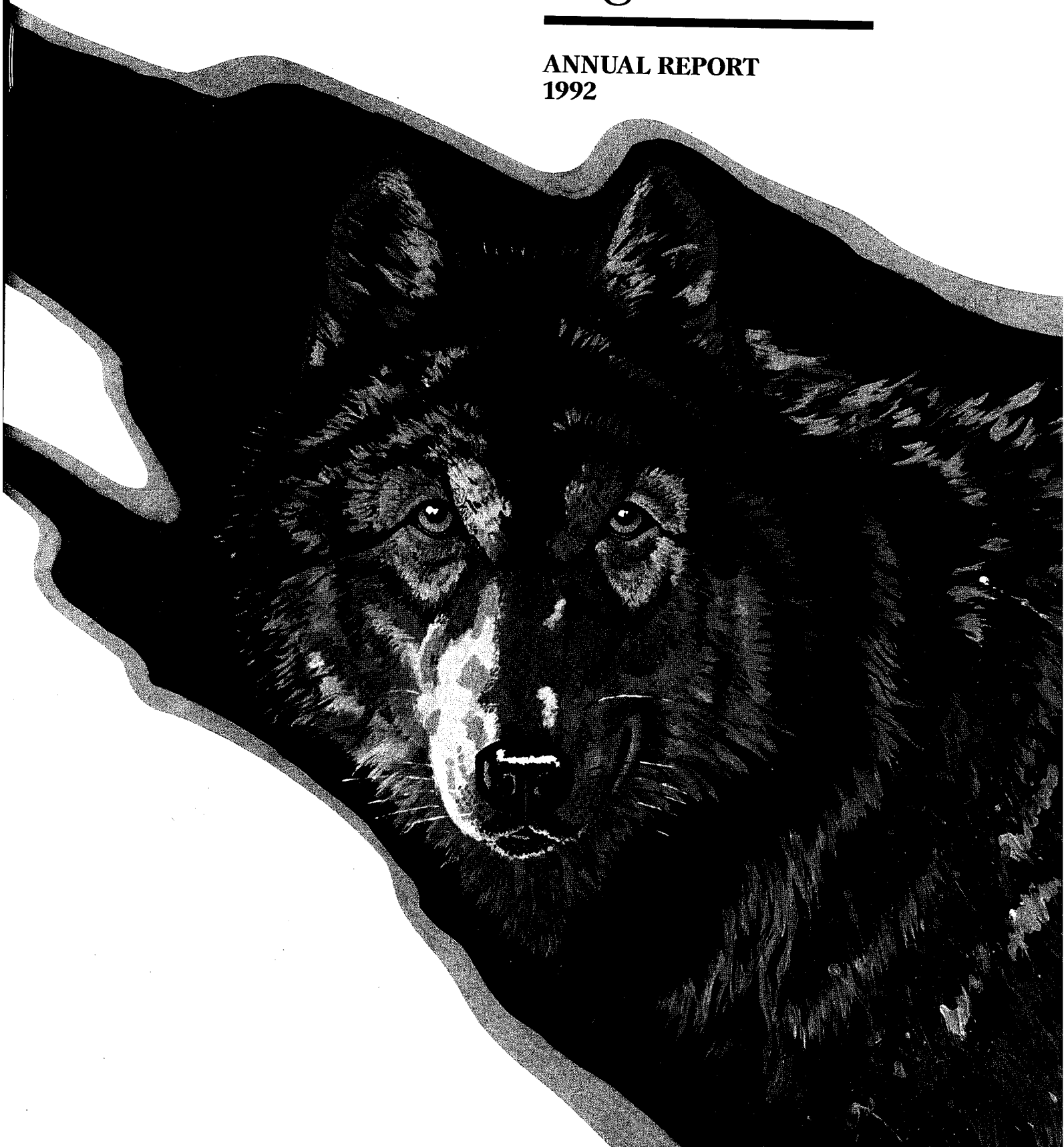




Native American Rights Fund

ANNUAL REPORT
1992





CONTENTS

Introduction	3
Chairman's Message	4
Executive Director's Report	5
The Board of Directors	6
The National Support Committee	7
The Preservation of Tribal Existence	9
The Protection of Tribal Natural Resources	12
The Promotion of Human Rights	18
The Accountability of Governments	21
The Development of Indian Law	22
Treasurer's Report	25

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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.

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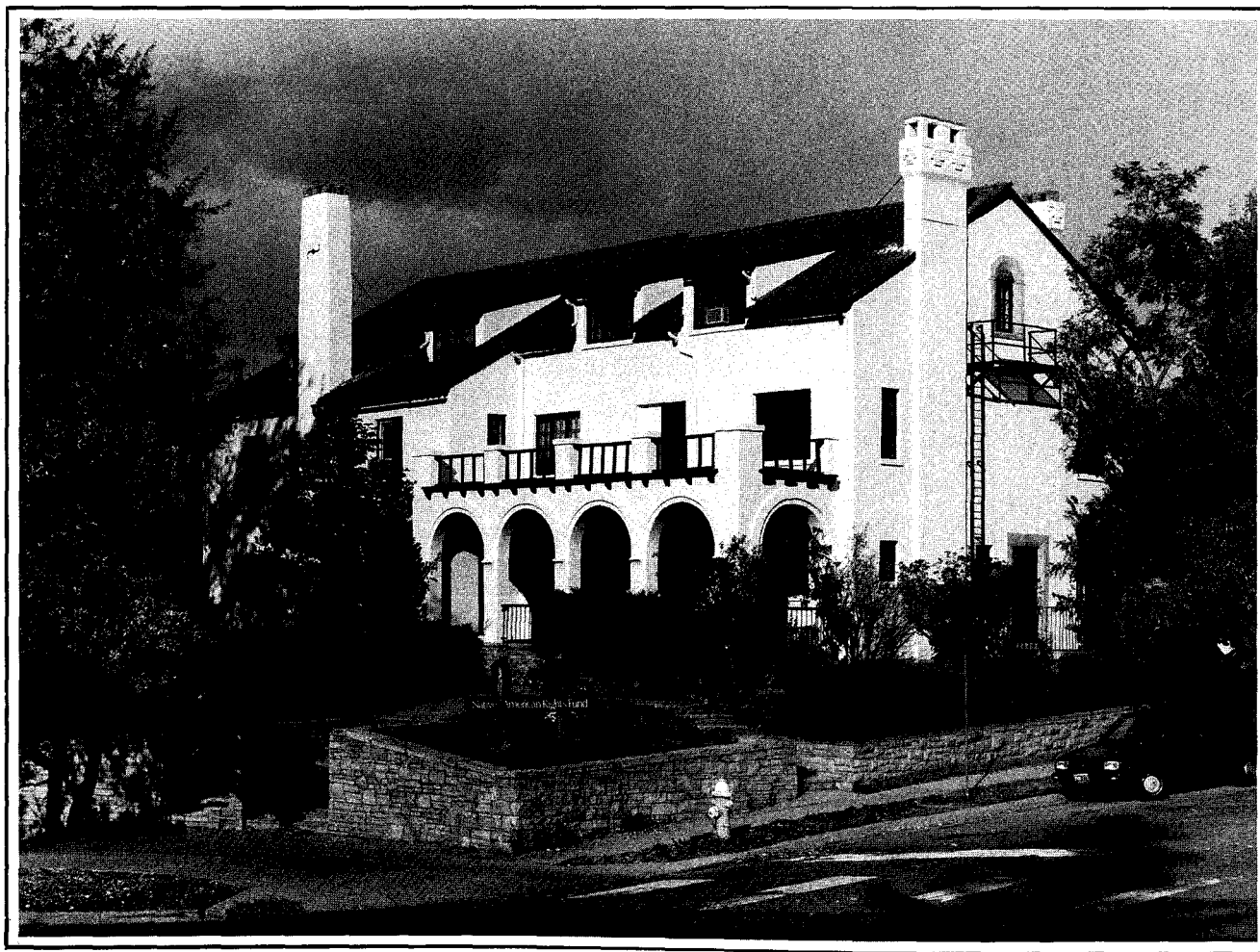


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NARF Boulder Office
Photo: Thorney Lieberman

INTRODUCTION

For the past 22 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 22 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.

