ANNUAL REPORT
1991

Native American Rights Fund
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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 more crucial now than ever before. 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: (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.
For the past 21 years, the Native American Rights Fund 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 21 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 Native American Rights Fund

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Chairman's Message

Reflections at a Half-millennia

As we near the end of Christianity's Second Millennium, a logical mid-point set at 1492 seems befitting to mark the date which commenced America's interjection into European perceptions ensuing from Christopher Columbus's transatlantic navigational accomplishment. In looking for a shorter trade route to the Indies, he thought he had sailed around the World. Unlike some of his contemporaries of the time who thought the world was flat, Chris's adventures did not lead to his plummeting off some precipice at the edge of the earth. One has to give him credit for his vision, leadership and bravery in convincing the people of his day and geographic area that the world was not flat and traveling over uncharted waters to prove it. However, his confused identification of the lands he found fully inhabited by a congenial populace and his inability to recognize that his "Indies" lay in a part of the world far remote from Asia sparked a rape of American shores in the frantic European chase for the gold of India.

Additionally, his muddled interpretation of his location led to a monumental blunder assigning his infamous misnomer to the inhabitants of America. Worse, his geographic befuddlement led to the unshakeable slander of the Carib people as cannibals — English dictionaries give the etymology of this word as being derived from Carib. Since Columbus thought he had reached the East Indies, he stretched credulity to misrepresent the identity of the Caribs in effecting a match with the ferocious cannibals described in his well-thumbed copy of Marco Polo's *Travels*.

Although lost and with an entire continent and another ocean separating him from where he wanted to be, Columbus, on October 12, 1492, left his ship in a small boat, landed on a beach, kissed the ground, planted a flag, claimed the land for the King and Queen of Spain, named the land El Salvador and was commissioned the Royal Viceroy for having discovered it. However, Chris did not discover the islands or America; the land had already been discovered by the people who lived on them and had been living on them for thousands of years.

At this half-millennia anniversary, we can expect much media attention with television specials, numerous magazine articles and many books produced to mark Columbus's efforts since his voyage set in motion events which have yielded significant consequences for the Americas, for Europe and the entire world. We cannot change history; we can only learn from it and hope we do not make the same mistakes. We can, however, change how the history was written to reflect a closer view toward the truth and give some credit to those peoples and civilizations, past and present, to whom the credit for discovery has been denied. Hopefully, books such as Alvin M. Joseph's *America in 1492* (published by Alfred A. Knopf, New York, 1992) will receive critical acclaim and, in the process, gain a wide readership to effectively re-educate and abolish the false stereotypes despite their persistent currency. With the opportunity to consider much that may be new and provocative, we may use this half-millennia anniversary to help chart a new course for the future of the Americas.

Richard A. Hayward
Chairman, Board of Directors
Native American Rights Fund.
1991 has marked the 21st year that the Native American Rights Fund has provided 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 achievements in fiscal year 1991 for Native Americans.

NARF supported the National Congress of American Indians and other Indian organizations and tribes in a successful effort in obtaining Congressional legislation recognizing sovereign tribal power to assert criminal misdemeanor jurisdiction over non-member Indians on reservations. The legislation overturned the 1990 U.S. Supreme Court decision in Duro v. Reina that held that Congress had never recognized such tribal sovereign authority over Indians of other tribes although the tribes have traditionally exercised such misdemeanor jurisdiction in their tribal courts.

Working again in concert with several other Indian organizations and tribes, NARF assisted in the formation of a new and much-needed tribal membership organization — the National Tribal Environmental Council. NTEC will assist tribes regionally and locally in addressing inequities in federal environmental legislation and the administration of the nation's environmental laws as they affect tribal governments and Indian natural resources.

The State of Montana and the Northern Cheyenne Tribe approved a compact that settles the Tribe's reserved water rights claims after many years of litigation and negotiations. The compact, which must now be approved by Congress, would recognize tribal water rights to approximately 90,000 acre-feet of water and provide a $21 million settlement fund. NARF has represented the Tribe since 1975.

In Nebraska State Historical Society v. Pawnee Tribe of Oklahoma, NARF on behalf of the Tribe, successfully blocked the Historical Society's attempt to avoid compliance with the state public records law. The Tribe needs access to the Historical Society's records to claim for repatriation and reburial Pawnee human remains and burial goods held illegally.

NARF was also successful in negotiating the return of 750 Alaska Native bodies and Alaska Native artifacts to the Larsen Bay Tribal Council of Kodiak Island, Alaska, from the Smithsonian Institution. The repatriation was the result of two years of negotiations with the Smithsonian.

The original version of the Omnibus Anti-Crime bill pending in Congress would have extended the death penalty to first degree murder cases under federal jurisdiction including Indian reservations. NARF worked with other Indian organizations and tribes in securing an amendment to the bill allowing each tribe to decide for themselves whether the death penalty should apply on their reservations.

In Kauley v. United States, NARF and Oklahoma Indian Legal Services negotiated a settlement of a lawsuit brought on behalf of individual Indian oil and gas lessors against the United States for mismanagement of their leases. In the settlement, the United States accepted its trust responsibility to properly manage the Indian oil and gas leases, agreed to improve its management procedures and will pay interest on any oil and gas royalties paid late.

These and many other important case developments in fiscal year 1991 show that Native Americans can receive justice if given the opportunity to be advised and represented by counsel through NARF. In hundreds of cases since 1970, NARF has provided this access to justice and made the legal process work for the benefit of Indian people who may have otherwise gone unrepresented. We thank all of you who have supported our work and hope that you will continue your assistance.

John E. Echohawk
Executive Director
Board of Directors

Upon the formation of the Native American Rights Fund, a governing board was assembled composed of Indian leaders from across the country — wise and distinguished people who were respected by Indians nationwide. Since that time, the NARF Board of Directors has continued to provide NARF with leadership and credibility and the vision of its members has been essential to NARF's effectiveness in representing its Native American clients.

