the field of Indian law. NARF's reputation as a national Indian law advocate is backed by its 20 years of successful legal representation on behalf of Native Americans. A brief review of NARF's origin will give a better understanding of NARF's role in the struggle to protect Native rights in today's society.

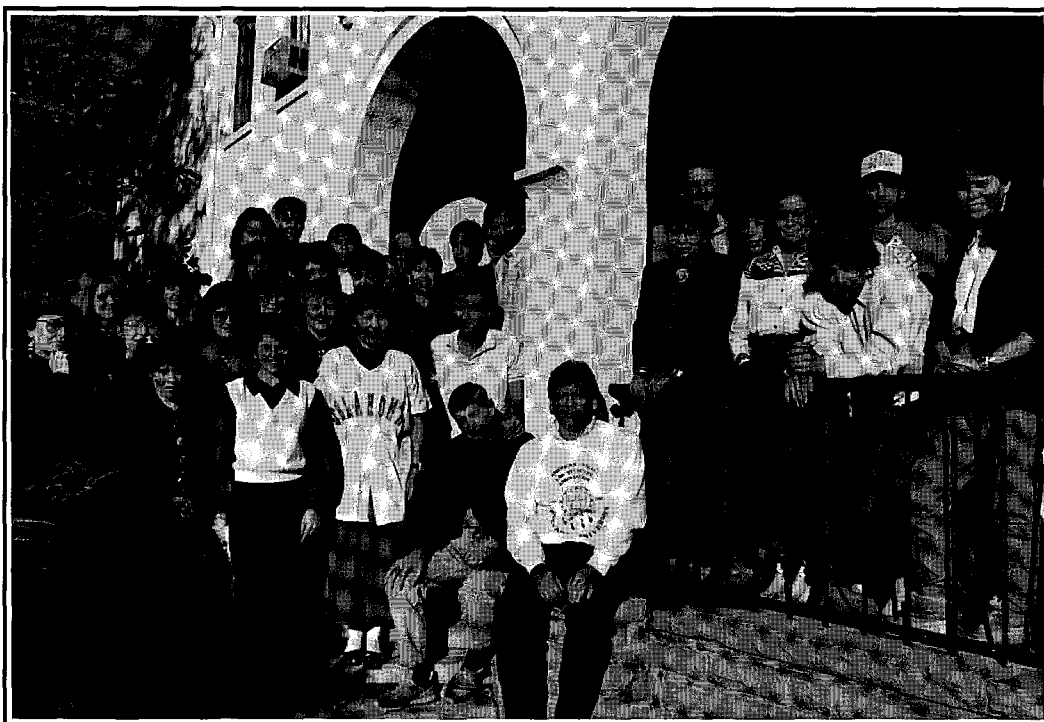
The Founding of NARF

Many federally-funded legal services programs were established around the country in the 1960s. 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 relocated 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.

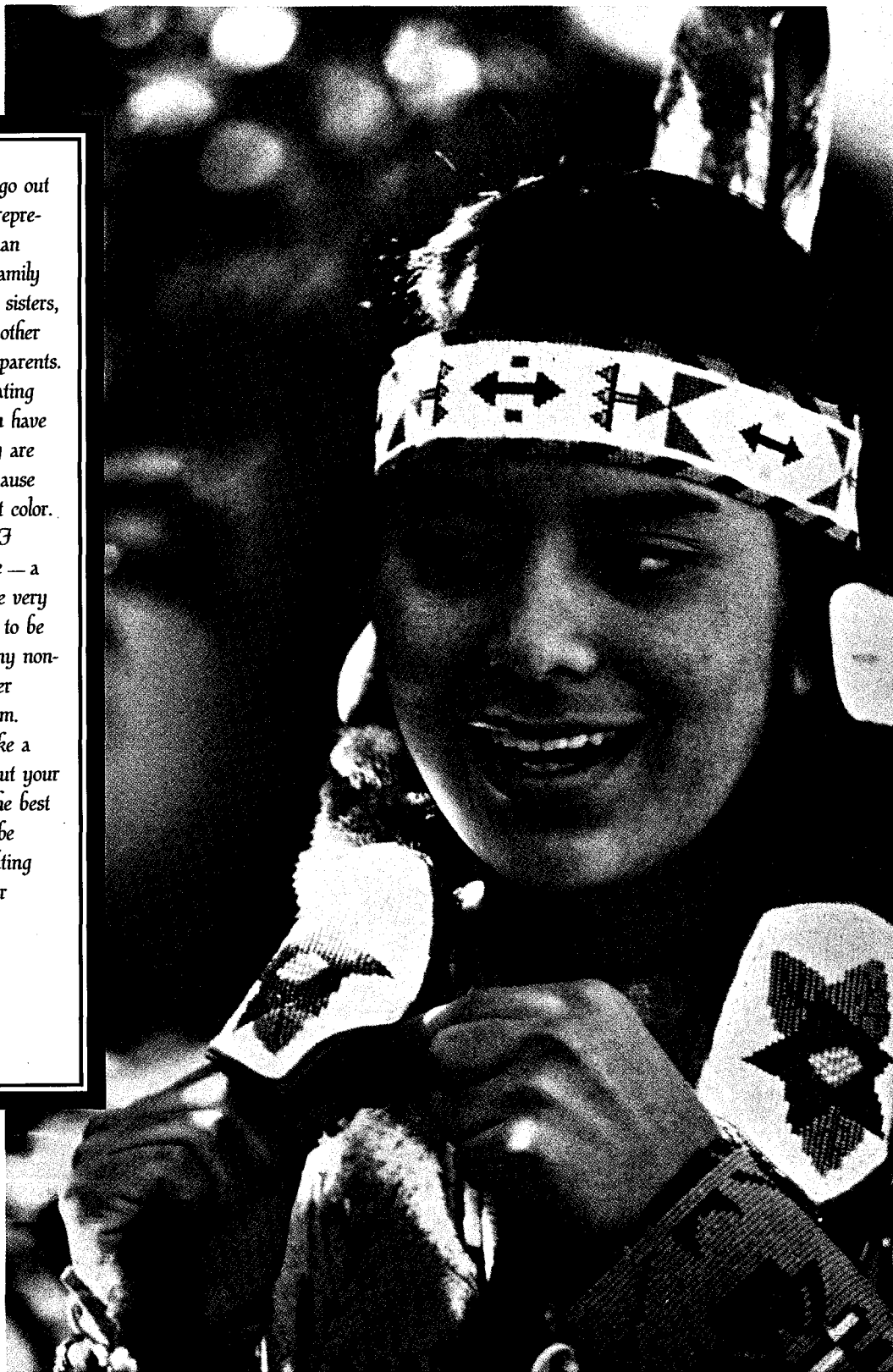
The accomplishments and growth of NARF over the years confirmed the great need for Indian legal representation on a national basis. This legal advocacy on behalf of Native Americans is as crucial now as ever. NARF strives to protect the most important rights of Indian people within the limit of available 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.



General Staff

When you go out there to represent Indian people, you see your family — your brothers, your sisters, your nephews, your mother and father, your grandparents. You realize the devastating impact that society can have on people because they are a different culture, because their skin is a different color. Being Indian at NARF brings a focus — a fire — a determination to do the very best . . . you're going to be as good a lawyer as any non-Indian lawyer who ever walked into a courtroom. This organization is like a warrior society. You put your life on the line — be the best you can be — always be prepared. You are fighting for the survival of your people . . .”

Yvonne Knight
(Ponca-Creek)
Native American
Rights Fund
Staff Attorney



The Preservation of Tribal Existence

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. NARF continued its work in the area of Indian economic development in appreciation of the fact that the future of tribal existence is closely tied to the development of tribal economies.

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 serious issues of taxation and jurisdiction in several states.

In *Mustang Fuel Corp. v. Cheyenne-Arapaho Tribes of Oklahoma*, NARF is defending the Tribe's right to generate needed tribal government revenues by taxing production and severance of oil and gas on allotted lands held in trust for tribal members. Many major oil companies filed the lawsuit challenging the Tribe's right to tax them. The oil companies filed suit in federal court and then agreed that federal law required them to bring the action first in tribal court, so the case has



been remanded to tribal court. It is the first major tribal tax case to be heard by a tribal court. NARF represents the Tribe.

In *Parisien v. Twin City Construction Co. of Fargo, North Dakota*, a federal appeals court ruled in August, 1990, that a federal injunction barring a member of the Turtle Mountain Chippewa Tribe from proceeding in a case in Tribal Court should be dissolved entirely. The tribal member is suing a non-Indian construction company over a contract dispute that arose out of their building a tribal high school on the reservation. The federal appeals court ordered the case back to tribal court under the tribal code that had been amended since the suit was filed. NARF represents the tribal member.

In the State of Alaska, NARF continues to represent the Kluti Kaah Native Village of Copper Center, a traditional tribe, in its effort to collect tribal taxes from the major oil companies. In *Alyeska Pipeline Service Co. v. Kluti Kaah Native Village of Copper Center*, the oil companies sued to enjoin the Village from enforcing its tax ordinance claiming that Copper Center was not a federally recognized tribe and thus lacked taxing authority. If the tribe's taxing power is upheld it will mean several hundred thousand dollars a year in revenue for Copper Center which has had practically no revenue source in the past. NARF also represents the Native Village of Venetie in another tribal tax case, *State v. Venetie*, which likewise raises the issue of tribal status and questions whether the Native village constitutes "Indian Country" over which the tribal government may exercise governmental powers.

NARF continues to assist Kawerak, a regional non-profit Native organization, and its member villages develop local tribal government capabilities through tribal education and assistance seminars and specific case advice regarding Indian child custody, probate, tribal court trial practice and ordinances. In particular, NARF assisted in one of their first tribal court custody cases, lent expert advice in a series of Indian Child Welfare Act cases, and facilitated one of the first



contemporary tribal probate matters to be handled by a village tribal council in Alaska. NARF also drafted a broad range of tribal membership ordinance options in consultation with the Kawerak, Inc. tribal councils.

On May 29, 1990, the U.S. Supreme Court decided that Indian tribes do not have criminal misdemeanor jurisdiction over non-member Indians who commit crimes on their reservations. NARF had filed an *amicus curiae* brief on behalf of 14 tribes in *Duro v. Reina* asking the Court to uphold tribal jurisdiction over Indians who are not enrolled in the Tribe. Because most reservations have substantial non-member Indian populations, this decision seriously undermines a tribe's

ability to maintain law and order within its territory. NARF has become actively involved in efforts to assess the magnitude of the problems created by the *Duro* decision and to devise an appropriate solution. Temporary Congressional legislation addressing these problems was passed in the late fall of 1990 and permanent legislation will be proposed in the 102nd Congress.