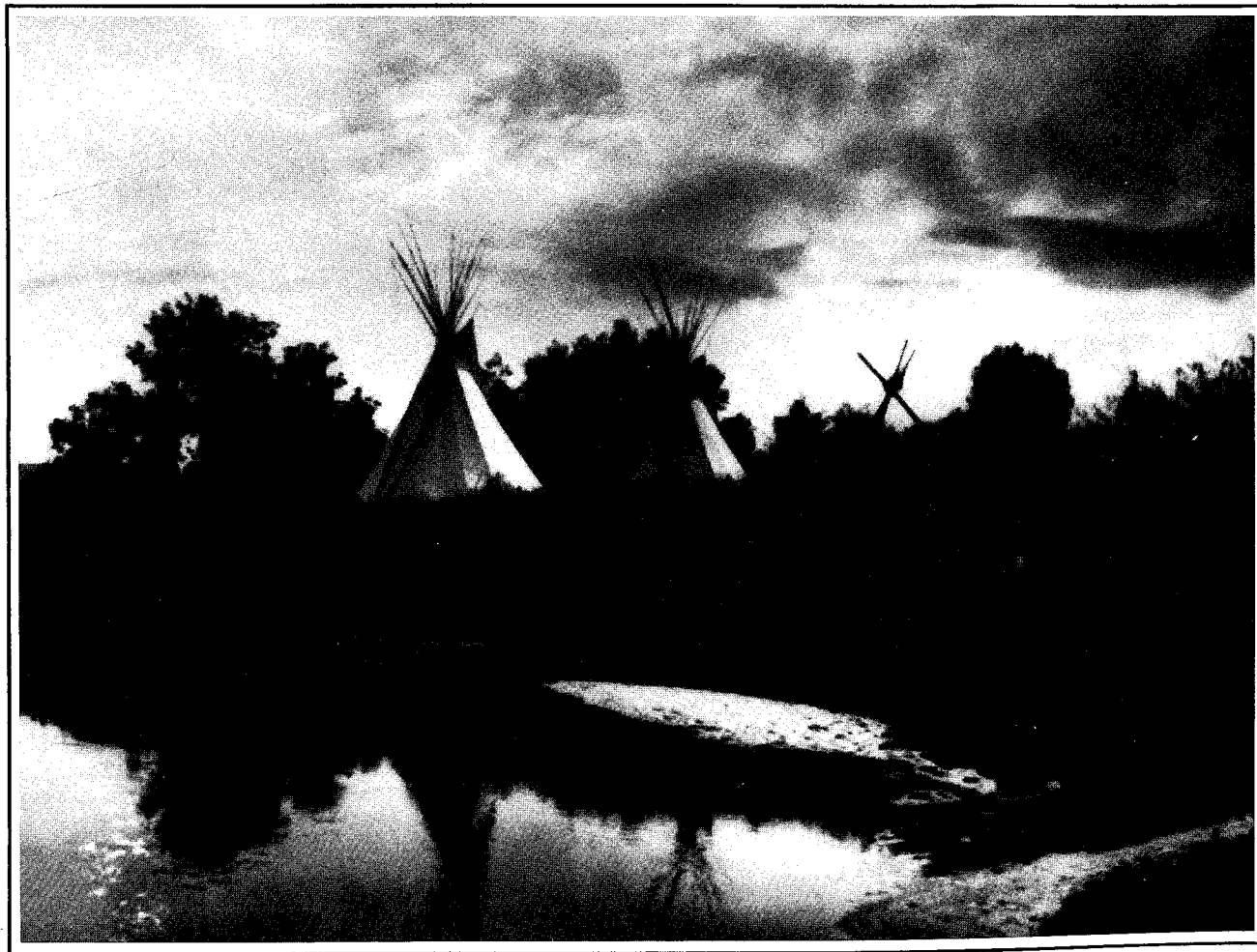
The Founding of Native American Rights Fund

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 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. ■



CHAIRMAN'S MESSAGE



During this past year, as in the previous 21 years, the Native American Rights Fund has continued its commitment to work directly with Native American tribes and villages, groups and individuals in cases of major significance to Indian country dealing with the protection of tribal existence, tribal resources, Native American human rights, including religious freedom, and compelling the federal government to live up to its trust responsibilities. Finally, and significantly in the year of the Columbus quincentenary, NARF has been given recognition for this ongoing commitment.

Recognizing the history of abuses and the continual denial of basic human rights for Native Americans, in September 1992, President Carter, on behalf of the Carter-Menil Human Rights Foundation, declared that "With the democratic revolution sweeping the world, human rights should

have emerged as a central element of U.S. foreign and domestic policy. Unfortunately, actions and policies taken by our government reveal a disregard for human rights both home and abroad. The continuing marginalization of Native Americans and other minorities is a violation of human rights."

In recognizing the violation of human rights of Native people that exists here in the United States, on December 10, 1992, the Native American Rights Fund was awarded the prestigious Carter-Menil Human Rights Foundation Prize for 1992, along with the Haitian Refugee Center of Miami. The Carter-Menil Human Rights Foundation was established in 1986 by Dominique de Menil and former President Jimmy Carter to promote the protection of human rights throughout the world. NARF was selected to receive this renowned award for their unswerving efforts to stand up for American Indian religious and cultural rights. The prize was awarded in Washington, D.C., on the 44th anniversary of the adoption of the United Nations Universal Declaration of Human Rights. I congratulate the entire staff of NARF for their dedication and commitment to all Native Americans.

Revitalized by this recognition and the national election of a new administration in Washington, D.C., NARF begins 1993 with renewed hope that justice will prevail. However, we recognize that hope must be tempered with vigilance to help define the issues and assure that promises are kept. The Native American policies proposed by the new administration of President Clinton and Vice-President Gore have promised tribes that sovereignty and self-determination of tribal governments will be supported. Does this mean recognition of tribal sovereignty in Alaska and the issuance of a Tribal/U.S. Government-to-Government Policy Statement? The new administration has promised that it will authorize and direct the Department of Interior to ensure that prior treaties

and trust obligations are respected and fulfilled. Will the new administration support settlement of Indian reserved water rights claims and support the acknowledgement of Indian tribes not currently recognized by the U.S.?

Other areas in which the new administration has promised its support are religious freedom, Indian health care, economic development, Indian education and improved housing programs. Again, NARF must be at the forefront to help define the issues and ask the important questions. Will the administration support and encourage the passage of the American Indian Religious Freedom Act Amendments to guarantee and protect tribal religious and spiritual freedoms and access to sacred sites? Will the goals of the Indian Health Care Improvement Act be incorporated in the national health care policy to provide affordable, quality health care for all Americans? Will the administration provide technical assistance to tribal governments to implement sound land, water and mineral use strategies that protect the environment while encouraging economic growth in Native American communities? Does administration support for Indian education reform include innovative education programs that involve tribes as well as parents and communities?

We must now all get involved to find answers to these questions and to help guide this new administration into fulfilling their promises. You can be assured that the Native American Rights Fund, along with the tribes, will be there helping to lead the way.

Richard Hayward
Chairman

EXECUTIVE DIRECTOR'S REPORT



In 1992, the Native American Rights Fund continued to provide legal advice and representation to Indian tribes, organizations and individuals on issues of major significance to Indian people throughout the nation. The access to justice made possible by NARF's assistance resulted in several important legal victories and developments in fiscal year 1992 for Native Americans.

In *A-1 Contractors v. The Honorable William Strate*, NARF obtained a favorable federal district court decision in North Dakota upholding the civil jurisdiction of tribal courts on tribal lands even in a personal injury action involving two non-Indians. The court held that the race or political status of the parties did not affect the civil jurisdiction of the tribal court of the Three Affiliated Tribes of the Fort Berthold Reservation on Indian lands.

The federal district court in Arizona upheld the Department of the Interior's recognition of the tribal status of the San Juan Southern Paiute Tribe and ruled that the Tribe was entitled to a land base of 75 acres plus joint use of another 48,000 acres with the Navajo Tribe. NARF has represented the San Juan Southern Paiute Tribe since 1981.

A tentative settlement has been reached in South Carolina in the Catawba Tribe's claim to 144,000 acres taken from them without the requisite federal approval. Congress and the South Carolina legislature must approve the tentative agreement which calls for restoration of the Catawba Tribe and \$80-90 million for land acquisition, economic development, education and other purposes. NARF has represented the Tribe in this case since 1975.

In *Cheyenne-Arapaho Tribe v. United States*, NARF was successful before a federal appeals court in establishing that the Bureau of Indian Affairs illegally extended the term of three tribal oil and gas leases in Oklahoma at below market value rates without tribal consent. The ruling affirmed the federal government's fiduciary duty to manage Indian trust lands prudently and recognized the Tribe's role in securing competitive prices for its resources.

In another natural resources case, Congress approved the Northern Cheyenne Tribe's water rights settlement with the State of Montana. The settlement act recognizes tribal water rights to over 90,000 acre-feet of water and provides a \$21.5 million settlement fund. NARF has been co-counsel to the Tribe on this case since 1975.