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Oklahoma (Resigned Fall 1991)

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(Turtle Mountain Chipewa)
North Dakota

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Washington

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Eddie Tullis
(Poarch Band of Creeks)
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Verna Williamson (Taleta Pueblo)
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The Rt. Rev. William C.
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*Deceased 11/30/90

Kate Davis
Cow Springs, AZ
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The Five Priorities of the Native American Rights Fund:

1. The Preservation of Tribal Existence
2. The Protection of Tribal Natural Resources
3. The Promotion of Human Rights
4. The Accountability of Governments
5. The Development of Indian Law

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Norma B. Weston
Legal Secretary
Marilyn White (St. Regis Mohawk)
Legal Secretary
Without a land base, how can we be sovereign? Without a land base, how can we be free? How can we not be swallowed up in assimilation and become part of this 'melting pot'? If our land base is our identity, the priority that we have in Indian Country for small tribes is to require that land base, to protect that environment, to have a conducive environment for sovereignty. Otherwise, sovereignty becomes another meaningless term that you can look up in the dictionary later in life, and your elders can tell you about what it was like to be sovereign in the old days.

Georgia George, Chairperson
Suquamish Tribe, 1991
THE PRESERVATION OF TRIBAL EXISTENCE

The battle ground is going to be in culture, the retention of culture — and that's where we're the strongest, that's our strongest suit, our culture, if we remember.

Oren Lyons, Chief, Onondaga Nation

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 federally recognized tribes. NARF continues 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 state governments, the federal government, and others over these powers. During fiscal year 1991, NARF handled several major cases that affected the sovereign powers of tribes. These cases involved serious issues of taxation and jurisdiction in several states.

On January 14, 1992, the Supreme Court handed down its decision in County of Yakima v. Confederated Tribes of the Yakima Reservation. Attorneys at the Native American Rights Fund submitted an amicus curiae brief in support of the Yakima Tribe on behalf of fifteen tribes and the National Congress of American Indians. The issue before the Court was whether Yakima County could impose ad valorem and excise taxes on individual Indian and tribally-owned fee lands located with the Yakima Reservation. By a vote of 8 to 1, the Court held that a provision in the General Allotment Act of 1887, as amended in 1906, permits Yakima County to impose ad valorem taxes on reservation lands that have been patented in fee pursuant to the Act. However, the Court invoked principles "deeply rooted in Indian jurisprudence" to hold that the County is not permitted to impose an excise tax on the sale of these lands. Justice Blackmun filed a separate opinion concurring with the majority's decision on the invalidity of the County's imposition of excise taxes and dissenting from the majority's upholding the ad valorem taxes.

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 was remanded to tribal court, making it the first major tribal tax case to be heard by a tribal court. In January, 1991, the Cheyenne-Arapaho Tribal Court granted summary judgement in favor of the Tribe which upheld the Tribe's authority to tax oil and gas activities on trust allotments. The oil company appealed to the Tribal Supreme Court and argument was held in October, 1991, with the decision pending.

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. Oral argument was held in March, 1991, in the Turtle Mountain Tribal Court on the issue of tribal court jurisdiction. In May, 1991, the court rendered its order wherein it found that the retroactive application of the current Tribal Code's jurisdictional statute, in light of its clear legislative intent, did not offend established concepts of fairness. It also held that neither the tribal constitution nor existing federal law limit the jurisdiction of the tribal court to hear the matter. Twin City Construction Company has appealed the decision of the Turtle Mountain Tribal Court. The case is now before the Turtle Mountain Tribal Court of Appeals. NARF represents the tribal member.

In the State of Alaska, NARF continued representing 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. Resolution is expected in 1992.

NARF also represents the Native Village of Venetie and the Nome Eskimo Community in other tribal tax cases which likewise raise the issue of tribal status and question whether the Native villages constitute 'Indian Country' over which the tribal government may exercise governmental powers.

NARF has continued its assistance to Kawerak and the sixteen villages which comprise its membership, and the Village of Kotzebue in Alaska to obtain tribal jurisdiction over Indian Child Welfare Act matters and in assisting tribal courts in the adjudication of child custody disputes. NARF has provided tribes assistance in monitoring Indian Child Welfare Act Cases and in intervening in state proceedings. The development of model foster parent licensing regulations is now underway.

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 undermined a tribe's ability to maintain law and order within its territory. NARF became 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. In October, 1991, the House and Senate Conference Committee passed permanent legislation overturning the Duro decision.

Indian Economic Development Law Project

The Indian Economic Development Law Project is continuing to work on developing the systems to support reservation economic and commercial development. In addition to the more traditional issues of creating an atmosphere supportive of commercial...
growth, the Project has, over the past year, focused its efforts on the environmental side of economic development. This focus is based on the recognition that the lands of Native Americans constitute their permanent homes, and that environmental issues are themselves frequently serious economic development opportunities.

The Project continues to work with the Klamath Tribe to develop the Congressionally mandated Economic Self-Sufficiency Plan for that Tribe. We are also working with the Warm Springs Tribe on their efforts to accomplish a complete recodification of their tribal code, including an entirely new commercial code. The Project will also be working with the Turtle Mountain Chipewa Tribe to develop their commercial and tax codes. In addition, the Project continues to work with New West Partners to develop a plan to encourage tourism and development among the Tribes on the Colorado Plateau. In particular, the Project is looking at alternative dispute resolution options for use by tribes in Indian Country.

The Project served on three of the seven Task Forces of the American Indian Policy Research Center — a congressionally funded effort to determine whether and in what form a "think tank" for Indian Country would be useful. The Project also continues to work with the Tribal Leaders Forum in its efforts to formulate an Indian initiated legislative agenda for the 1990's in the areas of economic development and protection and enhancement of Indian resources.

In the environmental arena, the Project was instrumental in two significant efforts over the past year. First, the Project assisted tribes nationally to form and obtain funding for the National Tribal Environmental Council — a tribal membership organization formed to assist tribes regionally and locally to address the inequities in federal legislation and administration of the nation's environmental laws. Second, the Project worked to bring together tribal and traditional leaders with leaders from the national environmental community to discuss their areas of common interest and potential conflict. Out of that meeting came a coalition of environmental and Indian representatives committed to assisting one another on Indian religious freedom issues and endangered species concerns.

The Project also participated in the first ever Congressional Workshop on Solid Waste in Indian Country. The Workshop was a forum intended to inform Congressional leaders on the issues faced by Tribes in attempting to manage compliance with environmental laws that frequently were drawn with no thought to the concerns of Indian Country. The Project also worked with tribes and other national Indian organizations to resist California's attempt to legislate state environmental regulation on reservations within that State.