Economic Development

NARF continues to address the legal issues necessary to support and encourage reservation business and commercial growth. During the year, the Indian Economic Development Law Project focused on federal legis-

lation to create a federally-chartered Indian finance corporation and discussions of a federal Indian tax policy. In addition, the Project has been working with the Warm Springs Tribe of Oregon in the development of their long range effort to recodify and develop their commercial laws.

NARF also works with the Coalition for Indian Development (CID) which operates as an ad hoc association of Indian organizations working in this area. CID participants continue to work toward the production of a publication that addresses the various aspects of reservation economic development.

The newest initiative for the Project has been involvement in environmental issues since they are increasingly affecting economic development. The Project has been working with both national Indian groups and tribes on two related initiatives. The first is to facilitate a meeting between national Indian and environmental leadership to discuss development of a protocol for working together in the future. The second is to establish the groundwork for the creation of a tribal environmental entity. In related efforts the Project has also been working with tribes and their attorneys to create an appropriate protocol for tribes and the Environmental Protection Agency to relate to one another.

Federal Recognition and Restoration

NARF currently represents about a dozen Indian communities who have survived intact as identifiable Indian tribes but who are not federally recognized. These Indian tribes for differing reasons do not have a government-to-government relationship between themselves and the federal government. Traditionally, federal recognition was accorded to a tribe through treaty, land set aside for a tribe, or by legislative means. The majority of these NARF clients are seeking an administrative determination by the Department of Interior

Native American Rights Fund

that they in fact have continued to exist as Indian tribes from the time of significant white contact to the present day and have continued to govern themselves and their members. NARF therefore prepares the necessary historical, legal and anthropological documentation to support a petition for acknowledgment.

NARF continues to work with Congress to improve the administrative acknowledgment process through legislation to overcome current problems such as increasing bureaucratic delays, unequal treatment and evaluation of petitions, a lack of an independent appellate process, and non-standardized criteria. Without Congressional attention to these issues, NARF predicts that its clients will still be waiting for federal acknowledgment well into the 21st century. Over a hundred years ago and more, these Indian communities were foreclosed from the benefits of a formal federal relationship. Through administrative acknowledgment, NARF is now trying to bridge that gap.

Specific tribes NARF is assisting in the federal acknowledgment process include the Little Shell Tribe of Chippewa Indians of Montana, the Schaghticoke Tribe of Connecticut, the Mashpee Wampanoag Tribe of Massachusetts, the Houma Tribe of Louisiana, the Shinnecock Tribe of New York, the Pamunkey Tribe of Virginia, the Wintu Tribe of California, the Brothertown Tribe of Wisconsin, and the Florida Creek Tribe.

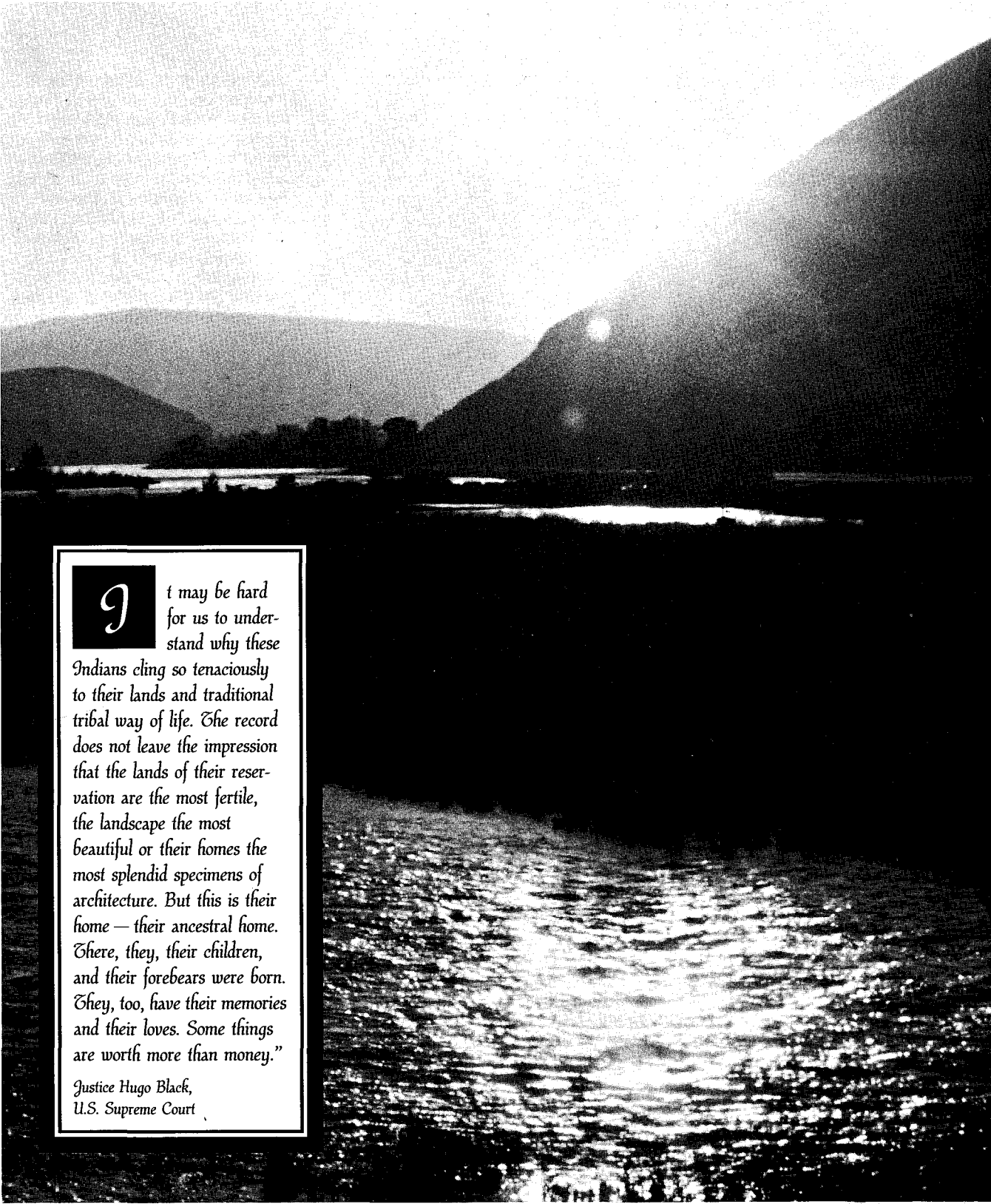
In December, 1989, the U.S. Department of the Interior issued its final determination, acknowledging that the San Juan Southern Paiute Tribe of Arizona exists as an Indian Tribe. This determination became effective in March, 1990, and is now the subject of litigation. NARF represents the San Juan Southern Paiute Tribe in an effort to protect and preserve the federal government's decision recognizing the San Juan Southern Paiute as an Indian tribe.

NARF also works closely with the Alaska Native Coalition, native regional organizations and numerous villages in an effort to have the Secretary of the Interior publish a new list of federally recognized tribes in Alaska which would expressly and unequivocally recognize their tribal status.

A few years ago, NARF successfully assisted the Gay Head Wampanoag Tribe of Massachusetts in its effort to receive federal recognition and a 428-acre land claim settlement. To further assist the Tribe in its newly recog-

nized status, NARF is helping the Tribe develop a new constitution and bylaws. The effort will boost the Tribe's government structure and permit the Tribe to improve its social and economic well-being. NARF is also assisting the Ysleta del Sur Pueblo of Texas in its transition from a state-recognized tribe to a federally-recognized tribe with all the allowable benefits and opportunities. A few years ago, NARF helped the Pueblo restore its federal trust relationship which previously had been terminated.





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

The Protection of Tribal Natural Resources

The Protection of Tribal Natural Resources



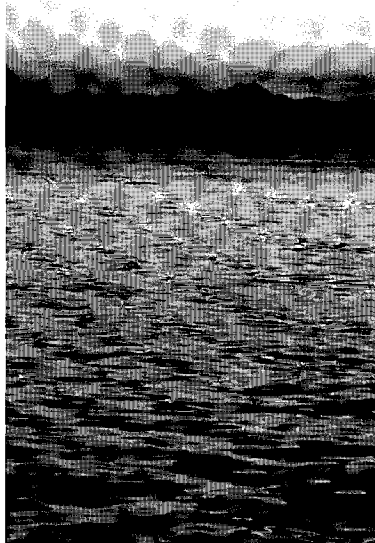
The protection of tribal natural resources is closely linked to the preservation of tribal existence. Without a sufficient

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 major 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 most of the defendants in which they recognize the Community's title.

In *Walker River Paiute Tribe v. Southern Pacific*, NARF successfully assisted the Tribe in a railroad right-of-way agreement. In August, 1989, a federal court approved a preliminary settlement between the Tribe, the Southern Pacific Railroad, the Justice Department, and the U.S. Army that provides for the payment of \$2.2 million to the Tribe and an individual Indian allottee class for past trespass damages and over \$300,000 for a future right-of-way grant to the Army or Southern Pacific. In November, 1989, following notice to all allottees entitled to share in the damages, the federal court held a hearing as to final approval of the settlement agreement, and gave final approval to it. The court thereby dismissed the case although jurisdiction was retained pending a grant of a right-of-way by the Secretary of the Interior to the Army or Southern Pacific in accordance with the terms of the settlement agreement. NARF will continue to monitor this matter until the grant is made.



In *Cheyenne-Arapaho Tribes v. United States*, NARF continues to represent the Tribe in its suit to stop the Bureau of Indian Affairs (BIA) from extending the term of tribal oil and gas leases without tribal consent. The BIA extended the terms of oil and gas leases at 'below market value rates and the Tribe wants the right to negotiate its own leases at fair competitive rates. In May, 1989, a federal district court ruled in the Tribe's favor on three of the four disputed leases involved in the suit. Appeals were taken by all parties. NARF requested and a federal court of appeals granted an early date for oral argument. Oral argument was heard in September, 1990.

NARF is assisting the Pottawatomini Nation in Canada in their claim against the federal government for breach of treaty obligations. The Pottawatomini Nation has been foreclosed from bringing suit based on jurisdictional grounds because their ancestors fled the United States in the early 1900s to escape removal. NARF successfully introduced legislation this year to authorize the U.S. Claims Court to hear their case. Due to lack of time, Congress was unable to act on the legislation and it will

therefore be reintroduced next year. The Canadian government has joined the Pottawatomini in support of the claim and has worked closely with NARF to lobby for the legislation.