In the area of Indian education, the Rosebud Sioux Tribe of South Dakota adopted a tribal education code which asserts concurrent tribal jurisdiction with the state over the education of Indian children on the reservation. Through enactment of its own education laws, the Tribe hopes to

work with the state to raise achievement levels, lower drop-out rates and substance abuse, increase the number of Indian teachers and administrators and implement relevant curriculum. This development could be a model for Indian education initiatives by other tribes around the country.

NARF worked successfully with a coalition of minority groups to get Congress to pass a reauthorization of section 203 of the federal Voting Rights Act. As a result, language assistance will continue to be provided to speakers of Indian languages, many of whom could not otherwise understand the English language ballot. In addition, coverage of the Act was extended by recognizing reservations rather than counties as the operative geographic jurisdictions by which to judge populations eligible for assistance.

The National Indian Law Library, a NARF project, celebrated its 20th anniversary in 1992. Born out of a need to collect, classify and disseminate Indian legal information to those working in Indian law and the public in general, NILL has demonstrated its value through its growth to over 16,000 case holdings with thousands of users from throughout the country every year.

In order for NARF to sustain its program of national Indian legal representation into the future, we will need the continued financial support of all of those who have assisted us throughout the nation. We thank you for your help and encourage you to keep supporting the access to justice provided to Native Americans through the existence of the Native American Rights Fund.

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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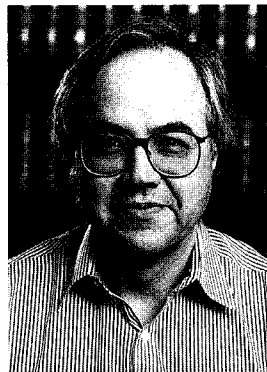
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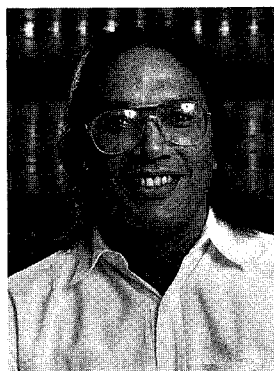
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Anthony L. Strong



Mildred Cleghorn



Rick Hill



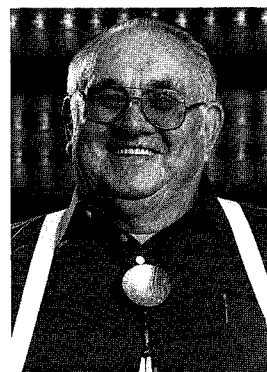
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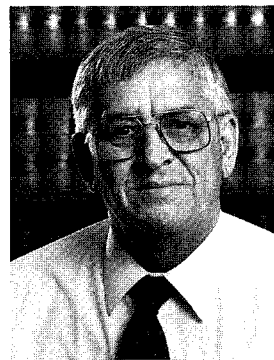
Twila Martin-Kekahbah



Calvin Peters



Evelyn Stevenson

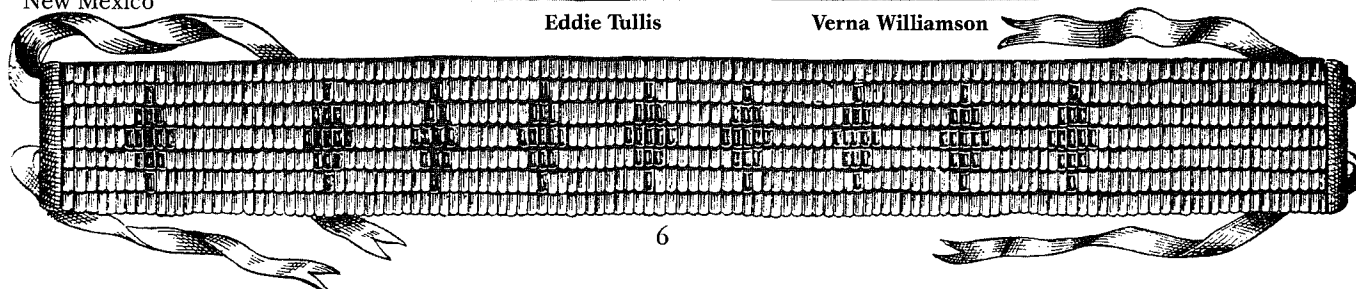


Eddie Tullis



Verna Williamson

Photos: Thorney Lieberman





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Marilyn White (*St. Regis Mohawk*)
Legal Secretary



Photo: Thorney Lieberman

THE PRESERVATION OF TRIBAL EXISTENCE



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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 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 states, the federal government, and others over these powers. During 1992, 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. 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 has appealed to the Tribal Supreme Court where the case is currently 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 appealed the May, 1991 decision by the Turtle Mountain Tribal Court to the Turtle Mountain Tribal Court of Appeals. In October, 1992, this case was settled and dismissed in favor of the tribal member. Although there was no

final federal court decision on the issue of jurisdiction, NARF was able to establish, at least implicitly, the right of the tribes to change their jurisdictional codes retroactively. NARF represented the tribal member.

In another tribal court jurisdiction case, the Tribal Court for the Three Affiliated Tribes of the Fort Berthold Indian Reservation in North Dakota found that it had jurisdiction over a personal injury action arising between two non-Indians on the reservation. One of the non-Indians appealed to federal court. NARF undertook representation of the Tribal Court in the federal proceedings entitled *A-1 Contractors v. The Honorable William Strate*. In September, 1992, the federal district court agreed that the tribe had jurisdiction, holding that tribes have jurisdiction over civil cases arising on Indian land regardless of the race or political status of the parties. The decision has been appealed.

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 was expected in 1992, however, the District Court delayed the proceedings pending resolution of another case. Following that, NARF filed a new motion in August of 1992 requesting the court to issue and certify for appeal its tentative decision of January, 1992. NARF also represents the Native Village of Venetie and the Nome Eskimo Community in other tribal tax cases which likewise raise the issues of tribal status and whether the Native villages constitute "Indian Country"

over which the tribal government may exercise governmental powers. A trial date of November, 1992, was vacated by the court and a new date has not yet been set.

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 to adjudicate child custody disputes in tribal courts. 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 has been completed.

Indian Economic Development Law Project

The Indian Economic Development Law Project has continued its work of previous years. Two areas of particular emphasis have emerged for the Project. These are: 1) development of an independent source of revenue from which to fund locally derived priorities and development—i.e. a tribal tax base; and, 2) development of increased capability to exercise control over the integrity of tribal homelands as they affect the health and the environment of Indian Country



residents. These are, of course, part of the larger effort to secure to tribes control over their resources and opportunities.

The Project also continued its work in a number of areas, including: development of an Economic Self-Sufficiency Plan for the Klamath Tribe of Oregon; focus and work on equitable funding for tribes from the Environmental Protection Agency; work with the Tribal Leaders Forum to assist in forging a national Indian agenda for the 1990's; analysis of issues raised in developing the positions for significantly increased support for tribal judiciaries; continued coordination among the national Indian organizations working on Indian economic development through the Coalition for Indian Development; developing a framework for community based tourism; facilitating the first of regularly-scheduled meetings between environmental and Native American groups on issues of common concern; and on-going organizational assistance to the newly-formed National Tribal Environmental Council, a tribal organization which will play a lead role in tribal environmental policy development.

NARF's hope is that the Project will be able to focus its efforts in the coming year in the areas of tribal tax code development and

environmental integrity in reservation settings.

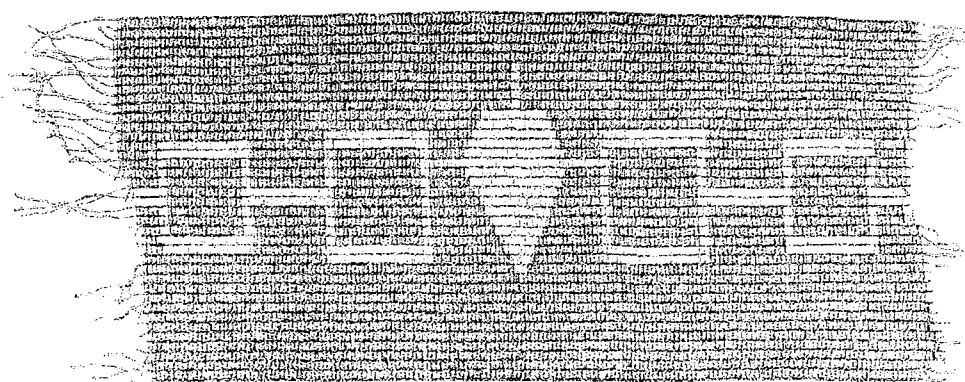
Federal Recognition and Restoration

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.