**Federal Recognition and Restoration**

NARF currently represents ten 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 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, the San Juan Southern Paiute Tribe of Arizona, and the Alaska Native Coalition. NARF continues to work with the Gay Head Wampanoag of Massachusetts to implement their recent settlement which included recognition and a land base.

NARF is working 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.
Indian Country needs to be thought of as permanent tribal homelands, not lands that will be taken as soon as the government can find a scheme to take that land away from us. I think people are realizing the tribes are a permanent part of this country, and if they are, then we need a permanent home.

John E. Echolawb, Executive Director
Native American Rights Fund, 1991
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 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. Oral argument was held before a three judge review panel in the United States Claims Court in April, 1991. NARF argued in support of the review panel's authority to grant a decision of a prior hearing officer without the necessity of first vacating or reversing the prior decision. The panel ruled that they have such authority. Subsequent to this, NARF filed a motion for a new trial and a motion for an expedited decision to stay all proceedings until the pending motion for a new trial was decided. The motion to stay was granted in July, 1991.

In Cheyenne-Arapaho Tribe 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. NARF requested and a federal court of appeals granted an early date for oral argument. Oral argument was heard in September, 1990. A decision has not yet been rendered in this case.

In South Carolina v. Catawba Indian Tribe, NARF continues to assist the Tribe in pursuing its claim to 225 square miles in and around Rock Hill, South Carolina. In July, 1990, the U.S. District Court, on remand from the United States Supreme Court and Fourth Circuit Court of Appeals, dismissed numerous parcels of land and 23 defendants from the suit based upon the defendants' adverse possession of the parcels. While much land and many defendants remain subject to the Tribe's claim, in February, 1991, the District Court denied the Tribe's motion to certify a defendant class and ruled that the Tribe's claim against the vast majority of occupants of the claimed land is barred. The Tribe has appealed both rulings and oral argument on both appeals is scheduled for February 4, 1992.


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 all but one of the defendants in which they recognize the Tribal Community's title.

NARF is assisting the Pottawatomi Nation in Canada in their claim against the federal government for breach of treaty obligations. The Pottawatomi Nation has been foreclosed from bringing suit based on jurisdictional grounds because their ancestors fled the United States in the early 1900's to escape removal. NARF successfully introduced legislation last year to authorize the U.S. Claims Court to hear their case. The Canadian government has joined the Pottawatomi in support of the claim and has worked closely with NARF in support of the legislation. NARF has filed the case in the U.S. Court of Claims and is now waiting for a ruling on the Summary Judgment Motion.

In Moscoso v. Hasbke v. James, NARF and the San Juan Southern Paiute Tribe of Arizona are currently awaiting a U.S. District Court decision on the Tribe's land claim proper for land use patterns and valuations. Trial for the partition phase is expected in 1992.

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 established the land boundaries of its reservation; and the Ysleta del Sur Pueblo of Texas researched its aboriginal land claim. NARF continues to monitor the trespass settlement agreement of the Walker River Paiute Tribe.

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.

The State of Montana and the Northern Cheyenne Tribe have approved a compact that settles the Tribe's reserved water rights claims. The State and Tribe have been in negotiations for the past several years to resolve the water claim. The approved compact provides for the administration of the Tribe's water rights and the
Following the 1985 settlement reached in U.S. v. Michigan where the courts affirmed the Bay Mills Chippewa Indian Community’s treaty right to fish under tribal regulations, it became apparent in 1990 that the Tribe’s small boat fishers did not have adequate fishing opportunities and that modification of the settlement was necessary. A hearing was conducted in April, 1991, to determine whether the Bay Mills Indian Community had met the legal standard for modification of the Consent Order which allocates the treaty fishery between Indian and non-Indian users. The Bay Mills Indian Community was seeking the re-opening of fishing areas suitable for small boat fishers, which had been closed to the tribes under the Consent Order. The Court denied Bay Mills’ motion with the provision that the issue will be reevaluated if proof of lack of opportunity for small boat fishers can be shown.

NARF is representing the eleven Native villages in the Norton Sound area of Alaska in establishing their aboriginal hunting and fishing rights on the Outer Continental Shelf. In September, 1991, the district court granted the government’s Motion for Summary Judgment and dismissed the Village’s aboriginal land claims. The Villages are appealing this decision to the Ninth Circuit Court of Appeals. Meanwhile, in July, 1991, at the Court’s suggestion, three of the Villages involved in Gambell v. Lujan, namely, Nome Eskimo Community, King Island Native Community, and the Native Village of Solomon filed a separate federal lawsuit against the Secretary of the Interior seeking to enjoin them from holding a gold lease sale in the heart of their aboriginal hunting and fishing grounds in the Outer Continental Shelf off the coast of Nome.

NARF represents the Gwich’in Athabaskan 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.

In Kuti Kaafi Native Village of Copper Center v. State of Alaska, NARF is assisting the Village in changing state and federal regulations governing the subsistence harvests of caribou and moose in the Copper River Basin. NARF obtained a preliminary injunction extending the Fall moose season. That order, however, was stayed pending a State Supreme Court review. This case was argued in the State Supreme Court in September.

NARF continues to assert subsistence fishing rights for Alaskan Native subsistence users from Mentiasta 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. NARF has completed the legal briefs in the proceedings to force the United States Department of Interior to open the Batzulnetas Fishery on a full-time basis. The court has yet to rule but a decision is expected in 1992.
Major Activities, 1991

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 (land claim) 19
WA Swinomish Tribal Community v. Burlington Northern, Inc. (land claim) 20
NY Walker River Paiute Tribe v. Southern Pacific (land claim) 21
OK Cheyenne-Arapaho Tribe v. United States (land claim) 22
CANADA Potawatomi (land claim) 23
TX Alabama-Coushatta Tribe v. U.S. (land claim) 24
SC South Carolina v. Catawba Indian Tribe (land claim) 25
WI Stockbridge Munsee Tribe of Wisconsin (land claim) 26
VA Pamunkey Tribe of Virginia (land claim) 27
AZ Fort McDowell Indian Community v. Salt River Project (water rights) 28
MT Northern Cheyenne Tribe of Montana (water rights) 29
MT Chippewa-Cree Tribe of Montana (water rights) 30
ID Nez Perce Tribe of Idaho (water rights) 31
OR Klamath Tribe of Oregon (water rights) 32
CA Tulare Tribe of California (water rights) 33
WA Skokomish Tribe of Washington (fishing rights) 34
AK Gwich'in Steering Committee v. Lujan (hunting rights) 35
NE Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Nebraska (reburial issue) 36
SD Rosebud Sioux Tribe of South Dakota (education) 37
AK Native Village of Noatak v. Hoffman (accountability) 38
OK Kauley v. United States (accountability) 39
CT Mashantucket Pequot (constitution revision) 40
What is life? It is the flash of a firefly in the night. It is the breath of a buffalo in the winter-time. It is the little shadow which runs across the grass and loses itself in the sunset.