NARF is also assisting the San Juan Southern Paiute Tribe in asserting title to a land base in Arizona. The case, *Masayesva v. Haskie v. James*, was heard in the U.S. District Court in Phoenix, Arizona. Trial in the first phase of the case was completed in February, 1990, and a ruling is pending.

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-Intercourse Act of 1790 prohibiting the transfer of Indian land without federal consent, which is lacking in each of the cases.

NARF represents the Alabama-Coushatta Tribe in its lawsuit against the United States for breach of trust. In *Alabama-Coushatta v. U.S.*, the Tribe is suing the United States for its failure to protect the Tribe's possession of its 9 million acres of aboriginal territory. In May, 1990, a review panel of the United States Claims Court vacated an earlier order to dismiss the Tribe's claim and ordered that the case be heard by a new hearing officer. The review panel determined that the initial hearing officer failed to find facts on several issues, failed to address certain legal issues and improperly applied the law on at least one critical issue.



In *South Carolina v. Catawba Indian Tribe*, NARF continues to assist the Tribe pursue its claim to 225 square miles in and around Rock Hill, South Carolina. NARF is also assisting the Schaghticoke Tribe of Connecticut and the Stockbridge-Munsee Tribe of Wisconsin in settlement negotiations on their land claims; the Pamunkey Tribe of Virginia establish the land boundaries of its reservation; and the Ysleta del Sur Pueblo of Texas research its aboriginal 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 uses.

In *Fort McDowell Indian Community v. Salt River Project*, NARF is representing the Fort McDowell Indian Community in their claim to additional water from the Verde River in Arizona. After extensive negotiations with the State, the federal government and non-Indian water users, a settlement was reached in March, 1990, recognizing the Tribe's right to over 36,000 acre-feet of water and providing a \$25 million settlement. Congress approved the settlement in late fall of 1991.



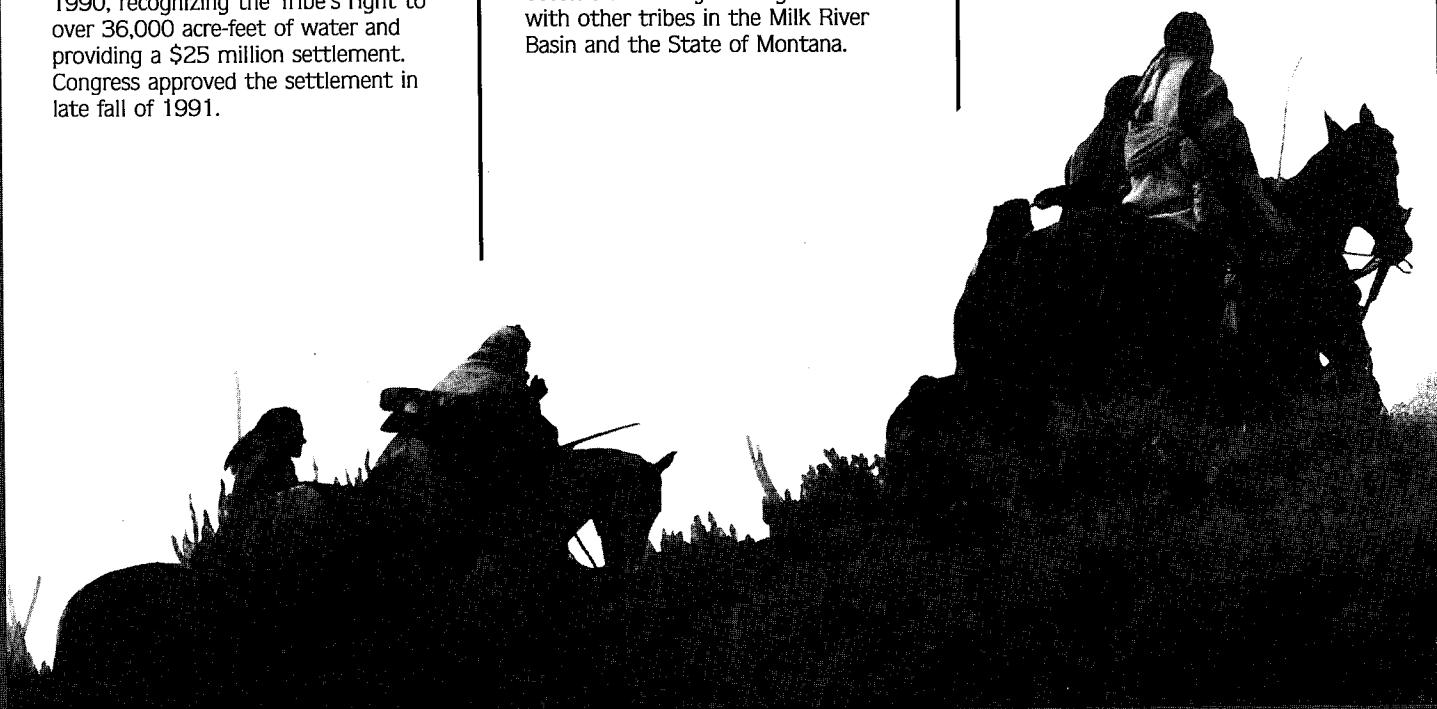
NARF is assisting the Northern Cheyenne Tribe of Montana in their negotiations with the Montana Reserved Water Rights Compact Commission to settle their reserved water claims. A proposed compact has been submitted to the Commission by the Northern Cheyenne Tribe. Negotiations among the Tribe, federal government and the state have commenced and a preliminary agreement has been obtained on the Tongue River, subject to further technical work.

NARF is also involved with the development of the Chippewa-Cree Tribe's water claims in the Milk River Basin in Montana. The Tribe has become active in joint negotiations with other tribes in the Milk River Basin and the State of Montana.

NARF is also assisting the Nez Perce Tribe of Idaho and the Klamath Tribe of Oregon quantify their water rights. In addition, NARF is also helping the Tule River Tribe of California assess its water rights in the State of California.

Hunting and Fishing

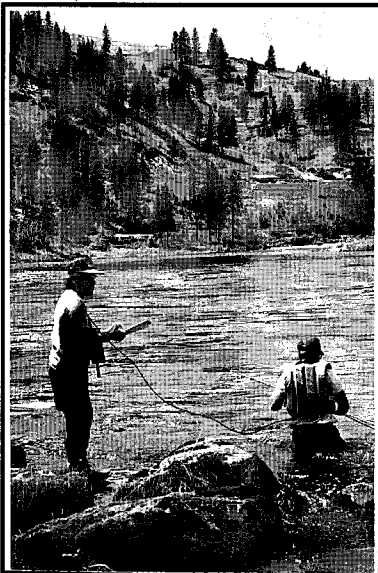
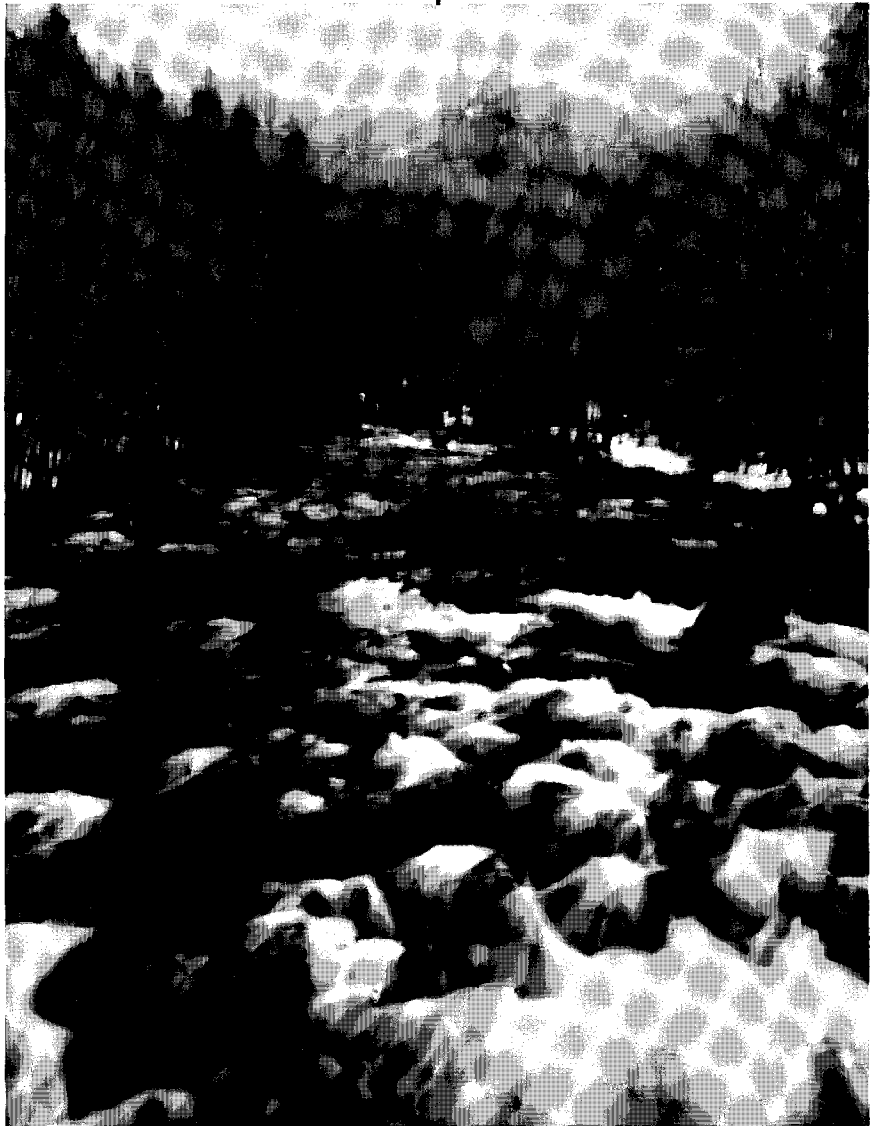
For both subsistence and commercial purposes, the right to hunt and fish in traditional areas both on and off reservations remains a vital issue in Indian country. NARF has long been



instrumental in assisting tribes to establish their hunting and fishing rights that are guaranteed by treaty or other federal law.

NARF is assisting the Skokomish Tribe in the State of Washington to intervene in the City of Tacoma's proceeding for the relicensing of the Cushman Dams on the Skokomish River by the Federal Energy Regulatory Commission. The Skokomish Tribe holds treaty reserved fishing rights in the Skokomish River. The Cushman Dams, built in 1926 and 1930, have effectively eliminated all anadromous fish habitat above the lower dam, for about 17.5 miles, for the past sixty years. The Tribe seeks compensation for damage done and mitigation measures to restore the Tribe's fishery. Thus far, the Tribe has been able to delay relicensing until the necessary studies can be completed on which to base a request for mitigation and damages.