One of these tribes, the San Juan Southern Paiute Tribe, had their federal recognition affirmed by the United States District Court of Arizona when a challenge to the favorable Department of the Interior findings was dismissed. The decision is expected to be appealed.

NARF continues to work with Congress to improve the Department of the Interior acknowledgment process through legislation to overcome current problems such as increasing bureaucratic delays, unequal treatment in 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 Miami Nation of Indians of Indiana, the Brothertown Tribe of Wisconsin, and the Florida Tribe of Creek Indians.

NARF is also 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. ■



The Protection of Tribal Natural Resources



Photo: Ava Hamilton

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 Catawba Tribe in its claim to land in *Catawba Indian Tribe v. South Carolina*. In August, 1992, just days before the Tribe was scheduled to file suit against 61,767 individuals presently occupying the Tribe's treaty reservation and sixteen years after filing the original claim, the Catawba Tribe and the State of South Carolina reached a tentative \$80-90 million settlement agreement. The tentative agreement calls for the establishment of \$50 million in tribal trust funds dedicated to land acquisition, an economic development trust, education, elderly assistance and a per capita distribution. The agreement also calls for the restoration of the

Tribe's status to that of a federally recognized tribe and for additional in-kind contributions from the state and local governments. The tentative agreement must still be enacted into law by Congress and the State of South Carolina Legislature before the expiration of the statute of limitations extended by Congress to October 1, 1993. In September, 1992, a federal appeals court affirmed in part, reversed in part, and vacated in part the judgment of the District Court that had granted summary judgment to 29 of the defendants in the land claim suit. The Tribe will likely seek review by the United States Supreme Court.

In *Catawba Tribe v. United States*, the Tribe sued the United States to recover the value of those lands which the Tribe is barred from claiming as the result of a 1986 Supreme Court decision in the Catawba land claim. In August, 1991, the U.S. Claims Court granted the government's motion to dismiss the Tribe's case based on the expiration, in 1951, of the Statute of Limitations in the Indian Claims Commission

Act. NARF attorneys presented oral argument in May, 1992 before a federal appeals court. The decision is now pending.

NARF represents the Alabama-Coushatta Tribe of Texas 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 remand 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. After filing by the government, NARF filed the Tribe's brief with the court in October, 1992. The deci-

sion is currently pending.

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 June, 1992, a federal appeals court issued a decision favorable to the Tribe as to three of the four leases at issue in the case. The Court ruled that the Bureau of Indian Affairs failed to consider and take advantage of the increased market value of the leases at the time of expiration and declared the Tribe the owner of both the royalty and working interest in those wells. NARF filed a petition for rehearing in July of 1992 to clarify the status of the fourth lease. Rehearing has been sought by the defendant oil companies to reverse the Court's decision as to the three leases decided in the Tribe's favor. NARF filed the Tribe's response in September of 1992. The Court has not yet ruled on this matter.

In *Masayesva v. Zah v. James v. U.S. v. San Juan Southern Paiute Tribe*, the United States District Court for Arizona ruled that the San Juan Southern Paiute Tribe had established exclusive use to approximately 75 acres and that it had shown joint use with the Navajo Tribe of approximately 48,000 acres. NARF, on behalf of the San Juan Southern Paiute Tribe, will now have to go to Congress to seek authority for the Court to partition the joint use area. The Court's decision is expected to be appealed.

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 Tribe's title.

■ *Our roots are deep in the lands where we live. We have a great love for our country, for our birthplace is here. The soil is rich from the bones of thousands of our generations. Each of us was created in these lands and it is our duty to take great care of them, because from these lands will spring the future generations of our peoples. We walk about with great respect, for the Earth is a very Sacred Place.* ■

Sioux, Navajo and Iroquois
Declaration - 1978

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 to lobby for the legislation. NARF has filed action in the U.S. Court of Claims and is waiting for a ruling on the Summary Judgment Motion.

NARF is also assisting the Schaghticoke Tribe of Connecticut and the Stockbridge-Munsee Tribe of Wisconsin in settlement

negotiations on their land claims and is helping the Pamunkey Tribe of Virginia establish the boundaries of its reservation. NARF continues to monitor a trespass settlement agreement for the Walker River Paiute Tribe of Nevada.

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 rehabilitation, repair and enlargement of the Tongue River Dam that sits above the reservation. NARF was co-counsel to the Tribe in the matter. The Northern Cheyenne-Montana Compact was passed by the U.S. Senate in August, 1992, the U.S. House of Representatives in September, 1992 and signed by President Bush on September 30, 1992. The Compact confirms Tribal water rights to 12,500 acre-feet of direct flow water and 27,500 acre-feet of storage water from the Tongue River; 30,000 acre-feet from the Yellowtail Reservoir on the Big Horn River; 1,800 acre-feet from Rosebud Creek, plus an additional 19,530 acre-feet provided certain water users upstream and downstream are not impacted. The legislation also provides for establishment of a Tribal development fund of \$21.5 million to be used for land and natural resource development. The Tribe will also loan the State of Montana \$11.5 million for the repair and enlarge-

ment of the Tongue River Dam.

NARF is asserting the Chippewa-Cree Tribe's rights to water flowing on and through its reservation in Montana. In August of 1992, the Chippewa-Cree Tribe presented its settlement proposal, which NARF drafted, in the form of a proposed Compact between the Tribe and the State of Montana, to the Montana Reserved Water Rights Compact Commission and to the Federal Negotiating Team. The Tribe's proposed water development plan is specifically designed to minimize impact on existing non-Indian water users. This design is centered around the construction of new or enlarged water storage facilities on the reservation. Key among these facilities is the enlargement of Bonneau Reservoir on Box Elder Creek to about 7,000 acre-feet. Other storage facilities are proposed expanding storage capacity by another 10,000 acre-feet. The Tribe's proposal also provides for Tribal administration of its water rights, a dispute resolution mechanism, rights to underground water within the reservation and the establishment of a tribal economic development fund to finance the improvements called for in the proposal.

In *United States and Klamath Tribe v. Oregon*, the United States District Court for the District of Oregon rendered its decision on the United States and the Klamath Tribe's Motions for Summary Judgment in September, 1991. Both the Tribe and the United States contended that the proceedings were administrative and such proceedings did not give the state jurisdiction under the McCarran Amendment to determine the Tribe's water rights. The Court held that the procedure followed by the State of Oregon to adjudicate the water rights of the Tribe and the United States meets the requirements of the McCarran Amendment. It rejected the Tribe's claim that the procedure would subject them to decision-makers who are biased and therefore violate its right to due process under the 14th Amendment. NARF has drafted appeal documents.

NARF is assisting the Tule River Tribe of California in evaluating the scope of its reserved water rights. The Tribe's water rights have never been adjudicated and its domestic water system, which supplies its 650 tribal members residing on the reservation, is inadequate to meet the Tribe's basic domestic needs. The Tribe's water rights are uncertain due to a 1922 agreement between the Secretary of the Interior and a non-Indian irrigation company which purportedly limited the Tribe's right to divert water from the South Fork Tule River. NARF is currently reviewing the claims of the non-Indian water users and the possibility of challenging the agreement of 1922. The development of a comprehensive water development and storage plan for the Tribe's future water needs is underway.

NARF is also assisting the Nez Perce Tribe of Idaho to quantify their rights to water in the Snake River Basin. Studies have been completed and the appointment of a negotiations team has been accomplished. In addition, NARF is continuing to assist and monitor the Fort McDowell Indian Community's settlement agreement in Arizona.

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 and below the 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 eleven Native villages in the Norton Sound area of Alaska in establishing their aboriginal hunting and fishing rights on the Outer Continental Shelf (OCS) in *Gambell v. Lujan*. 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. Meanwhile, in December, 1991, NARF filed a Motion for Summary Judgment in *Nome Eskimo Community v. Lujan* seeking Declaratory Judgment confirming that the Native villages own aboriginal title to their respective hunting and fishing grounds on the OCS, and enjoining the Secretary of the Department of Interior from taking any action to lease or otherwise interfere with the Village's aboriginal rights. The Secretary moved for summary judgment on the ground that the Villages did not hold aboriginal title to the OCS and that their hunting and fishing rights had not been significantly interfered with. The court granted the Secretary's motion and dismissed the Village's complaint. The Villages appealed.