Crowfoot (Blackfoot); April, 1890
THE PROMOTION OF HUMAN RIGHTS

Since time immemorial, Indian tribal Holy Men have gone into the high places, lakes, and isolated sanctuaries to pray, receive guidance from the Spirits, and train younger people in the ceremonies that constitute the spiritual life of the tribal community. In these ceremonies, medicine men represented the whole web of cosmic life in the continuing search for balance and harmony and through various rituals in which birds, animals, and plants were participants, harmony of life was achieved and maintained.

Vine Deloria, Legal Review, Summer 1991

In addressing human rights, NARP seeks to enforce laws which are designed to address the unique needs and problems of Native Americans in this area. In fiscal year 1991, NARP provided assistance in problems involving religious freedom, education, the federal death penalty, and voting rights.

Religious Freedom

All world religions share a unifying dependence, in varying degrees, upon sacred sites, including the indigenous religions of American Indian tribes, Native Hawaiians and Native Alaskans. Indeed, worship at sacred sites is a basic attribute of religion itself.

However, when thinking of sacred sites, most Americans think only of well-known Middle Eastern sites familiar to the Judeo-Christian tradition such as Mecca, the Wailing Wall, Mount Sinai or Bethlehem. In the recent war against Iraq, our government and its allies took special care not to destroy sensitive religious areas. None doubt that these important Middle Eastern religious sites are entitled to stringent legal protection for the practitioners of those faiths.

Unfortunately, American law and social policy overlook that our own landscape is dotted with equally important American Indian religious sites that have served as cornerstones for indigenous religions since time immemorial. Traditional Native American religious sites — some of which rank among the most beautiful and breath-taking natural wonders left in America — serve a variety of important roles in tribal religion which should be readily understandable to most people. When Congress passed the American Indian Religious Freedom Act (AIRFA) in 1978, there was hope that protection of Native worship at sacred sites would be incorporated into American law.

Girl attending summer day school program Paiute Tribe of Utah, Cedar City © Stephen Trimble
and social policy, since Congress recognized the need to protect such worship at that time. However, since the passage of AIRFA, two recent Supreme Court cases have created a crisis in religious liberty for Native Americans: Employment Div., Dept. of Human Resources of Oregon v. Smith, and Lyng v. North West Indian Cemetery Assn. These cases held that the First Amendment does not protect tribal religious practices and referred the task of protecting Native worship to Congress.

Since 1978, federal land managing agencies such as the Forest Service and the Park Service had repeatedly been allowed by the courts to destroy irreplaceable Native sacred sites despite AIRFA. The courts have consistently been unwilling to find any protection under the First Amendment or AIRFA. Finally, the struggle in the courts culminated in 1988, when the Supreme Court ruled in Lyng that Indians stand outside the purview of the First Amendment entirely when it comes to protecting tribal religious areas on former tribal lands now considered to be federal lands.

In 1990, the Supreme Court denied constitutional protection for an entire Indian religion of pre-Columbian antiquity, which involves sacramental use of a cactus plant named peyote, against state criminal prohibition of peyote use. For Indians who lost constitutional protection for worship in the name of the "Drug War", Smith was devastating. For the rest of society, Smith caused an outcry because it dramatically departs from First Amendment law, weakens the Free Exercise Clause and religious liberty, and makes it easier for government to intrude upon freedom of worship.

On a national scale, NARF attorneys, together with tribal leaders, 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. NARF has assisted in coordinating meetings throughout the country in a concerted effort to address and develop, with full tribal consultation, the amendments to AIRFA.

In Nebraska State Historical Society v. Pawnee Tribe of Oklahoma, NARF achieved a significant victory from the state court in this case. In May, 1991, the Nebraska District Court ordered the Nebraska State Historical Society (NSHS) to comply with the state public records law and provide museum documents to the Pawnee Tribe of Oklahoma to enable them to claim Pawnee bodies and burial goods held illegally by the NSHS. NSHS sought to prevent the Tribe from access to public records by alleging that NSHS was a non-profit entity which was not subject to the public records law. The court ruled that NSHS is a state agency and ordered it to comply with the law.

NARF represents the Pawnee Tribe of Oklahoma and the Larsen Bay Tribal Council of Kodiak Island, Alaska, in its negotiations with the Smithsonian Institution to return Indian remains and artifacts. In April, 1991, the Smithsonian agreed to return to the Larson Bay Tribal Council the remains of 750 Alaska Natives. On October 5, 1991, these remains, along with the associated burial offerings, were reburied. This repatriation has occurred after two years of negotiation with the Smithsonian.

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 dropout 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 (80%) of the students are Indian children.

Lee Marshall, Havasupia, Supai, AZ
© Stephen Trimble
Federal Death Penalty

NARF was instrumental in the passage of an amendment to the Omnibus Anti-Crime Bill. The Senate passed its Omnibus Crime Bill (S. 1241) in June, 1991. This bill, which expanded the federal death penalty, also contained an option provision which would allow tribes to decide for themselves whether the death penalty for first degree murder should apply on their reservations. NARF worked closely with the Senate Select Committee on Indian Affairs staff to make sure the opt-in provision was included in the bill. The House of Representatives passed its crime bill in October, 1991. NARF worked with both the Democrats and the Republicans to ensure that both included the opt-in provision in their versions of the bill. Therefore, tribal rights would be covered regardless of which version prevailed. The final House bill included an opt-in provision identical to that passed by the Senate. The crime bill must now go to conference committee, but since the House and Senate agree on the opt-in provision, it should not be raised at conference.