NARF is representing the Bay Mills Chippewa Indian Community in implementing its 1985 settlement agreement which includes approximately \$5 million for a tribal trust fund and tribal conservation programs. The settlement was reached following a decision 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

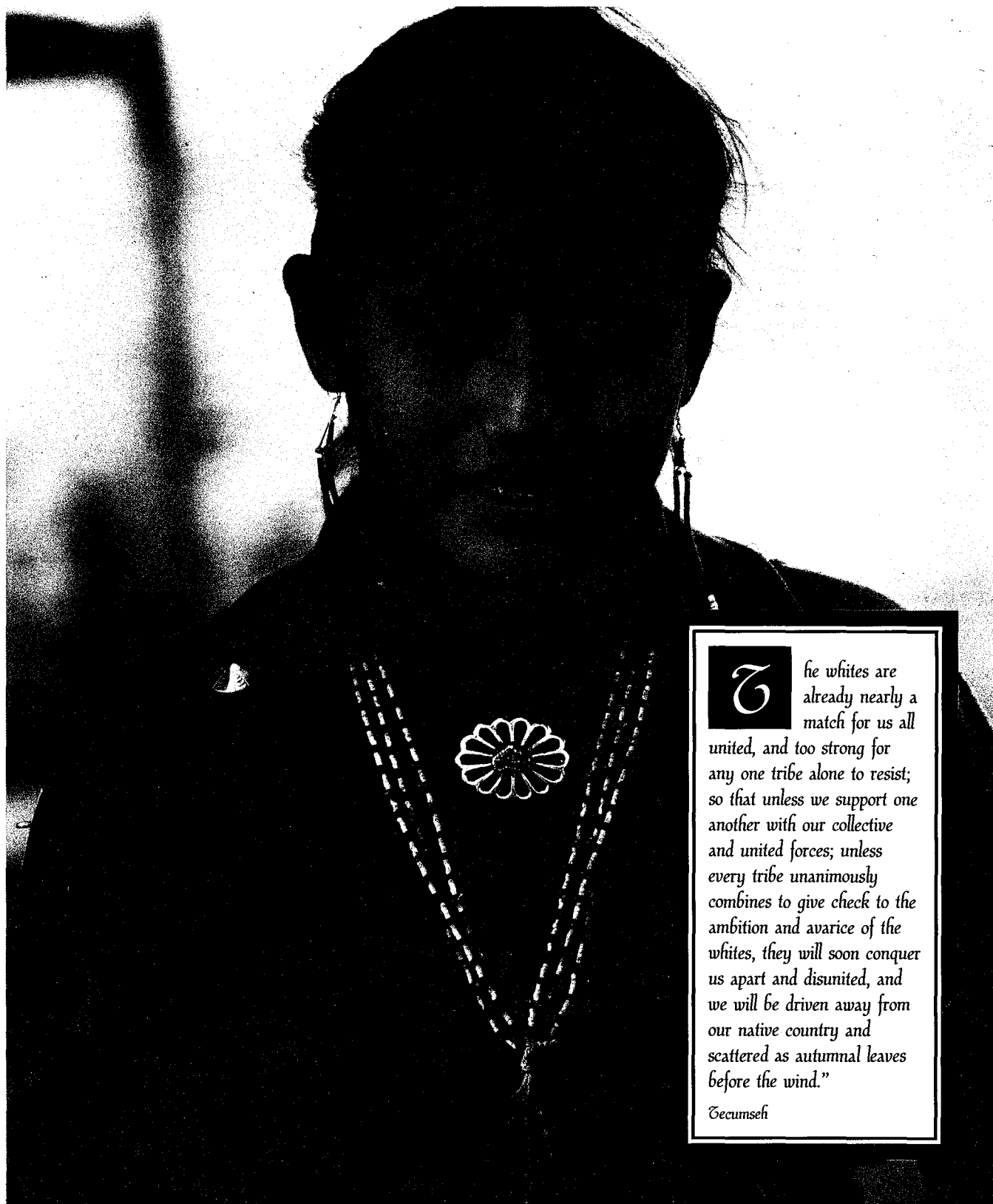


the Great Lakes. In 1990, five years after the settlement, it has become apparent that the Tribe's small boat fishers do not have adequate fishing opportunities and that some modification of the settlement is necessary. NARF is assisting the Tribe in its effort to obtain a modification.

In *Katie John v. State of Alaska*, NARF continues to assert subsistence fishing rights for Alaskan Native subsistence users from Mentasta Village and Dot Lake. A federal court had previously granted a preliminary injunction permitting subsistence fishing on a full time basis at the traditional site of Batzulnetas. In January, 1990, the court set aside the state regulations on the ground that they conflicted with the subsis-

tence law. In June, 1990, the court extended its 1989 injunction for the 1990 season. Further administrative proceedings are underway.

NARF represents the Gwich'in Athabascan Tribes in Alaska and Canada in *Gwich'in Steering Committee v. Lujan*. The suit, filed against the Department of the Interior, challenges the adequacy of a legislative environmental impact statement that the Department submitted to Congress regarding the potential impact of oil development on the Arctic National Wildlife Refuge (ANWR). The Refuge is home to hundreds of thousands of caribou upon which the Gwich'in people rely for their livelihood and cultural well-being.



T

he whites are
already nearly a
match for us all

united, and too strong for
any one tribe alone to resist;
so that unless we support one
another with our collective
and united forces; unless
every tribe unanimously
combines to give check to the
ambition and avarice of the
whites, they will soon conquer
us apart and disunited, and
we will be driven away from
our native country and
scattered as autumnal leaves
before the wind."

Tecumseh

The Promotion of Human Rights

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 1990, NARF provided assistance in problems involving religious freedom, voting rights, education, Indian child welfare and the federal death penalty.

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.

In 1989, Nebraska lawmakers enacted nationally precedent-setting legislation requiring state-sponsored institutions to return to requesting tribes for reburial all reasonably identifiable Indian skeletal remains and burial offerings. NARF, representing the Pawnee Tribe of Oklahoma and the Winnebago Tribe of Nebraska, led the successful legislative effort to enact the Nebraska Unmarked Burial Sites and Skeletal Remains Protection Act. Pursuant to this law, in September, 1990, the Nebraska State Historical Society (NSHS) returned the skeletal remains and burial offerings of 398 individual Pawnees, who were reburied in Pawnee ancestral homelands near Genoa, Nebraska. However, the Nebraska State Historical Society refused to return an untold number of additional skeletal remains and burial offerings which the Pawnee Tribe contends are identifiable as Pawnee. NARF represents the Pawnee Tribe in a grievance filed against the NSHS, pursuant to Nebraska's new burial protection law.



In another related matter, NARF represents the Pawnee Tribe in *Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Nebraska*. In January, 1990, the NSHS filed suit against the Pawnee Tribe of Oklahoma in state court in Nebraska, contending that the NSHS is not subject to Nebraska's open records law. The Nebraska Attorney General has intervened on behalf of the State of Nebraska on the side of the Pawnee Tribe in the litigation. This lawsuit is an attempt on the part of the NSHS to prevent the Pawnee and other Indian tribes from examining NSHS Indian burial records. Examination of such records by tribes is necessary in order for tribes to establish claims for the return and reburial of reasonably identifiable Indian skeletal remains and burial offerings held by the NSHS, pursuant to the Nebraska Unmarked Burial Sites and Skeletal Remains Protection Act.

The ancestors of the Pawnee, Wichita and Arikara Tribes who have been on public display over the last 50 years were reburied in a tribal religious ceremony conducted on April 14, 1990. The tribal reburial ceremony marked the end of a three-year struggle to close the so-called "Salina Burial Pit" that offered tourists for a \$4.50 fee a view of the bodies contained in the burial ground that was opened to the public in 1935. The bodies are estimated to be around 600 years old. Strong tribal opposition and public outcry led to the pit's eventual closing in 1989.

The successful reburial effort, spearheaded by NARF as legal counsel to the three Tribes, ended in the signing of the "Treaty of Smokey Hill" which provided for the reburial of the bodies and compensation for the owners of the land. The Kansas Legislature

passed necessary enabling legislation for the Treaty. The Legislature also enacted a state bill that bans unregulated public displays of human remains and protects unmarked graves from unnecessary disturbances.

Provisions that require the Smithsonian Institution to return native human remains to a tribe upon request were included in the National American Indian Museum Act signed into law on November 28, 1989. Under the Act, the Smithsonian Institution must return native bodies when the preponderance of the evidence indicates that the remains are culturally affiliated with the requesting tribe. Funerary offerings are also subject to repatriation under the

same standard where they are associated with a specific remain or grave site. An estimated 19,000 dead native bodies are held by the Smithsonian Institution. NARF successfully represented the Pawnee Tribe in helping secure the repatriation provisions.

NARF represents the Pawnee Tribe of Oklahoma and the Larsen Bay Tribal Council of Kodiak Island, Alaska in their negotiations with the Smithsonian Institution to return Indian remains and artifacts. Despite a showing by NARF experts that the Larsen Bay Tribal Council is culturally associated with over 800 requested human remains which were removed from a site immediately adjacent to the village, the Smithsonian has thus

far refused to repatriate the remains as required by a 1989 federal law. The matter has been referred to an appeal panel.

On November 23, 1990, President Bush signed the single most important piece of human rights legislation for Indian people which has been enacted by Congress since passage of the American Indian Religious Freedom Act of 1973. The new act called the Native American Graves Protection and Repatriation Act has four main components.

First, the law requires that federal agencies and private museums which receive federal funding must inventory their collections of Native American human remains and funerary objects. The tribe of origin must then be notified and, upon request of the tribe, the ancestral remains and funerary objects must be returned for reburial or other disposition by the tribe. Second, the legislation also makes clear that Indian tribes have ownership of cultural items which are excavated or discovered on federal or tribal land and that they have the right of disposition of Indian human remains discovered in these areas. Third, the legislation prohibits the trafficking in Native American human remains discovered in these areas. Fourth, the legislation requires that federal agencies and private museums which receive federal funds must create a summary of sacred objects or objects of cultural patrimony in their possession. If a tribe can prove a right of possession to these objects then the object must be returned upon request of the tribe.