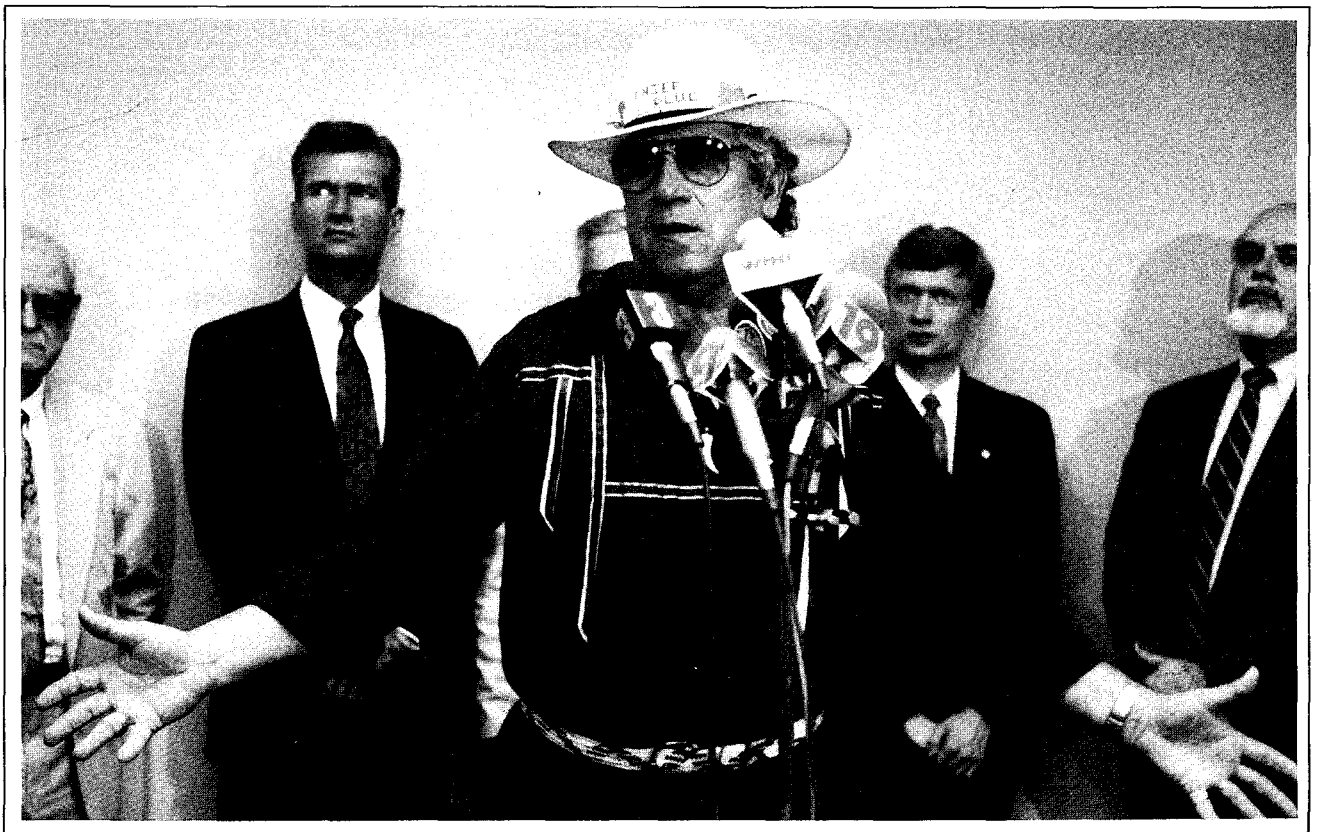
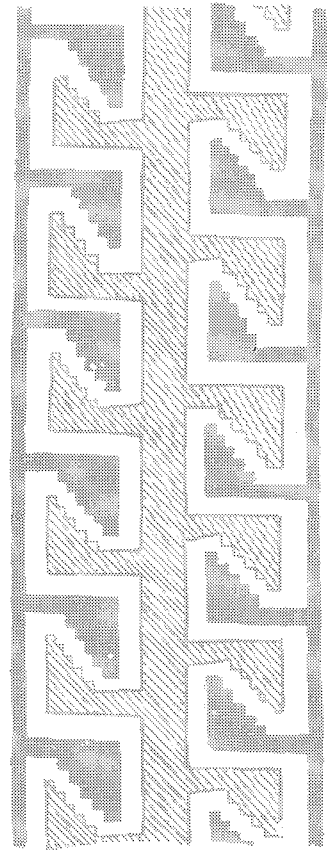
NARF represents the Gwich'in Athabascan Tribes in Alaska and Canada in *Gwich'in Steering Committee v. Lujan*. The suit, filed against the Department of the Interior, challenges the adequacy of a legislative environmental impact statement that the Department submitted to Congress regarding the potential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

appeal is now pending. However, the appeal may now be dismissed with the understanding that the Tribes are authorized to file a new suit in the event that there are further efforts in Congress to reopen the Refuge.

In *Kluti Kaah Native Village of Copper Center v. Rosier*, NARF is assisting the Village in changing state and federal regulations governing the subsistence harvests of caribou and moose in the Copper River Basin. In August of 1991, a state superior court judge granted NARF's request for a preliminary injunction that would have extended the moose season in the vicinity of Copper Center from seven to twenty-six days. That decision was stayed by the Alaska Supreme Court and an opinion was issued by the Court in May, 1992, which overturned the lower court's ruling. NARF moved for summary judgment arguing that the Board of Game had violated the state subsistence law by failing to provide a "reason-

able opportunity" to satisfy subsistence needs. The superior court agreed and ordered the Board of Game to conduct further proceedings. NARF filed a motion for further relief, requesting the court to order the Board to hold a longer season for those most dependent on moose for subsistence purposes. The court granted NARF's request and the State of Alaska has appealed to the Alaska Supreme Court.

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. NARF has completed the legal briefs for the proceedings to force the United States Department of Interior to open the Batzulnetas Fishery on a full-time basis. This case is still pending before the United States District Court. ■



CATAWBA LAND CLAIM SETTLEMENT— Don Miller, NARF Attorney and Gilbert Blue, Chief-Catawba Tribe

Photo: *The Herald*, Rock Hill, South Carolina

ALASKA

Gwich'in Steering Committee v. Lujan - Hunting & Fishing Rights

State of Alaska v. Venetie - Taxation

Point Hope - Tribal Court

Noatak v. Blatchford - Accountability & Recognition

Nome Eskimo Community v. Lujan - Subsistence & Hunting Rights

Elim v. Rosier - Hunting & Fishing Rights

Gambell v. Lujan - Subsistence & Aboriginal Land Title

NARF ANCHORAGE OFFICE

John v. U.S. - Hunting & Fishing Rights, Subsistence

Kluti Kaah v. Rosier; Alyeska v. Kluti Kaah - Subsistence & Taxation

Northern Cheyenne Tribe - Water Rights (Montana)

Chippewa-Cree Tribe - Water Rights (Montana)

Little Shell Tribe - Recognition (Montana)

Swinomish Tribal Community - Land Claim (Washington)

Skokomish Tribe - Fishing Rights (Washington)

Nez Perce Tribe - Water Rights (Idaho)

Klamath Tribe - Water Rights (Oregon)

Pyramid Lake Tribe v. Burchette - Tax Code (Nevada)

Tule River Tribe - Water Rights (California)

Masayesva v. Zah v. James v. San Juan Southern Paiute Tribe - Recognition & Land Claim (Arizona)

Fort McDowell Tribe - Water Rights (Arizona)

NARF HEADQUARTERS - BOULDER, COLORADO

HAWAII

Pele Defense Fund v. Paty - Aboriginal Rights (Hawaii)

Ulaleo v. Paty - Aboriginal Rights (Hawaii)