Voting Rights

NARF is also working with a coalition of Asian and Hispanic groups to support re-authorization of Section 203 of the federal Voting Rights Act, which is due to expire in 1992. Section 203 requires that certain counties provide assistance in Native American languages (and Spanish and Asian languages) throughout the electoral process. Without language assistance, many speakers of Indian languages will be effectively prevented from exercising their constitutional right to vote, simply because they cannot understand the English language ballot. In addition to simply extending Section 203 for another fifteen years, NARF proposes amending the coverage criteria used to determine who receives assistance. As the criteria are currently written, many Indian language speakers who need assistance do not receive it because they are few in number compared to large off-reservation non-Indian populations. NARF suggests making reservations (or their equivalents) the operative geographic jurisdictions by which to judge tribal populations, as opposed to counties.
The Indian plays much the same role in our American society that the Jews played in Germany. Like the miner’s canary, the Indian marks the shift from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities marks the rise and fall of our democratic faith.

Felix Cohen, the Father of Federal Indian Law
Recent opinions of the Supreme Court on questions of Indian law represent "a significant shift in the attitude of the federal courts, significant enough to portend a figurative holocaust of Indian rights in the future."

P. Browning Pipesem
Oklahoma attorney

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 may be singled out for discrete beneficial treatment without running afoul of equal protection 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.

In June, 1991, the U.S. Supreme Court ruled that tribes may not sue states for money damages because of the states' sovereign immunity from suit. The Supreme Court did not, however, rule on the critical tribal status issue thereby leaving intact the Ninth Circuit's decision that all Alaska Native Villages listed in the Alaska Native Claims Settlement Act (ANCSA) or listed in the Indian Reorganization Act have tribal status for purposes of bringing suit in federal court, under 28 U.S.C. 1362.

The Supreme Court remanded the case to the Ninth Circuit to determine whether Alaska Native Villages have tribal status for the purpose of exercising governmental powers. NARF is now waiting for the Ninth Circuit to remand this case to the District Court in light of the U.S. Supreme Court's decision.

In Kaiser 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 the Secretary of Interior with 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. In December of 1991, the U.S. District Court for the Western District of Oklahoma approved a settlement agreement reached by the parties requiring improved procedures and interest on late payments.

On behalf of affected Native Hawaiians, NARF and the Native Hawaiian Legal Corporation are challenging the State of Hawaii's illegal exchange of state 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.
We had to shatter the myth of the vanishing American, which held that Indian people were a thing of the past. Not only were we still here, but we were going to fight for the right to determine our own future.

John E. Echolution
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 1991, 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, co-counseling in litigation, and providing other services as requested by legal services field programs. The Center conducted a national training event on current Indian law issues in September 1991. 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 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: 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

The systematic development of Indian law involves not only the establishment of favorable court precedents in major areas of Indian law, but also the collection, classification and dissemination of Indian legal resources to everyone working on behalf of Indian rights.

It was from the Native American Rights Fund’s desire to join with others working in the field of Indian law to ensure its orderly development, that the idea of a national clearinghouse to coordinate these efforts was born. In May of 1972, the President of the Carnegie Corporation announced a grant to the Native American Rights Fund for the development of the National Indian Law Library (NILL).

The significance of the NILL collection is crucial for the orderly development of Indian law; it is the only Indian law library specializing in materials indispensable for practitioners. Within its collection are 14,295 legal pleadings in virtually every major Indian case since the 1950's. Beginning in 1988, NILL became the only comprehensive lending collection of tribal government documents on almost every conceivable subject, from declarations of self-determination to sewage disposal, limited adoption of the Uniform Commercial Code, off-reservation regulations, conservation and pow-wow ordinances. NILL has established an invaluable communications network for those involved in the drafting and updating of tribal government documents, thereby strengthening tribal governments, and has fulfilled an urgent need as the single repository where tribal governments routinely send all documents.

NILL is the only clearinghouse actively collecting Indian law related materials, including books, federal government documents, state government documents, scholarly reports, Indian newspapers, student reports, and law reviews. NILL provides numerous access points through the subject matter index of the National Indian Law Library Catalogue.

NILL has proved to be an invaluable resource for attorneys associated with Indian legal service programs and tribal attorneys, who because of the geographically isolated nature of most Indian legal service programs and tribal governments, would be without access to adequate law libraries.

NILL has demonstrated its ability to meet the information needs of those involved in litigating Indian law matters, and in the 19 years since its inception remains at the heart of Indian legal practice. NILL embodies its mission statement which reads: "To be a national repository for Indian legal materials and resources.”

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. The Native American Rights Fund is a nonprofit organization specializing in the protection of Indian rights.
Fiscal Year 1991

In fiscal 1991, total fund balances of the Native American Rights Fund increased by $247,225 to total $711,140. The increase is the net of an increase in the unrestricted fund balance of $291,035, and a decrease in the general fixed asset fund of $43,810. The increase in fund balances was a welcome change from last year's decrease, and is attributable to a combination of cost-saving efforts, and the generosity of NARF's contributors. NARF's attorney staff numbered 17.67, on average, over the fiscal year.

Revenues increased by 6.1% over the previous fiscal year to total $6,261,837. A comparison of sources of revenue and support as a percentage of total revenue are given below for fiscal 1991 and fiscal 1990:

<table>
<thead>
<tr>
<th>Revenue Source</th>
<th>FY91</th>
<th>FY90</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governmental grants</td>
<td>43.8%</td>
<td>40.0%</td>
</tr>
<tr>
<td>Foundation and trust grants</td>
<td>21.5%</td>
<td>27.0%</td>
</tr>
<tr>
<td>Contributions</td>
<td>18.2%</td>
<td>18.0%</td>
</tr>
<tr>
<td>Legal fees</td>
<td>6.3%</td>
<td>5.5%</td>
</tr>
<tr>
<td>Other</td>
<td>10.2%</td>
<td>9.5%</td>
</tr>
<tr>
<td></td>
<td>100.0%</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

Each of the revenue sources stayed substantially the same over the two years.