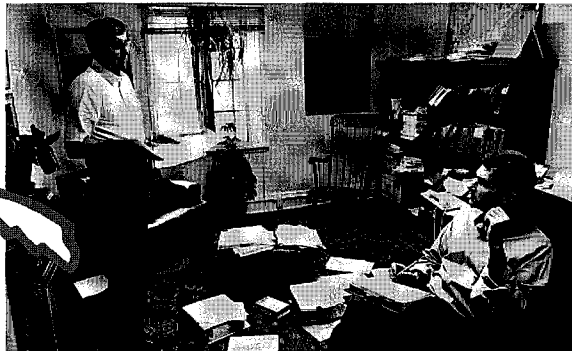
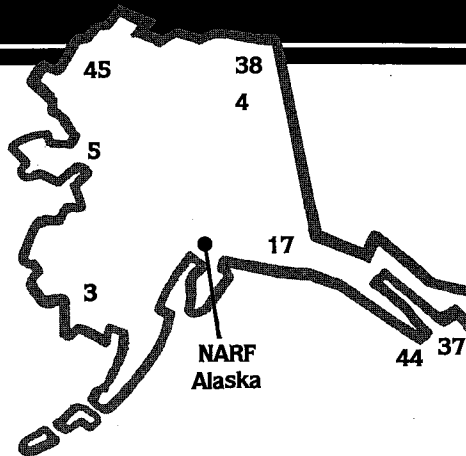
The Native American Rights Fund, along with the National Congress of American Indians and the Association on American Indian Affairs formed a coalition to support this vital legislation. Along with support from hundreds of interested Indian tribes and individuals NARF has been able to ensure passage of this landmark legislation.

In *Employment Division, Department of Human Services of the State of Oregon v. Smith, (Smith II)*, the U.S. Supreme Court overturned a decision of the Oregon Supreme Court which held that the free exercise

(continued on page 20)



Native American Rights Fund



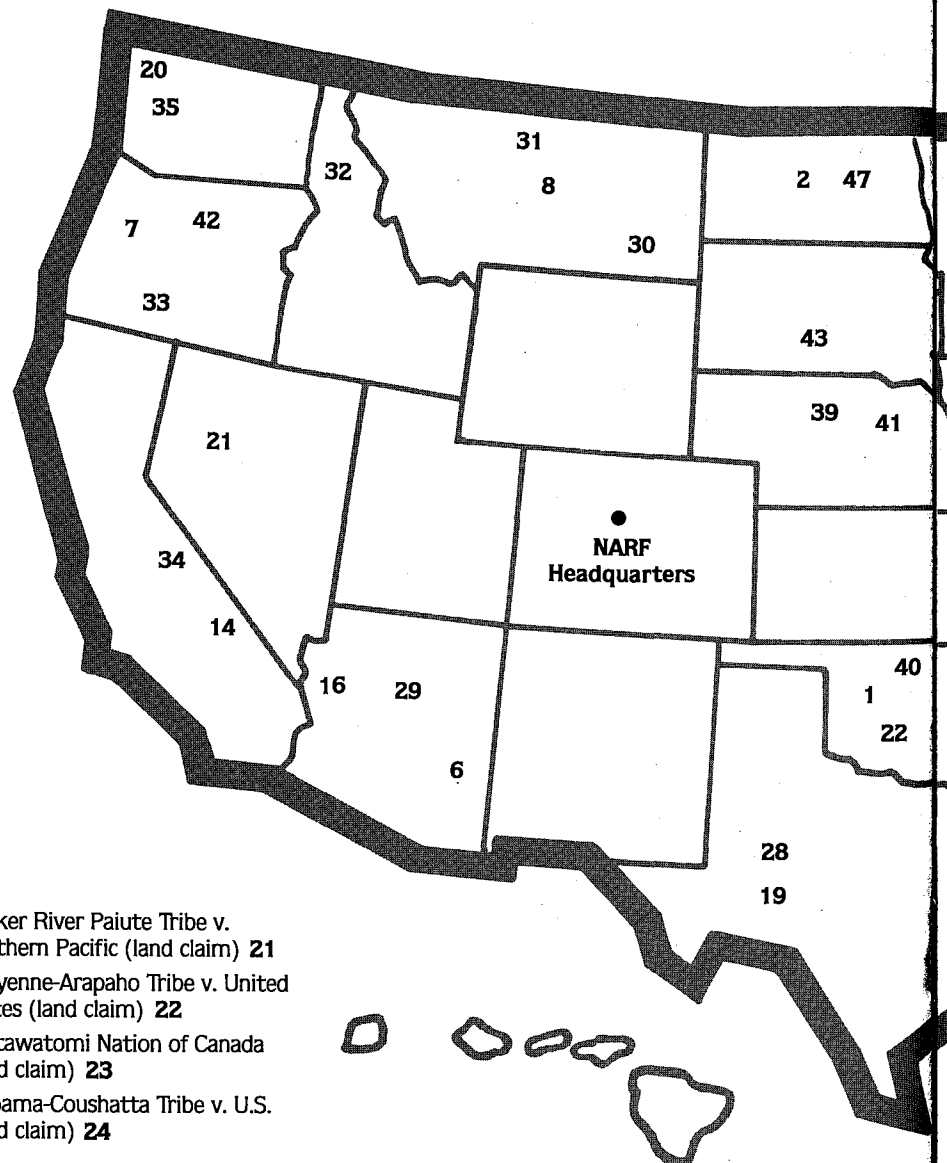
Staff Attorneys Lare Aschenbrenner and Don Miller



File Clerk Pat Moses

- OK Mustang Fuel Corp. v. Cheyenne-Arapaho Tribes of Oklahoma (taxation) 1
- ND Parisien v. Twin City Construction Co. of Fargo, North Dakota (jurisdiction) 2
- AK Alyeska Pipeline Service Co. v. Kluti-Kaah Native Village of Copper Center (taxation) 3
- AK State of Alaska v. Native Village of Venetie (taxation) 4
- AK Native Village of Kawerak (jurisdiction) 5
- AZ Duro v. Reina (*amicus curiae*) (jurisdiction) 6
- OR Warm Springs Tribe of Oregon (economic development) 7
- MT Little Shell Tribe of Chippewa Indians (recognition) 8
- CT Schaghticoke Tribe of Connecticut (recognition) 9
- MA Mashpee Wampanoag Tribe of Massachusetts (recognition) 10
- LA Houma Tribe of Louisiana (recognition) 11
- NY Shinnecock Tribe of New York (recognition) 12
- VA Pamunkey Tribe of Virginia (recognition) 13
- CA Wintu Tribe of California (recognition) 14
- WI Brothertown Tribe of Wisconsin (recognition) 15
- AZ San Juan Southern Paiute Tribe of Arizona (recognition and land claim) 16
- AK Alaska Native Coalition (recognition) 17
- MA Gay Head Wampanoag Tribe of Massachusetts (restoration) 18
- TX Ysleta del Sur Pueblo of Texas (restoration and land claim) 19
- WA Swinomish Tribal Community v. Burlington Northern, Inc. (land claim) 20

- NV Walker River Paiute Tribe v. Southern Pacific (land claim) 21
- OK Cheyenne-Arapaho Tribe v. United States (land claim) 22
- Pottawatomie Nation of Canada (land claim) 23
- TX Alabama-Coushatta Tribe v. U.S. (land claim) 24



Major Activities 1990

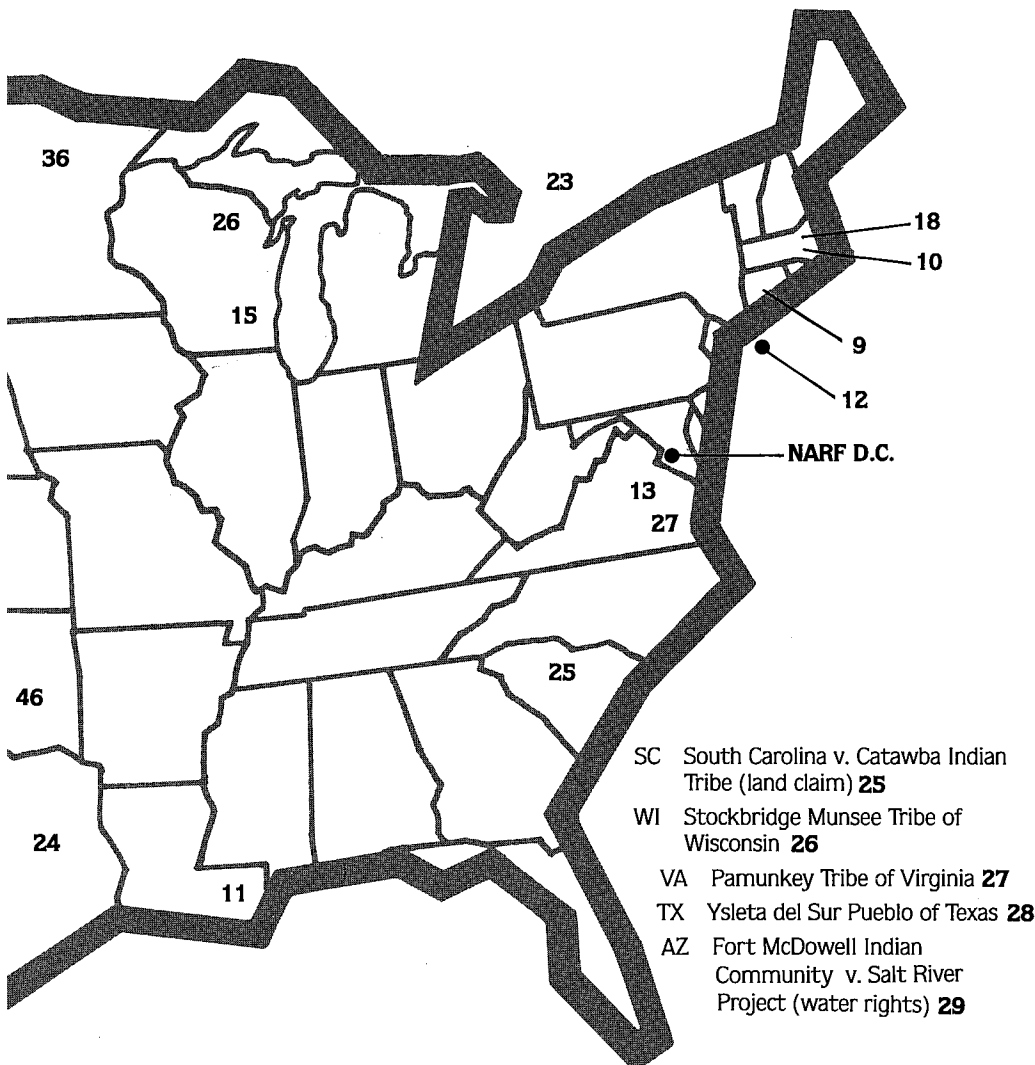


Attorney Staff

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



Legal Secretary Mary Chaddlesone



- MT Northern Cheyenne Tribe of Montana (water rights) 30
- MT Chippewa-Cree Tribe of Montana (water rights) 31
- ID Nez Perce Tribe of Idaho (water rights) 32
- OR Klamath Tribe of Oregon (water rights) 33
- CA Tule River Tribe of California (water rights) 34
- WA Skokomish Tribe of Washington (fishing rights) 35
- MI Bay Mills Chippewa Indian Community (fishing rights) 36
- AK Katie John v. State of Alaska (fishing rights) 37
- AK Gwich'in Steering Committee v. Lujan (hunting rights) 38
- NE Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Nebraska (reburial issue) 39
- OK Pawnee Tribe of Oklahoma (reburial issue) 40
- NE Winnebago Tribe of Nebraska (reburial issue) 41
- OR Employment Division, Department of Human Services of the State of Oregon v. Smith (Smith II) *amicus curiae* (religious freedom) 42
- SD Rosebud Sioux Tribe of South Dakota (education) 43
- AK CCA v. Catholic Services *amicus curiae* (ICWA case) 44
- AK Native Village of Noatak v. Hoffman (accountability) 45
- OK Kauley v. United States (accountability) 46
- ND Turtle Mountain Chippewa Tribe of North Dakota (discrimination) 47