Major Acti

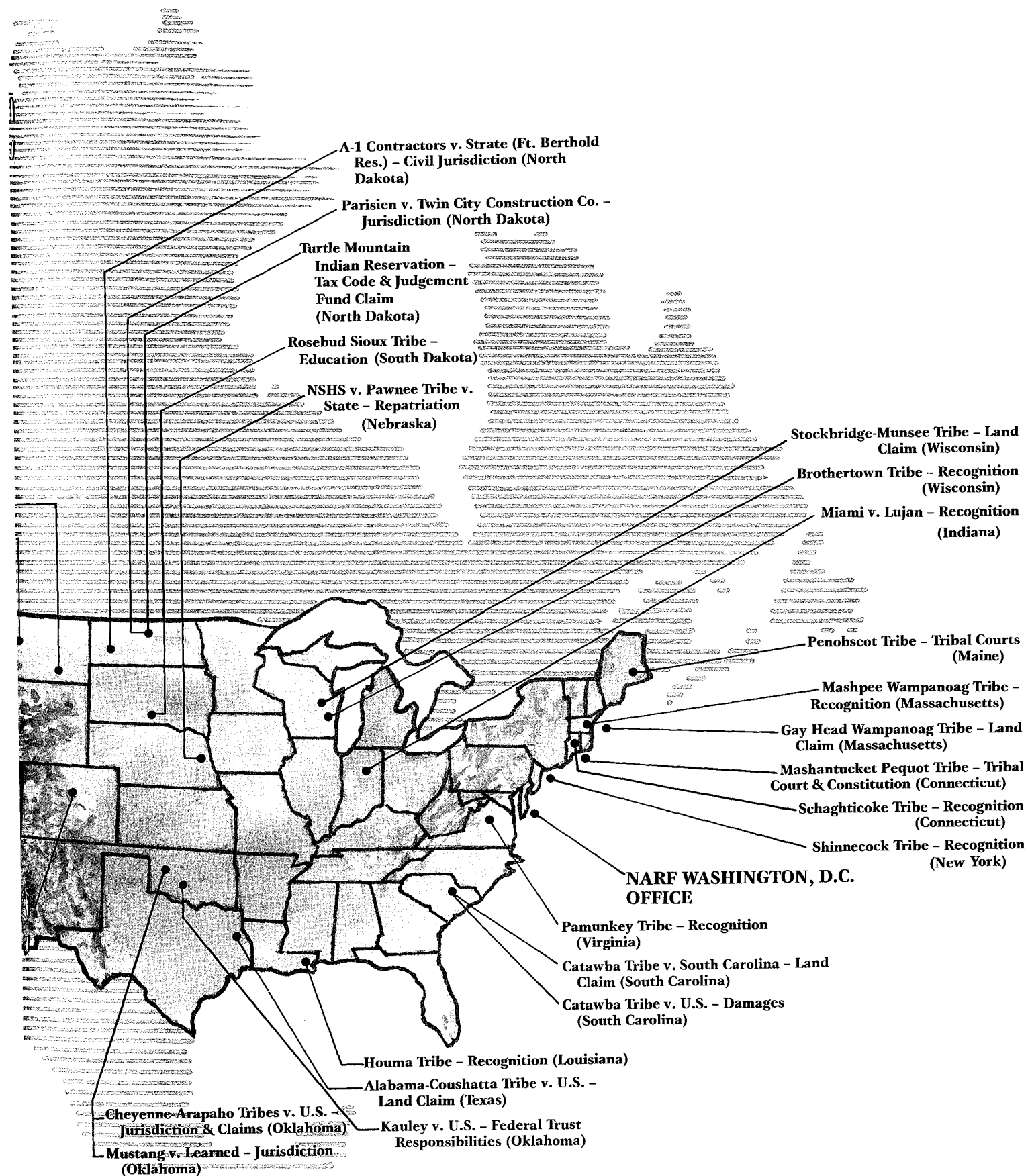




Photo: Monty Roessel

THE PROMOTION OF HUMAN RIGHTS

In addressing human rights, NARF seeks to enforce laws which are designed for the unique needs and problems of Native Americans in this area. In 1992, NARF provided assistance in problems involving religious freedom, education, 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 Alaska Natives. 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 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 protec-

tion 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 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. Northwest 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. The courts have consistently been unwilling to find any protection under the First Amendment or any statute. 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 federal lands for worship purposes.

In 1990, the Supreme Court denied constitutional protection for an entire Indian religion of pre-Columbian antiquity, which involves sacramental use of the cactus plant 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 the government to intrude upon freedom of worship. These cases not only pave the way for unchecked religious discrimination against Native Americans, who have already suffered a long and shameful history of government religious suppression, but they also seriously weaken religious liberty for all Americans.

On a national scale, NARF attorneys have formed a coalition together with tribal leaders, representatives of the National Congress of American Indians and the Association on American Indian Affairs, national environmental groups, national church groups, and human rights organizations and have been working with the Senate Select Committee on Indian Affairs to develop

amendments to AIRFA for consideration by Congress. NARF has assisted in coordinating meetings and hearings throughout the country in a concerted effort to address and develop, with full tribal consultation, the amendments to AIRFA. This bill is scheduled to be introduced in Congress in 1993.

In *Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Nebraska*, NARF achieved a significant victory from the state court. 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 remains and burial goods held illegally by 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. This decision was appealed by the Nebraska State Historical

Society. Oral arguments were held in 1992 and the decision is now pending before the Nebraska Supreme Court.

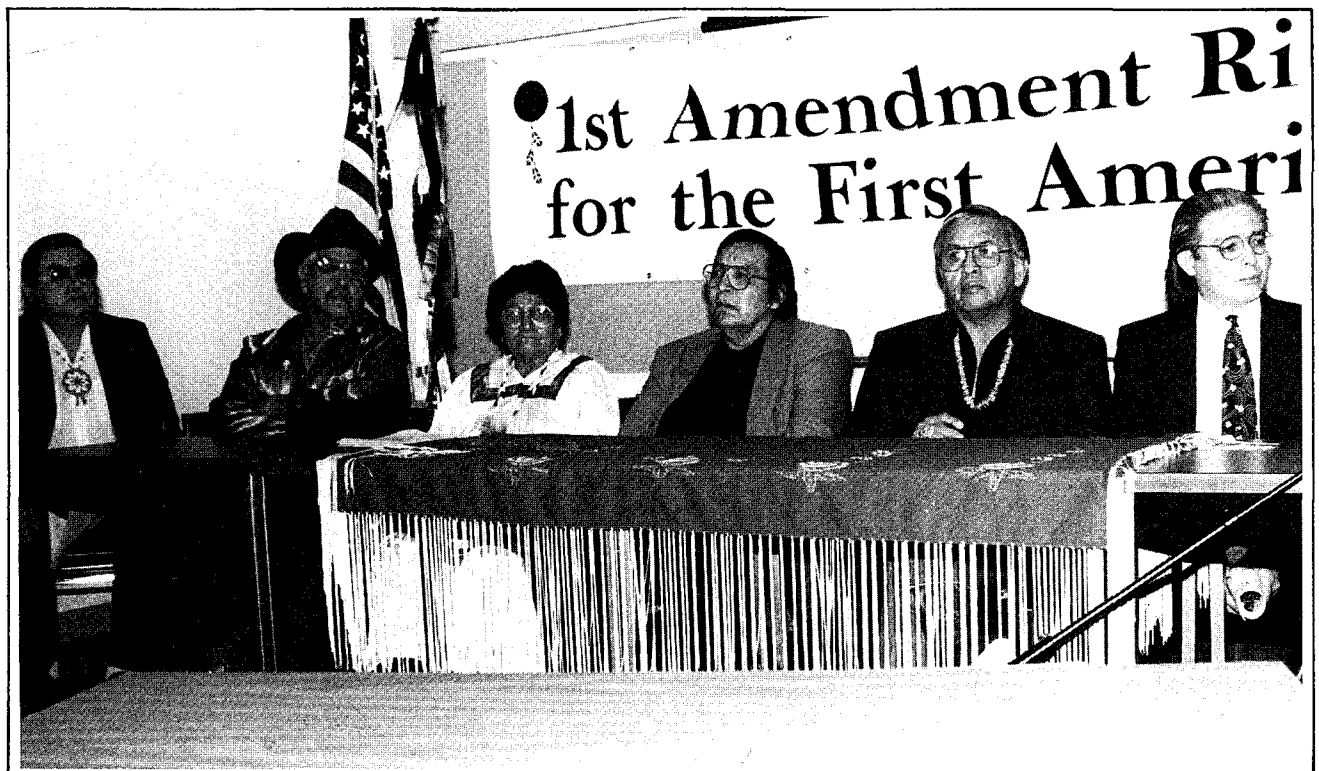
The Nebraska State Historical Society still holds the remains of at least 300 individuals which they claim to be prehistoric and unidentifiable. The Pawnee Tribe contends that these remains are identifiable to the Pawnee, the Wichita and the Arikara Tribes. NARF is assisting the Tribes along with the Nebraska Indian Commission to work with the Nebraska State Historical Society to return the remains for repatriation.

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.