NARF's expenditures decreased by $408,726 from fiscal 1990 to fiscal 1991, or by 6.9%. The decrease in expenditures is due to a lower staffing level — 19 in fiscal 1990 compared to 17.67 in fiscal 1991 — and to rigorous saving measures. Total expenditures are shown as a percentage by program and support functions below for the two years:

<table>
<thead>
<tr>
<th>Functional Expenditures</th>
<th>FY91</th>
<th>FY90</th>
</tr>
</thead>
<tbody>
<tr>
<td>Litigation &amp; client services</td>
<td>71.6%</td>
<td>73.1%</td>
</tr>
<tr>
<td>National Indian Law Library</td>
<td>4.7%</td>
<td>5.5%</td>
</tr>
<tr>
<td>Program Services:</td>
<td>76.3%</td>
<td>78.6%</td>
</tr>
<tr>
<td>Management &amp; general</td>
<td>12.3%</td>
<td>8.5%</td>
</tr>
<tr>
<td>Fundraising</td>
<td>11.4%</td>
<td>12.9%</td>
</tr>
<tr>
<td>Support Services:</td>
<td>23.7%</td>
<td>21.4%</td>
</tr>
</tbody>
</table>

Expenditures for program activity decreased slightly from fiscal 1990 to fiscal 1991 because of lower program staff and less extended trial activity in fiscal 1991 than in 1990, but NARF's spending for support services is still within a very reasonable 25% of total spending.

NARF's audited financial statements for the year ended September 30, 1991 are included on the following pages for your review.
REPORT OF INDEPENDENT ACCOUNTANTS

December 13, 1991

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, 1991 and 1990, 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, 1991 1990

<table>
<thead>
<tr>
<th>Current Funds</th>
<th>General fixed</th>
<th>Total</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unrestricted</td>
<td>Restricted</td>
<td>all funds</td>
<td>all funds</td>
</tr>
<tr>
<td>Cash, including certificates of deposit of $400,000 in 1990</td>
<td>$ 25,221</td>
<td>$ 25,221</td>
<td>$ 551,744</td>
</tr>
<tr>
<td>Marketable securities, at cost</td>
<td>5,245</td>
<td>5,245</td>
<td>11,252</td>
</tr>
<tr>
<td>Grants receivable (Note 2)</td>
<td>$ 38,375</td>
<td>38,375</td>
<td>332,289</td>
</tr>
<tr>
<td>Unbilled grants receivable (Note 2)</td>
<td>818,578</td>
<td>818,578</td>
<td></td>
</tr>
<tr>
<td>Bequests receivable (Note 1)</td>
<td>431,595</td>
<td>431,595</td>
<td>205,125</td>
</tr>
<tr>
<td>Other receivables, net of $48,000 allowance for doubtful accounts in 1990</td>
<td>225,096</td>
<td>225,096</td>
<td>203,479</td>
</tr>
<tr>
<td>Mailing list acquisition costs (Note 1)</td>
<td>208,266</td>
<td>208,266</td>
<td></td>
</tr>
<tr>
<td>Donated art (Note 1)</td>
<td>188,000</td>
<td>188,000</td>
<td>41,306</td>
</tr>
<tr>
<td>Prepaid expenses and other assets</td>
<td>29,211</td>
<td>29,211</td>
<td></td>
</tr>
<tr>
<td>Interfund receivable (payable)</td>
<td>682,225</td>
<td>(682,225)</td>
<td></td>
</tr>
<tr>
<td>Property and equipment, at cost:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land and buildings</td>
<td>$ 313,937</td>
<td>313,937</td>
<td>313,937</td>
</tr>
<tr>
<td>Improvements to land and buildings</td>
<td>181,757</td>
<td>181,757</td>
<td>145,329</td>
</tr>
<tr>
<td>Office equipment and furnishings</td>
<td>532,976</td>
<td>532,976</td>
<td>529,893</td>
</tr>
<tr>
<td>Professional library</td>
<td>133,597</td>
<td>133,597</td>
<td>127,585</td>
</tr>
<tr>
<td>Less: accumulated depreciation</td>
<td>(656,634)</td>
<td>(656,634)</td>
<td>(580,677)</td>
</tr>
<tr>
<td></td>
<td>$1,794,859</td>
<td>$174,728</td>
<td>$2,069,262</td>
</tr>
</tbody>
</table>

LIABILITIES AND FUND BALANCES

| Accounts payable | $ 435,949 | $435,949 | $346,766 |
| Other accrued expenses | 319,999 | 319,999 | 268,450 |
| Deferred revenue (Notes 1 and 2) | 431,595 | $174,728 | 606,323 | 901,698 |
| Line of credit (Note 3) | 300,000 | 300,000 |
| Mortgage and notes payable (Note 3) | $101,809 | 101,809 | 88,433 |
| Fund balances | 307,316 | 403,824 | 711,140 | 463,915 |
| Commitments (Note 4) | | | |
| | $1,794,859 | $174,728 | $2,069,262 |

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

Recognition of revenue

Donations and contributions from unrestricted sources are generally recognized when received. Unrestricted donations of marketable securities or other United States Government public contributions and a limited fee policy.

Bequests are recorded as revenue when the receipt of the funds is imminent. Such bequests are recorded as revenue when the receipt of the funds is imminent.

Costs incurred to acquire mailings are deferred until direct mailings occur.

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

NOTES TO FINANCIAL STATEMENTS

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 grant or contract.

Interfund receivable (payable)

All funds received by NARF are deposited in a general bank account. 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, 1991.

Donated art

During fiscal 1990, NARF received donations of Native American art in collaboration with an association of Native American artists. The art was recorded as an asset and unrestricted revenue at its estimated fair market value of $188,000. A corresponding expense and liability of $50,000 was recorded in the accompanying financial statements to recognize a commitment to the artists' association for its assistance in obtaining the art donations. At September 30, 1991, the art is being held for sale.

Mailing lists

Costs incurred to acquire mailing lists are deferred until direct mailings occur.

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.