clause of the First Amendment to the U.S. Constitution prevents enforcement of state prohibitions against possession or use of peyote for religious purposes in the Native American Church. The Supreme Court held that there is no defense in the free exercise clause of the First Amendment to state criminal prosecutions, and that states are free to either prohibit or permit legislatively the religious use of peyote. The effect of *Smith II* is to suspend the First Amendment right for Native American Church members and to subject the future of the Church to the politics of the legislative processes, both federal and state. NARF filed an *amicus curiae* brief in the case on behalf of the Native American Church of North America and several chapters.

On a national scale, NARF attorneys, together with representatives of the National Congress of American Indians and the Association on American Indian Affairs, have been working with the Senate Select Committee on Indian Affairs to develop amendments to the American Indian Religious Freedom Act (AIRFA) for consideration by Congress. The amendments are being proposed to offset the damage done by the disastrous U.S. Supreme Court decision in *Lyng v. Northwest Indian Cemetery Protective Association*. Rendered in April, 1988, that decision stripped Indians of the constitutional right to safeguard the integrity of their sacred worship sites on former tribal lands now owned by the federal government.

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 participatory voice in deciding the educational future of their children.

NARF is assisting the Rosebud Sioux Tribe of South Dakota in its efforts to establish a tribal education department and develop a reservation-wide tribal education code. The

Tribe has identified several problems in elementary and secondary education on its reservation, including low achievement levels, high drop out rates, widespread alcohol and drug abuse, few Indian teachers and administrators, and lack of relevant curriculum and role models. The code will address these needed areas of reform. The Rosebud Sioux Indian Reservation is largely served by a single public school district. Over eighty percent of the students are Indian children.

Indian Child Welfare

The Indian Child Welfare Act (ICWA) is a federal law enacted in 1978 which is intended to promote the stability of Indian tribes and families by establishing minimum federal standards for the removal of Indian children from their families and the placement of Indian children in adoption or foster homes.

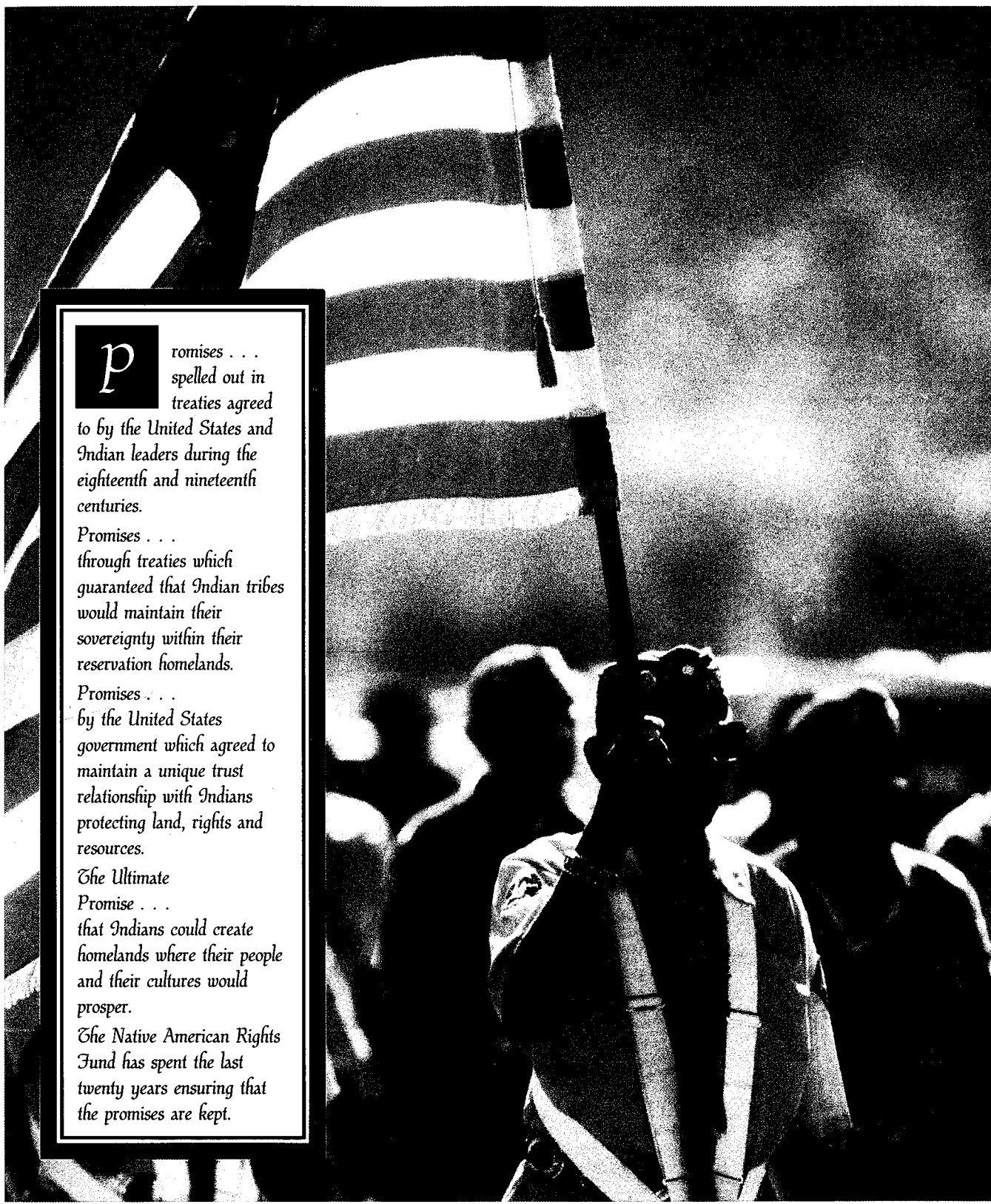
In *CCA v. Catholic Services*, the U.S. Supreme Court declined to review an ICWA case that involved the voluntary termination of parental rights by an Indian parent. The Alaska Supreme

Court had ruled that the Act did not grant intervention rights in the voluntary termination of parental rights and that tribes had no right to notice in voluntary proceedings. NARF in an *amicus curiae* brief argued that the Alaska Supreme Court misconstrued the plain language of the Indian Child Welfare Act which explicitly states that in termination proceedings of parental rights, the child's tribe shall have the right to intervene in the proceedings.

Discrimination

NARF was instrumental in the passage of an amendment to the Omnibus Anti-Crime Bill which prohibits the death penalty provision of the bill from being applied to Indian country unless the tribes choose to have the death penalty apply to their reservation. Federal death penalty legislation pending in Congress, if passed, would primarily be imposed on American Indian defendants. Most prosecutions in the federal court system are for first degree murder - not treason, espionage, or attempted assassination of the President - the other categories in the bill. In those states that are subject to federal criminal jurisdiction over Indians on Indian lands, the federal Major Crimes Act and the General Crimes Acts applies. American Indian defendants comprise two-thirds to three-fourths of all first degree murder cases prosecuted in federal courts. NARF testified on behalf of its client, the Turtle Mountain Chippewa Tribe of North Dakota, against federal death penalty legislation because of the disproportionate and discriminatory impact on American Indians and infringement on tribal sovereignty.





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

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

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

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

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

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 the landmark case of *Native Village of Noatak v. Hoffman*, the Federal Ninth Circuit Court of Appeals in San Francisco ruled that the Village of Noatak and all other Native Villages listed in the Alaska Native Claims Settlement Act are "tribes" for the purpose of bringing suit under 28 U.S.C. § 1362. In *Noatak*, NARF is challenging the State of Alaska's position that the state cannot constitutionally allocate revenue sharing monies to tribal governments. NARF is asserting that the villages are tribes 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 of the law guarantees. The decision is a major step on the road to recognition of the tribal status of all Native Villages for all purposes.