Since 1987, NARF has assisted 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 identified several problems in elementary and secondary education on its reservation which the code will address, 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 Rosebud Sioux Indian Reservation is largely served by a single public school district. Over eighty percent (80%) of the students are Indian children. After years of effort, the tribal education code was adopted by the Tribal Council early in fiscal year 1992 and the implementation process is now underway. NARF developed a plan for the Tribe which would allow for short-term compacts with the State of South Dakota on teacher certification and accreditation issues and establish a long-term goal of tribal independence in these areas. NARF also continues to work in providing input and direction to the federal



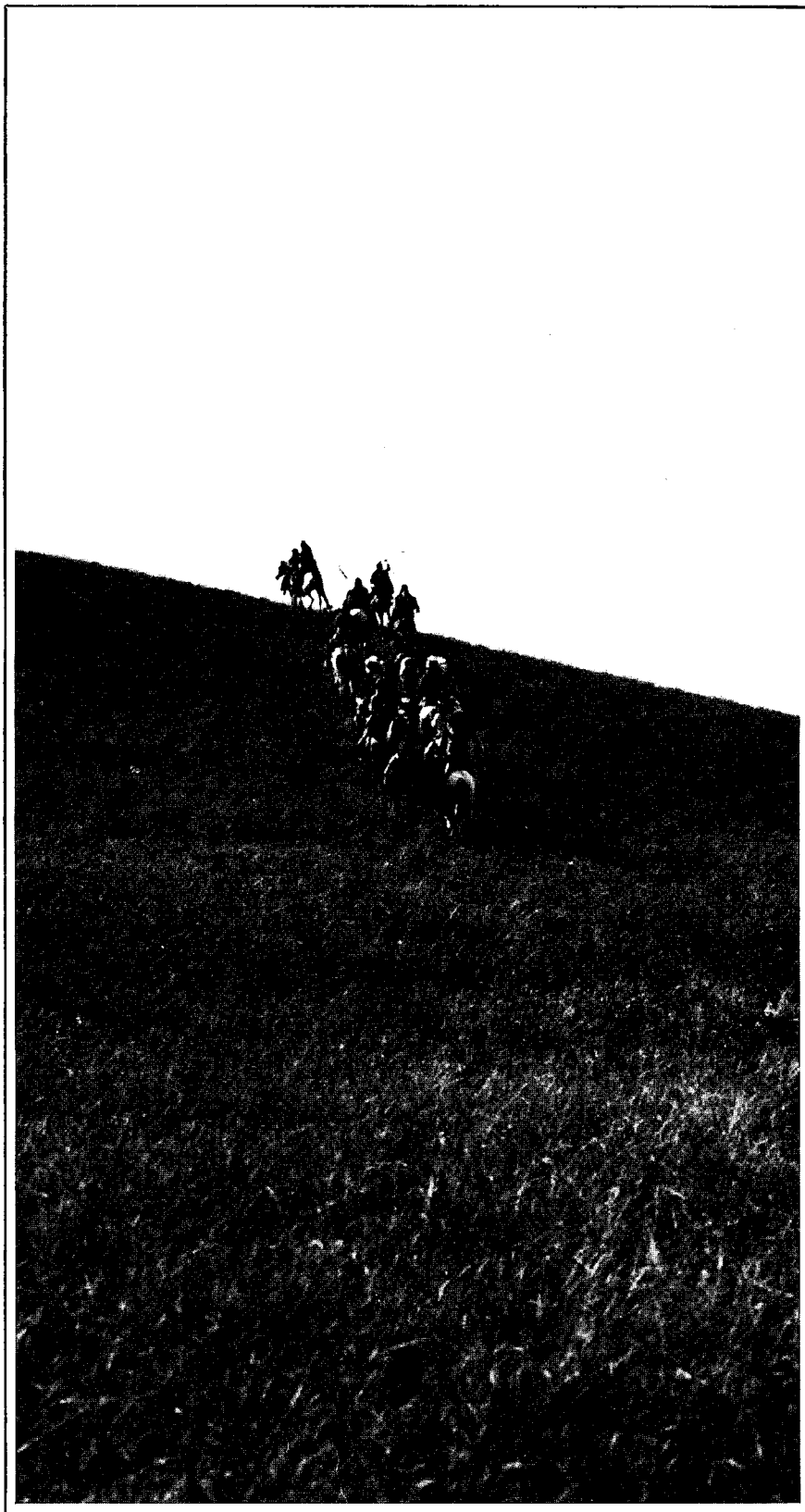
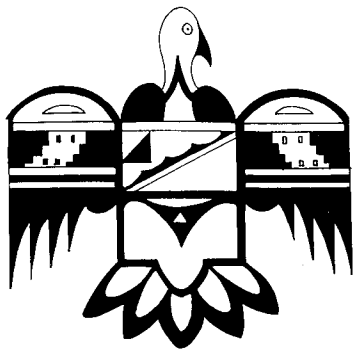
AIRFA HEARINGS
Portland, Ore.—March 1992

Left to Right: Pat Lefthand, Kootenai Medicine Man, Flathead Reservation; Frances Brown, Medicine Man, Wind River Reservation; Ola Cassadore, Traditional Leader, San Carlos Apache Reservation; Ruben Snake, Religious Leader (Native American Church), Winnebago Reservation; Peterson Zah, President, Navajo Nation; Walter Echohawk, Senior Staff Attorney, Native American Rights Fund.

government regarding changes in federal Indian education policy and laws which will take into account tribal education codes and education departments.

Voting Rights

NARF also worked with a coalition of Asian and Hispanic groups to support re-authorization of Section 203 of the federal Voting Rights Act, which was due to expire on August 6, 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 proposed 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 submitted language making reservations (or their equivalents) the operative geographic jurisdictions by which to judge tribal populations, as opposed to counties. The Voting Rights Act Authorization Bill was passed during the closing moments of the 102nd Congress and was signed into law. All of the proposed provisions remained intact. ■



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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.

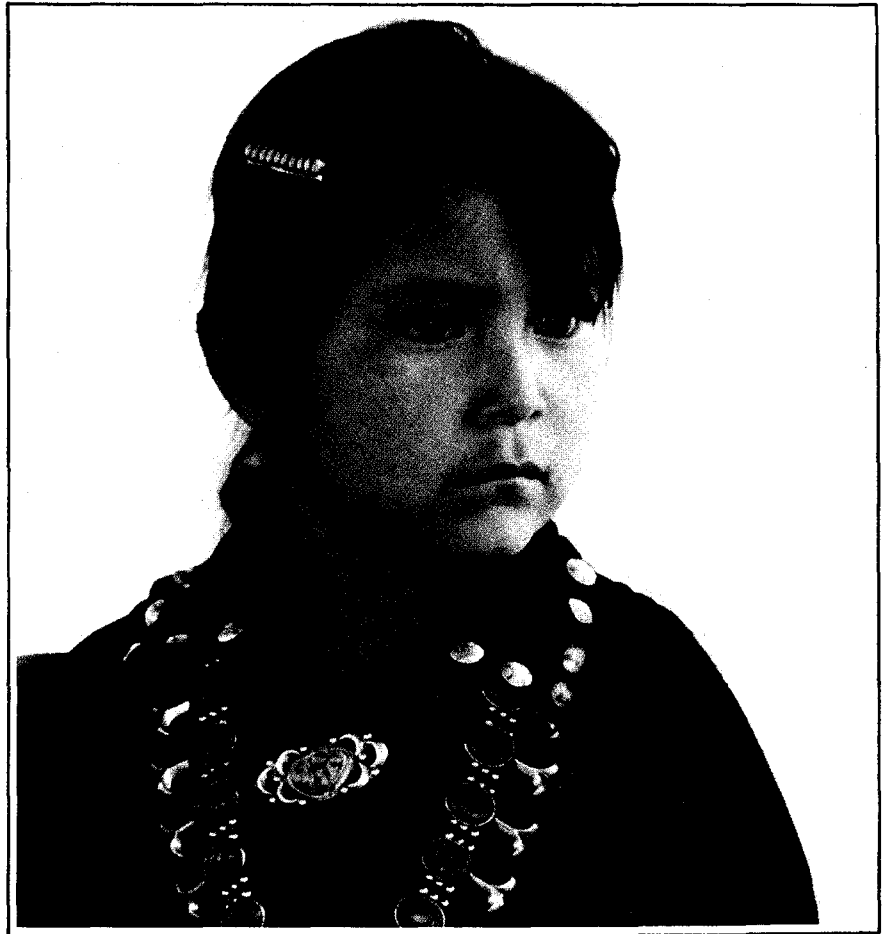
In the landmark case of *Native Village of Noatak v. Hoffman*, NARF is challenging the State of Alaska's position that the state cannot constitutionally allocate revenue sharing monies to tribal governments. NARF is asserting that the villages are tribes with the same status as the lower 48 Indian tribes and, therefore, they may be singled out for discrete beneficial treatment without running afoul of equal protection the law guarantees. The case went all the way to the United States Supreme Court and the Court ruled in 1991 that tribes may not sue states for money damages because of the states' sovereign immunity from suit. The case was remanded back to the federal appeals court for further proceedings. In December, 1991, the Ninth Circuit remanded these issues to the District Court to determine whether the villages retain viable claims for injunctive relief. In April, 1992, NARF moved for Summary Judgment against the State of Alaska and filed its reply in July, 1992.