Fund raising

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

<table>
<thead>
<tr>
<th>Support and revenue: (Note 5)</th>
<th>Current Funds</th>
<th>General fixed asset fund</th>
<th>Total all funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unrestricted</td>
<td>Restricted</td>
<td></td>
</tr>
<tr>
<td>Governmental grants</td>
<td>$2,744,102</td>
<td>$2,744,102</td>
<td>$2,358,623</td>
</tr>
<tr>
<td>Foundation and trust grants</td>
<td>1,346,392</td>
<td>1,346,392</td>
<td>1,618,725</td>
</tr>
<tr>
<td>Contributions</td>
<td>$1,139,033</td>
<td>1,139,033</td>
<td>1,047,425</td>
</tr>
<tr>
<td>Legal fees</td>
<td>393,566</td>
<td>393,566</td>
<td>325,198</td>
</tr>
<tr>
<td>Other</td>
<td>638,744</td>
<td>638,744</td>
<td>552,068</td>
</tr>
<tr>
<td>Total support and revenue</td>
<td>1,777,777</td>
<td>4,484,060</td>
<td>6,261,837</td>
</tr>
<tr>
<td>Expenses:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Program services: (Note 5)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Litigation and client services</td>
<td>998,194</td>
<td>3,176,061</td>
<td>$ 58,305</td>
</tr>
<tr>
<td>National Indian Law Library</td>
<td>62,914</td>
<td>209,870</td>
<td>3,853</td>
</tr>
<tr>
<td>Total program services</td>
<td>1,061,108</td>
<td>3,385,931</td>
<td>62,158</td>
</tr>
<tr>
<td>Support services:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Management and general</td>
<td>160,492</td>
<td>557,459</td>
<td>10,195</td>
</tr>
<tr>
<td>Fund raising</td>
<td>157,885</td>
<td>505,111</td>
<td>9,273</td>
</tr>
<tr>
<td>Total support services</td>
<td>318,377</td>
<td>1,062,570</td>
<td>19,468</td>
</tr>
<tr>
<td>Total expenses</td>
<td>1,379,485</td>
<td>4,448,501</td>
<td>81,626</td>
</tr>
<tr>
<td>Excess (deficiency) of support and revenue over expenses</td>
<td>398,292</td>
<td>35,559</td>
<td>(81,626)</td>
</tr>
<tr>
<td>Fund balances, beginning of year</td>
<td>16,281</td>
<td>447,634</td>
<td>463,915</td>
</tr>
<tr>
<td>Other changes in fund balances:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition of property and equipment</td>
<td>(37,523)</td>
<td>(13,669)</td>
<td>51,192</td>
</tr>
<tr>
<td>Acquisition of new mortgage</td>
<td>(105,000)</td>
<td>(105,000)</td>
<td></td>
</tr>
<tr>
<td>Repayment of mortgage and notes payable</td>
<td>(69,734)</td>
<td>(21,890)</td>
<td>91,624</td>
</tr>
<tr>
<td>Fund balances, end of year</td>
<td>$ 307,316</td>
<td>$ -</td>
<td>$ 409,824</td>
</tr>
</tbody>
</table>
NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF CHANGES IN CASH

For the year ended September 30,

<table>
<thead>
<tr>
<th>Current Funds</th>
<th>General fixed asset fund</th>
<th>Total all funds</th>
<th>Total all funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unrestricted</td>
<td>Restricted</td>
<td>asset fund</td>
<td>all funds</td>
</tr>
<tr>
<td>$398,292</td>
<td>$35,559</td>
<td>(81,626)</td>
<td>$352,225</td>
</tr>
</tbody>
</table>

Cash was provided by (used for):

Excess (deficiency) of support and revenue over expenses
Add (deduct) items not affecting cash:
Deferred revenue and grants receivable recognized as support and revenue
Deferred revenue received and grants receivable collected
Bad debt expense
Depreciation
(Gain) loss on disposal of property and equipment
(Increase) decrease in other receivables
(Increase) in other assets
(Increase) decrease in interfund receivable/payable
Increase in accounts payable
Increase in other liabilities
Cash provided by (used for) operations
Decrease in marketable securities
Net (payment) proceeds of debt

Net fund balance transfers
Acquisition of property and equipment, net
Repayment of mortgage and notes payable
Increase (decrease) in cash

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

NOTE 2 - RESTRICTED GRANTS RECEIVABLE AND DEFERRED REVENUE

Restricted grants receivable and deferred revenue consist of the following:

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Grants receivable</td>
<td>Deferred revenue</td>
</tr>
<tr>
<td>Bureau of Indian Affairs</td>
<td>$518,578</td>
</tr>
<tr>
<td>Rockefeller Foundation</td>
<td>$32,314</td>
</tr>
<tr>
<td>D. and Catherine T. MacArthur Foundation</td>
<td>$44,084</td>
</tr>
<tr>
<td>Department of Health and Human Services - Administration for Native Americans</td>
<td>$24,909</td>
</tr>
<tr>
<td>Total</td>
<td>$586,953</td>
</tr>
</tbody>
</table>

NOTE 3 - MORTGAGE AND NOTES PAYABLE

Mortgage and notes payable consist of the following:

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Boulder, Colorado</td>
<td>$300,000</td>
</tr>
<tr>
<td>Washington, D.C.</td>
<td>$69,733</td>
</tr>
<tr>
<td>Promissory note payable</td>
<td>$16,059</td>
</tr>
</tbody>
</table>

Annual maturity requirements on the mortgage and notes payable are as follows (fiscal years): 1992 - $3,037,099; 1993 - $21,000; 1994 - $21,000; 1995 - $21,000; 1996 and beyond - $21,000.
NATIVE AMERICAN RIGHTS FUND, INC.
STATEMENT OF FUNCTIONAL EXPENSES

For the year ended September 30,

<table>
<thead>
<tr>
<th>Program services</th>
<th>Support services</th>
<th>1991</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td></td>
</tr>
<tr>
<td>Salaries and wages:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Professional staff</td>
<td></td>
<td>$1,106,668</td>
<td>$1,202,998</td>
</tr>
<tr>
<td>Support staff</td>
<td></td>
<td>335,091</td>
<td>386,363</td>
</tr>
<tr>
<td>Fringe benefits</td>
<td></td>
<td>296,558</td>
<td>347,711</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1,738,317</td>
<td>1,937,072</td>
</tr>
<tr>
<td>Contract fees and consultants</td>
<td></td>
<td>1,479,048</td>
<td>1,485,611</td>
</tr>
<tr>
<td>Travel</td>
<td></td>
<td>273,296</td>
<td>274,316</td>
</tr>
<tr>
<td>Space costs</td>
<td></td>
<td>72,674</td>
<td>86,963</td>
</tr>
<tr>
<td>Office expenses</td>
<td></td>
<td>493,400</td>
<td>533,846</td>
</tr>
<tr>
<td>Equipment maintenance and rental</td>
<td></td>
<td>21,661</td>
<td>26,918</td>
</tr>
<tr>
<td>Litigation costs</td>
<td></td>
<td>12,101</td>
<td>12,101</td>
</tr>
<tr>
<td>Library costs</td>
<td></td>
<td>54,984</td>
<td>61,389</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4,145,481</td>
<td>4,418,216</td>
</tr>
<tr>
<td>Expenses before bad debts and property transactions</td>
<td></td>
<td>272,735</td>
<td>61,389</td>
</tr>
<tr>
<td>(Gain) loss on disposal of property and equipment</td>
<td></td>
<td>1,960</td>
<td>2,158</td>
</tr>
<tr>
<td>Depreciation</td>
<td></td>
<td>56,048</td>
<td>59,752</td>
</tr>
<tr>
<td>Bad debt expense</td>
<td></td>
<td>29,071</td>
<td>34,540</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4,232,560</td>
<td>4,509,197</td>
</tr>
</tbody>
</table>

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

NOTE 4 - COMMITMENTS

NARF leases equipment under operating leases. Annual future minimum rental payments under operating leases are as follows (fiscal years): 1992 - $46,000; 1993 - $28,000; 1994 - $15,000; 1995 - $6,000. Rental expense was $49,699 and $33,923 for 1991 and 1990, respectively.