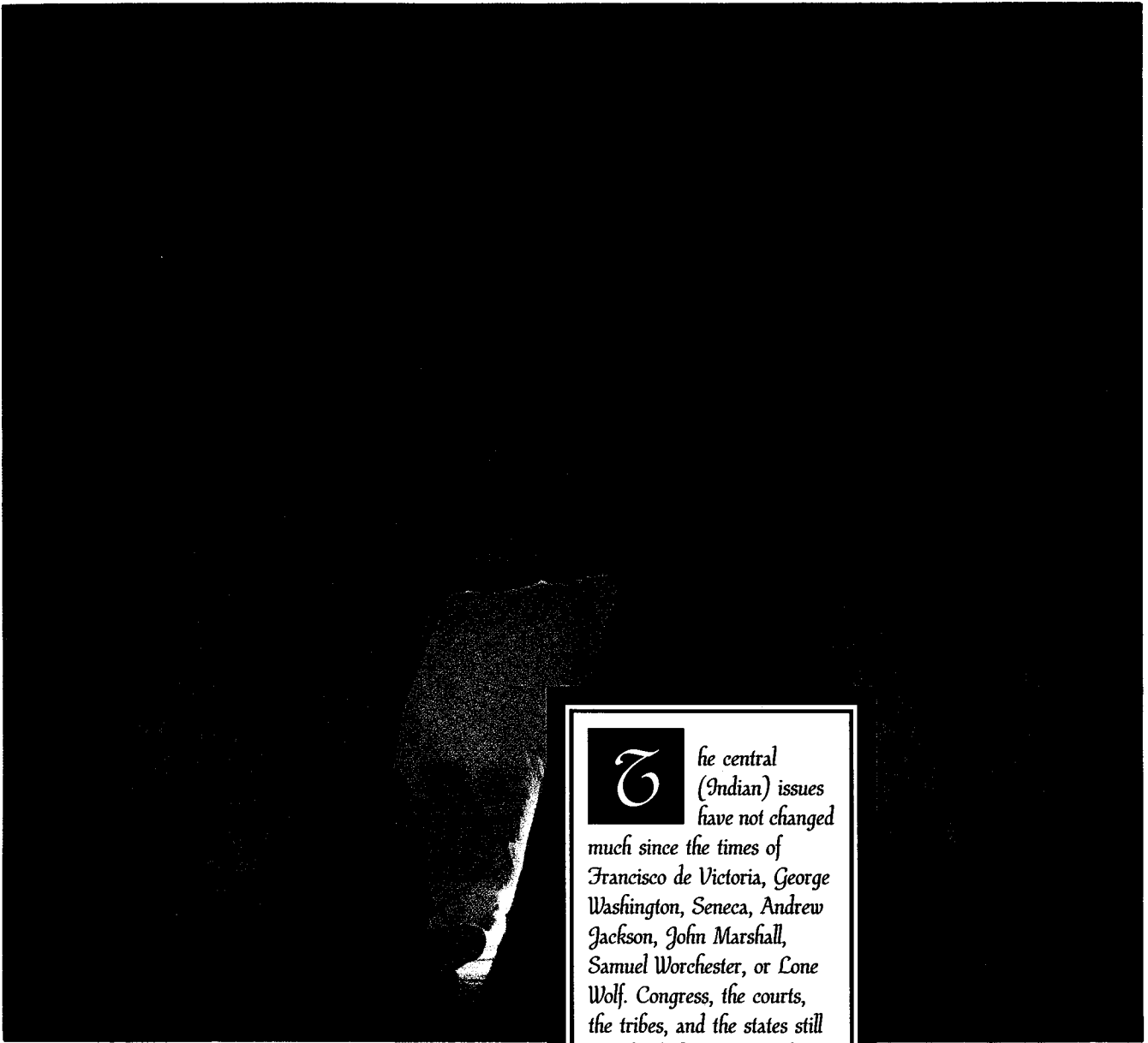
The Court also held that the Eleventh Amendment did not clothe the states with sovereign immunity from suit by Indian tribes. This is the first case to so hold and if upheld will benefit all tribes. The State of Alaska has, however, appealed to the U.S. Supreme Court with the support of 19 states. The Supreme Court has now decided to review the case.



In *Kauley v. United States*, NARF and Oklahoma Indian Legal Services represent individual Indian allottees in their effort to enforce the Federal Oil and Gas Royalty 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, thereby squandering the oil and gas resources and royalties of Oklahoma allottees.

NARF is also assisting the Rosebud Sioux Tribe of South Dakota negotiate a resolution of its outstanding Comprehensive Employment Training Act debt. The Tribe agreed to a compromise settlement amount and NARF is currently negotiating the details of that settlement with the Department of Labor.

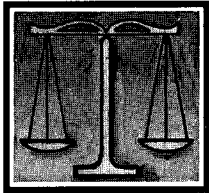
NARF and the Native Hawaiian Legal Corporation are challenging the State of Hawaii's illegal exchange of ceded lands to a private landowner for the development of a geothermal facility on the Island of Hawaii. The State lands exchanged were ceded lands subject to a special trust under the 1959 Hawaii Admission Act for the benefit of Native Hawaiians.



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)

The Development of Indian Law



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.

During the fiscal year 1990, 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 conducted a national training event on current Indian law issues in 1990. 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, the rights of Native prisoners, 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 also available.

National Indian Law Library

In 1972, with the financial assistance of the Carnegie Corporation of New York and the technical assistance of the National Clearinghouse for Legal Services in Chicago, Illinois, NARF began the development of a library project. At the time, there was no library or major collection devoted entirely to Indian law. Today that library project is called the National Indian Law Library (NILL). It has grown into a national resource center of Indian legal materials, encompassing federal Indian law as well as Tribal law.

The NILL collection is unique in that it is the only Indian law library specializing in practice materials needed for practitioners litigating cases dealing with federal Indian law. NILL widely collects court documents, books, government documents, tribal constitutions and codes, articles, Indian newspapers, student reports and law reviews. The people who use the NILL collection are a diverse group, including attorneys, judges, law

clerks, students of all ages, news media, prisoners, tribal court personnel, Indian organizations and other libraries. These users find that the most important aspect of the collection is the reference service provided by the entire NILL staff.

Through these past 18 years, the NILL staff has demonstrated a desire to meet the information needs of those involved in Indian law matters. To this end, the NILL staff has embarked upon two special projects. First, the establishment of a comprehensive Tribal code and legal documents collection in a single repository. Second, the retrospective conversion of the entire NILL collection from a book catalog to an automated library system, which will accurately reflect the NILL holdings to its clients via a personal computer and modem. The *National Indian Law Library Catalogue* will continue to be published in book form once this retrospective conversion has been completed.

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 formal or informal speaking and leadership capacities at numerous tribal, state, academic, and national Indian meetings such as the National Congress of American Indians and the Federal Bar Association.

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

Treasurer's Report

Total fund balances of the Native American Rights Fund decreased in fiscal 1990 by \$416,299. Heavy trial expenses and the legislative resolution of several pressing matters created unusual demand on reserves in NARF's twentieth year of existence.

Attorney staff numbered nineteen through May of 1990, then changed to eighteen for the remainder of the year.

Revenues increased over the previous year by 20.2% to \$5,902,039. Sources of support and revenue as a percentage of total are shown below for fiscal 1990 and 1989:

Revenue Source	FY90	FY89
Government	40.0%	44.4%
Foundations & trusts	27.4	27.8
Individuals & corporations	17.7	18.0
Legal fees	5.5	5.7
Other	9.4	4.1
	100.0%	100.0%

Each of the revenue sources was substantially the same as in the previous year except for the "Other"

category, which contained \$250,000 in non-repeating revenues for fiscal 1990.

Expenditures for fiscal 1990 totalled \$6,318,338, a 24.9% increase over expenditures in fiscal 1989. Expenditures by program and support functions are shown below for both fiscal years:

Functional Expenditures	FY90	FY89
Litigation & client services	73.1%	70.7%
National Indian Law Library	5.5	7.4
Program services:	78.6%	78.1%
Management & general	8.5%	9.7%
Fund raising	12.9	12.2
Support services:	21.4%	21.9%

NARF's expenditures for program activity increased by .5%, continuing a five-year trend of increases in program spending as a percentage of total spending.

The audited financial statements for the year ended September 30, 1990 are presented for your review on the following pages.



Susan Rosseter Hart
Secretary/Treasurer



Price Waterhouse



REPORT OF INDEPENDENT ACCOUNTANTS

December 14, 1990

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, in all material respects, the financial position of Native American Rights Fund, Inc. at September 30, 1990 and 1989, and the results of its operations and changes in its cash for the years then ended in conformity with generally accepted accounting principles. These financial statements are the responsibility of the organization's management; our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with generally accepted auditing standards which require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for the opinion expressed above.

Price Waterhouse

NATIVE AMERICAN RIGHTS FUND, INC. BALANCE SHEET

	September 30,				
	1990		General fixed asset fund	Total all funds	1989 Total all funds
	Current funds Unrestricted	Restricted			
ASSETS					
Cash, including certificates of deposit of \$400,000 and \$185,001	\$551,744	\$	\$	\$ 551,744	\$ 193,692
Marketable securities, at cost (Note 2)	11,252			11,252	115,065
Grants receivable (Note 3)		332,289		332,289	953,878
Bequests receivable (Note 1)	205,125			205,125	276,091
Other receivables, net of \$48,000 and \$37,000 allowance for doubtful accounts	203,479			203,479	229,641
Donated art (Note 1)	188,000			188,000	
Prepaid expenses and other assets	41,306			41,306	47,077
Interfund receivable (payable)	(364,284)	364,284			
Property and equipment, at cost:					
Land and buildings			313,938	313,938	313,938
Improvements to land and buildings			145,328	145,328	145,328
Office equipment and furnishings			529,893	529,893	542,864
Professional library			127,585	127,585	119,261
Less: accumulated depreciation			(580,677)	(580,677)	(533,838)
	<u>\$836,622</u>	<u>\$696,573</u>	<u>\$536,067</u>	<u>\$2,069,262</u>	<u>\$2,402,997</u>
LIABILITIES AND FUND BALANCES					
Accounts payable	\$346,766	\$	\$	\$ 346,766	\$ 192,231
Other accrued expenses	268,450			268,450	176,850
Deferred revenue (Notes 1 and 3)	205,125	696,573		901,698	961,843
Mortgage and notes payable (Note 4)			88,433	88,433	191,859
Fund balances	16,281		447,634	463,915	880,214
Commitments (Note 5)					
	<u>\$836,622</u>	<u>\$696,573</u>	<u>\$536,067</u>	<u>\$2,069,262</u>	<u>\$2,402,997</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,

	1990			1989
	Current funds		General fixed asset fund	Total all funds
	Unrestricted	Restricted		Total all funds
Support and revenue: (Note 6)				
Governmental grants	\$	\$2,358,623	\$	\$2,358,623
Foundation and trust grants	442,688	1,176,037		1,618,725
Contributions	1,047,425			1,047,425
Legal fees		325,198		325,198
Other	552,068			552,068
Total support and revenue	2,042,181	3,859,858		5,902,039
Expenses:				
Program services: (Note 6)				
Litigation and client services	1,761,953	2,795,893	58,478	4,616,324
National Indian Law Library	133,510	211,855	4,431	349,796
Total program services	1,895,463	3,007,748	62,909	4,966,120
Support services:				
Management and general	204,307	324,197	6,781	535,285
Fund raising	311,806	494,778	10,349	816,933
Total support services	516,113	818,975	17,130	1,352,218
Total expenses	2,411,576	3,826,723	80,039	6,318,338
Excess (deficiency) of support and revenue over expenses	(369,395)	33,135	(80,039)	(416,299)
Fund balances, beginning of year	384,520		495,694	880,214
Other changes in fund balances:				
Acquisition of property and equipment	1,668	(30,221)	28,553	
Repayment of mortgage and notes payable	(512)	(2,914)	3,426	
Fund balances, end of year	\$ 16,281	\$ —	\$447,634	\$ 463,915

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

NATIVE AMERICAN RIGHTS FUND, INC.
NOTES TO FINANCIAL STATEMENTS
SEPTEMBER 30, 1990

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. Unrestricted donations of marketable securities or other in-kind contributions are recorded as revenue at their estimated fair market value at the date of contribution.