NOTE 5 - RESTRICTED REVENUE AND PROGRAM EXPENSES

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

<table>
<thead>
<tr>
<th>Year ended September 30,</th>
<th>1991</th>
<th>1990</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau of Indian Affairs</td>
<td>51,302,000</td>
<td>51,213,790</td>
</tr>
<tr>
<td>Department of Health and Human Services - Administration for Native Americans</td>
<td>1,200,187</td>
<td>861,002</td>
</tr>
<tr>
<td>Ford Foundation</td>
<td>668,894</td>
<td>763,166</td>
</tr>
<tr>
<td>Legal Services Corporation</td>
<td>241,915</td>
<td>283,611</td>
</tr>
<tr>
<td>The John D. and Catherine T. MacArthur Foundation</td>
<td>178,088</td>
<td>175,128</td>
</tr>
<tr>
<td>Rockefeller Foundation</td>
<td>254,076</td>
<td>59,238</td>
</tr>
<tr>
<td>Skadden Fellowship</td>
<td>84,088</td>
<td>41,635</td>
</tr>
<tr>
<td>Bush Foundation</td>
<td>35,867</td>
<td>34,540</td>
</tr>
<tr>
<td>Merck Foundation</td>
<td>-</td>
<td>25,000</td>
</tr>
<tr>
<td>Knistrom</td>
<td>-</td>
<td>91,919</td>
</tr>
<tr>
<td>Others</td>
<td>500,945</td>
<td>380,910</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$4,484,060</td>
<td>$3,859,858</td>
</tr>
</tbody>
</table>

Total program expenses for the year ended September 30, 1990 included $4,448,501 in restricted program expenses.
Acknowledgement of Contributions for Fiscal Year 1991

The Native American Rights Fund would like to acknowledge the generous support given by the following contributors during the 1991 fiscal year (October 1, 1990 - September 30, 1991)

Foundations
Bay Foundation
Bash Foundation
Carnegie Corporation of New York
Cummins Engine Foundation
Ford Foundation
General Service Foundation
John D. & Catherine T. MacArthur Foundation
New York Community Trust
New-Land Foundation
Rockefeller Foundation
Siemens Memorial Trust
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Granting Institutions
following contributors during the

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Santa Fe Natural Tobacco Company
Stirles College
Sladden, Arps, Slate, Meagher and Flom
Wild Oats Market
Whole Earth Center of Princeton. The XYZ Corporation (James Travel)

Tribal Contributions
Confederated Tribes of Warm Springs
Eight Northern Indian Pueblo Council
Mushantucket Pequot Tribe
Prairie Island Tribal Council
Stockbridge-Munsee Tribal Council
The Confederated Salish & Kootenai Tribes of the Flathead Nation
The Shoshone-Bannock Tribes

Federal Programs
Administration for Native Americans
Bureau of Indian Affairs
Legal Services Corporation

Legal Advocates Society
(Individuals donating or pledging $1,000 or more)
Archibald Alexander
Mrs. Panny H. Arnold
John Augsburg
Audrey Baldwin
Susan Banetti
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Dr. and Mrs. Robert A. Berry
Olive C. Binney
Susan R. and Steven H. Bloom
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Lawrence D. Braag
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David Bruebeck
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Mrs. William F. Campbell
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Deborah S. Carmichael
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Paul Anthony D’Errico
David W. Darby

Stephanie L. Taylor
Anthony Buza
Beenie E. Thiede
Mildred Thompson
Ruth Thompson
Martha Tolman
Mr. and Mrs. Daniel Van Dyk
Mr. John Van Dyk
Wendy B. Walsh
The St. Rev. William C. Wantland/The Diocese of Eau Claire
Ms. Vicki Ward
Marion J. Watters
Don Wescott
Hilda Woodford
Amy Woods
Sandra Wright
Michael W. Young
Harvey and Gail Zerren

(Thank you to more than 32,000 additional people throughout the United States who supported our efforts in 1991.)

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NARF Board of Directors
Institute for Resource Management
NARF Staff
Wampanoag Tribal Council of Gay Head, Inc.

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by Nell LaFrance
by Sandra and Tim LaFrance

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NARF’s 20th Anniversary
by The Irving and Esther Strun Foundation
Lowell Bean
by Dolen Eargle
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by Mark and Cassandra Pierson
Mr. Joseph Brinton
by Linda Carr
Rocky Conner and Cast and Crew of "Dances With Wolves"
by Anonymos

Federated Work-Place Drives
Thank you to the thousands of federal, state, and municipal employees throughout the country who, through a payroll deduction, contributed more than $15,000 to NARF in 1991.

Artists Contributing to the "Artists and Advocates"
Traveling Art Auction in ’91
Wither Bean, Jr: Martin Little Thunder: Alvin Marshall: Pablo Milan
I have seen your power. I have felt your power, and I'm convinced that it has always been there. After all, all you have to do is to look back in your history, and . . . you will note that you have survived every effort of the most powerful government on this globe to exterminate you, to deceive you, to destroy your culture, destroy your language, to rob you of your land and resources. You have survived all of this. You are the living testament of this . . . [Y]ou have the power and the spirit to carry on. Tomorrow and in the days to come, I think the world will see how you will exercise your power in new ways. This nation will see Indian governments emerging as proud and strong . . . . I think America will begin to see a people that has refused to be conquered . . . [Y]ou have set yourselves upon a course of overcoming any and all obstacles that history has placed in your path.

Senator Daniel K. Inouye, 1991