Bequests are recorded as a receivable and deferred revenue in the unrestricted fund when the amount of the bequest can be reasonably determined. Such bequests are recorded as revenue when the receipt of the funds is imminent.

Interfund receivable (payable)

All 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 (including segregation within the restricted fund by grant source), unrestricted and the general fixed asset funds is maintained in the accounting records. The interfund receivable (payable) results from the deficiency of net assets specifically identifiable with the restricted fund over deferred revenue at September 30, 1990.

Donated art

During fiscal 1990, NARF received donations of Native American art in collaboration with an association of Native American artists. The art has been recorded as an asset and unrestricted revenue at its estimated fair market value of \$188,000. NARF intends to auction the donated pieces during fiscal 1991. A corresponding expense and liability of \$56,000 has been recorded in the accompanying financial statements to recognize a commitment to the artists' association for its assistance in obtaining the art donations.

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.

Professional staff

Personnel classified as professional staff include attorneys, paralegals, librarians, interns and office management personnel.

NATIVE AMERICAN RIGHTS FUND, INC.

STATEMENT OF CHANGES IN CASH

For the year ended September 30,

	1990			1989
	Current funds Unrestricted	Restricted	General fixed asset fund	Total all funds
Cash was provided by (used for):				
Excess (deficiency) of support and revenue over expenses	\$(369,395)	\$ 33,135	\$(80,039)	\$(416,299)
Add (deduct) items not affecting cash:				
Deferred revenue and grants receivable recognized as support and revenue		(1,070,673)		(1,070,673)
Deferred revenue received and grants receivable collected		1,650,451		1,650,451
Bad debt expense	61,017			61,017
Depreciation			81,925	81,925
(Gain) loss on disposal of property and equipment			(1,886)	(1,886)
(Increase) decrease in other receivables	36,111			36,111
(Increase) in other assets	(182,229)			(182,229)
Increase (decrease) in interfund receivable/payable	579,778	(579,778)		
Increase (decrease) in accounts payable	154,535			154,535
Increase in other liabilities	73,266			73,266
Cash provided by (used for) operations	353,083	33,135		386,218
Decrease in marketable securities	103,813			103,813
Net (payment) proceeds of line of credit	(100,000)			(100,000)
	356,896	33,135		390,031
Cash was used for:				
Net fund balance transfers	1,156	(33,135)	31,979	(28,553)
Acquisition of property and equipment			(28,553)	(28,553)
Repayment of mortgage and notes payable			(3,426)	(3,426)
	1,156	(33,135)		(31,979)
Increase (decrease) in cash	\$ 358,052	\$ —	\$ —	\$ 358,052

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

Fund raising

Fundraising 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 related 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 or the sale of fixed assets 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 (25 years), the professional library (30 years), copiers (5 years), and computer hardware and software (5 years), and the declining balance method for other property and equipment (10 years).

NOTE 2 - MARKETABLE SECURITIES

Marketable securities consist of marketable corporate equity and debt securities and mutual fund investments. These investments are stated at cost of \$115,065 which is lower than market of \$156,036 at September 30, 1989. Investment income was \$13,986 for 1989. 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 - RESTRICTED GRANTS RECEIVABLE AND DEFERRED REVENUE

Restricted grants receivable and deferred revenue consist of the following individual restricted grants or contracts:

	September 30,			
	1990		1989	
	Grants receivable	Deferred revenue	Grants receivable	Deferred revenue
Bureau of Indian Affairs	\$310,928	\$	\$479,081	\$
The Rockefeller Foundation	3,238		94,000	
John D. and Catherine T. MacArthur Foundation		46,801	170,000	221,919
Northwest Indian Fisheries Commission			68,625	
Department of Health and Human Services - Administration for Native Americans	13,976		136,527	
Ford Foundation		618,894		412,036
Legal Services Corporation	4,147			9,557
Other		30,878	5,645	94,862
	<u>\$332,289</u>	<u>\$696,573</u>	<u>\$953,878</u>	<u>\$738,374</u>

NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF FUNCTIONAL EXPENSES

For the year ended September 30,

	1990						1989	
	Program services			Support services				
	Litigation and client services	National Indian Law Library	Total	Management and general	Fund raising	Total	Total expenses	Total expenses
Salaries & wages:								
Professional staff	\$1,122,963	\$112,570	\$1,235,533	\$216,896	\$121,148	\$ 338,044	\$1,573,577	\$1,479,899
Support staff	392,464	66,295	458,759	78,475	44,641	123,116	581,875	509,117
Fringe benefits	302,451	64,865	367,316	56,553	44,885	101,438	468,754	398,845
Total salaries and related costs	1,817,878	243,730	2,061,608	351,924	210,674	562,598	2,624,206	2,387,861
Contract fees and consultants	1,331,978	8,320	1,340,298	25,806	203,064	228,870	1,569,168	1,003,616
Travel	461,013	6,041	467,054	35,321	9,004	44,325	511,379	415,742
Space costs	86,945	13,269	100,214	25,186	10,036	35,222	135,436	141,221
Office expenses	687,685	53,131	740,816	80,345	374,086	454,431	1,195,247	883,437
Equipment maintenance and rental	23,260	5,943	29,203	5,000	2,234	7,234	36,437	22,127
Litigation costs	33,718	38	33,756	2	1	3	33,759	46,734
Library costs	57,039	13,273	70,312		1,338	1,338	71,650	48,910
Expenses before bad debts and property transactions	4,499,516	343,745	4,843,261	523,584	810,437	1,334,021	6,177,282	4,949,648
(Gain) loss on disposal of property and equipment	(1,318)	(142)	(1,460)	(276)	(150)	(426)	(1,886)	5,710
Depreciation	57,109	6,193	63,302	11,977	6,646	18,623	81,925	101,356
Bad debt expense	61,017		61,017				61,017	
Total expenses	\$4,616,324	\$349,796	\$4,966,120	\$535,285	\$816,933	\$1,352,218	\$6,318,338	\$5,056,714

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

NOTE 4 - MORTGAGE AND NOTES PAYABLE

Mortgage and notes payable consist of the following:

	September 30,	
	1990	1989
Line of credit; face amount of \$300,000; renewable January 1991; interest at the prime rate (10.5%) payable monthly; secured by land and building at 1506 Broadway, Boulder, Colorado.	\$	\$100,000
Mortgage payable in equal monthly installments of \$825, including interest at 12%, with remaining principal balance due March 1991; secured by land and building at 1712 N Street, N.W., Washington, D.C.; note was refinanced for \$105,000 in October 1990; principal balance due October 1995.	69,733	71,179
Promissory note payable in 58 monthly installments of \$220 principal, plus accrued interest at 11%, with one final principal payment of \$13,420 plus accrued interest to date; due April 1992.	18,700	20,680
	88,433	191,859
Less: current portion	(4,269)	(104,306)
Due beyond next fiscal year	\$ 84,164	\$ 87,553

Annual maturity requirements on the mortgage and note payable are as follows (fiscal years): 1991 - \$4,269; 1992 - \$4,476; 1993 - \$4,709; 1994 - \$4,971; 1995 and beyond - \$70,008.

NOTE 5 - COMMITMENTS

NARF leases equipment under operating leases. Annual future minimum rental payments under operating leases are as follows (fiscal years): 1991

- \$30,250; 1992 - \$22,993; 1993 - \$3,237. Rental expense was \$33,923 and \$35,237 for 1990 and 1989, respectively.

NOTE 6 - RESTRICTED REVENUE AND PROGRAM EXPENSES

Restricted grant revenues consist of the following restricted grants or contracts:

	Year ended September 30,	
	1990	1989
Department of Health and Human Services - Administration for Native Americans	\$ 861,002	\$1,075,692
Bureau of Indian Affairs	1,213,709	832,025
Ford Foundation	763,166	501,465
Legal Services Corporation	283,611	272,268
The John D. and Catherine T. MacArthur Foundation	175,128	263,055
Rockefeller Foundation	59,238	219,000
Northwest Indian Fisheries Commission		113,133
Skadden Fellowship	41,635	5,271
Bush Foundation	34,540	
Merck Foundation	25,000	24,300
Knistrom	21,919	8,081
The Edna McConnell Clark Foundation		15,000
Others	380,910	379,034
	\$3,859,858	\$3,708,324

Total program expenses for the year ended September 30, 1989 included \$3,655,351 in restricted program expenses.

Acknowledgement of Contributors for Fiscal Year 1990

The Native American Rights Fund would like to acknowledge the generous support given by the following contributors during the 1990 fiscal year.

Foundations

Bay Foundation
Birnbaum Foundation
Bush Foundation
Connemara Fund
Cummins Engine Foundation
Ford Foundation
General Service Foundation
Knistrom Foundation
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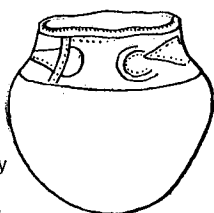
Federal Programs

Administration for Native Americans
Bureau of Indian Affairs
Legal Services Corporation

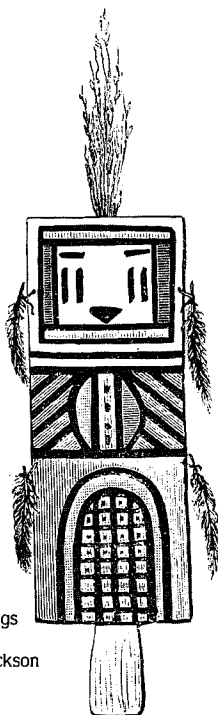
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(Individuals donating or pledging \$1,000 or more in a twelve-month period.)

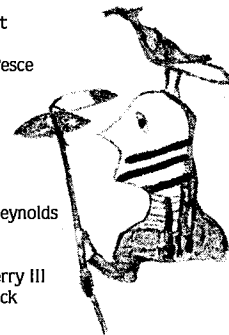
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Michael Chapman
Lucille Echohawk
Menominee Indian Tribe of Wisconsin, WI
Richard Thudell

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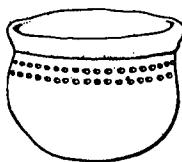
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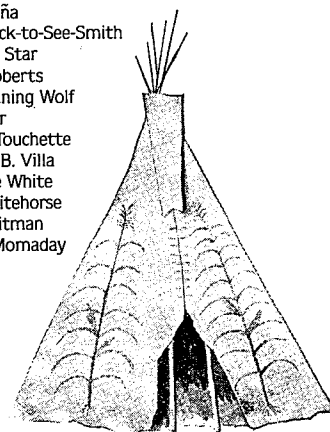
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Thank you to the thousands of federal and state employees throughout the country who, through a work-place deduction, contributed more than \$100,000 to NARF in 1990.

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 N. Scott Momaday



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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