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 (FOGRMA) of 1983. FOGRMA expressly vests the Secretary of Interior with the responsibility of administering federal and Indian oil and gas resources leased to pri-

vate 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 the settlement agreement in favor of the individual Indian allottees. As a result of this settlement agreement, the Department of the Interior Minerals Management Service, in 1992, audited approximately 1,000 leases in western Oklahoma held by over 7,000 Oklahoma allottees in the Anadarko area. The Minerals Management Service concluded preliminarily that oil producers owe an additional \$2 million in unpaid royalties to these allottees. The oil producers are currently being billed for the unpaid royalties by the Minerals Management Service.

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.

In September, 1992, in *Pele Defense Fund v. Paty*, the Hawaii Supreme Court reversed the adverse decision of the lower state court and granted NARF's clients, the Pele Defense Fund, a trial on the subject of the scope of Native Hawaiian access and gathering rights in Wao Kele 'O Puna, the Big Island rainforest. The Wao Kele 'O Puna lands were the subject of a 1983 land exchange between the State of Hawaii and the Campbell Estate to facilitate geothermal development. ■



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 1992, 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 two national training events in 1992. The first conference, Developments in Federal Indian Law for the Indian Law Practitioner, emphasized recent legal, legislative and policy developments in federal Indian Law. The second conference, Traditional Peacemaking and Modern Tribal Justice Systems, focused on traditional methods of conflict resolution and peacemaking in Indian communities, and the role of those traditional mechanisms in contemporary Indian society, especially within the context of modern tribal justice systems. 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 and the protection of First Amendment religious rights of Native Americans and Hawaiian Natives. Additionally, the Indian Law Support Center, in 1992, completed an Update to the Indian Child Welfare Act and Laws Affecting Indian Juveniles Manual. The Update provides a section-by-section legal analysis of the Act, as well as the developments in Indian Child Welfare Act case law over the past eight years since the publication of the original manual. The ILSC has also written and widely distributed eight additional manuals on major areas of Indian law: A Manual on Tribal Regulatory Systems, A Self-Help Manual for Indian Economic Development, A Handbook and Update of Federal Indian Education Laws, A Manual and Update 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.

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

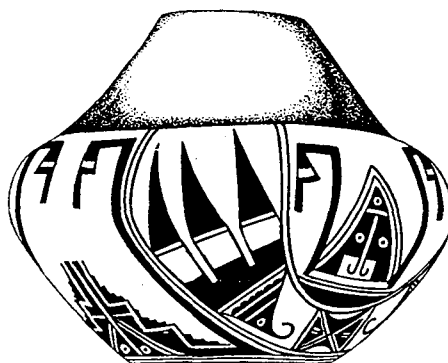
Indian legal resources to everyone working on behalf of Indian rights.

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 National Indian Law Library's first twenty years have generated an awareness of its importance. The unique development and exceptional success throughout two decades is the product of many talented minds and earnest hard work. Of equal importance is the future which compels a permanent commitment by NILL and its supporters to the mission on which NILL has embarked.

NILL is the only law library specializing in legal practice materials which are essential for practitioners of Indian Law. Within NILL's collection there are over 16,000 legal pleadings and opinions in virtually every major Indian case since the 1950's.

The National Indian Law Library is the only comprehensive lending collection of past and present Tribal government documents. This lending collection began in 1988 and now consists of Tribal constitutions, codes, ordinances and resolutions numbering in excess of 700. It has established an invaluable communications network for those involved in the drafting and updating of Tribal government documents. NILL now has working documents on almost every conceivable subject, from declarations of self-determination to sewage disposal, adoptions of a Uniform Commercial Code, off-reservation regulations, and conservation and pow-wow ordinances. Requests for samples of Tribal government documents are made



as frequently as three times a day. NILL has filled an urgent need as the single repository where Tribal governments routinely send all documents.

NILL is the only clearing-house actively collecting Indian law related documents. There are well over 4,000 of these documents in the collection, including books, pamphlets, federal government documents, state government documents, scholarly reports, journal articles, newspaper articles, student reports and law reviews. Numerous access points for all these Indian law related materials are provided 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.

The twenty year history of the National Indian Law Library has demonstrated its ability to meet the information needs of

those involved in litigating Indian law. Since its inception, the National Indian Law Library remains at the heart of Indian legal practice.

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 American Indian Resources Institute's Tribal Leaders Forums, 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 non-profit organization specializing in the protection of Indian rights. ■

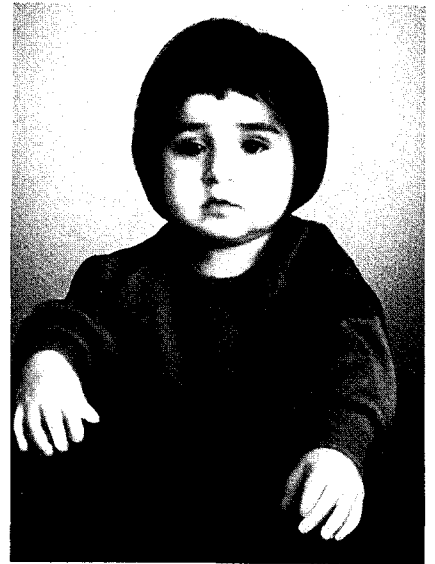


Photo: Ava Hamilton

TREASURER'S REPORT

Fiscal Year 1992

The audited financial statements of the Native American Rights Fund for the fiscal year ended September 30, 1992, are presented for your review on the following pages. The presentation of the statements has changed this year to show separately the financial activity related to NARF's grant from the Legal Services Corporation and the financial activity related to NARF's new 21st Century Endowment Fund.

The initial gift to the Endowment, \$1 million from the Ford Foundation, must be tripled over the next four years to meet the matching requirement of the Ford Foundation's gift. Income from the Endowment will increase NARF's precious supply of unrestricted funding, which is necessary to taking on those vital cases for which no other funding is available.

In fiscal 1992, both revenue and expenses were lower than in the previous year. Funding shortfalls in fiscal 1991 forced NARF to cut costs and to take advantage of staff attrition over the course of fiscal 1992. Attorney staffing fell from 17.67 in fiscal 1991 to 16.58 in fiscal 1992.

Intensive fund raising efforts appealed to the generosity of NARF's donors, allowing NARF to end fiscal 1992 with an increase to total fund balances of \$1,424,657, of which \$1,015,000 is the Endowment fund balance; \$437,201 was added to the unrestricted fund balance to ensure that NARF can continue to provide necessary services to clients in the event of any short-term variance from funding expectations.

A comparison of revenue sources for fiscal 1992 and 1991 is given below:

Revenue Source:	FY92	FY91
Government grants	42.5%	43.8%
Foundations and trusts	10.8%	21.5%
Contributions	30.6%	18.2%
Legal Fees	7.9%	6.3%
Other	8.2%	10.2%
	100.0%	100.0%

Foundation and trust grants dropped by over 10% due to timing of grant expenditures over the two fiscal years; increased contributions from individual donors were largely responsible for making up the needed funding in fiscal 1992.

NARF's expenditures by function are compared below for fiscal years 1992 and 1991:

Functional Expenditures	FY92	FY91
Litigation and client services	71.4%	71.6%
National Indian Law Library	4.3%	4.7%
Program Services:	75.7%	76.3%
Management and general	12.8%	12.3%
Fundraising	11.5%	11.4%
Support Services:	24.3%	23.7%

NARF is maintaining a goal of limiting expenditures for support services to under 25% of total expenditures, so that as much as possible of every dollar is spent on serving NARF's client constituency of Native American tribes and individuals.

Price Waterhouse

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Denver, CO 80202

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Report of Independent Accountants

December 11, 1992

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, capital additions and changes in fund balances, of cash flows and of functional expenses present fairly, in all material respects, the financial position of Native American Rights Fund, Inc. at September 30, 1992, and the results of its operations and changes in its cash for the year 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 audit. We conducted our audit of these statements in accordance with generally accepted auditing standards which require that we plan and perform the audit 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 audit provides a reasonable basis for the opinion expressed above.

We previously audited, in accordance with generally accepted auditing standards, the balance sheets as of September 30, 1991 and the related statements of support, revenue, expenses, and changes in fund balances, of cash flows and of functional expenses for the year then ended (not presented herein) and in our report dated December 13, 1991 we expressed an unqualified opinion on those financial statements. In our opinion, the information set forth in the accompanying condensed balance sheet as of September 30, 1991 and the condensed statements of support, revenue, expenses, capital additions, and changes in fund balances, of cash flows and of functional expenses for the year ended September 30, 1991, when read in conjunction with the financial statements from which it has been derived, is fairly stated in all material respects in relation thereto.

Price Waterhouse

Native American Rights Fund, Inc.

Balance Sheet

	September 30,						1991
	1992						
	Current Funds		The NARF	21st Century	General fixed	Total	Total
Assets	Unrestricted	Non-ILSC Restricted	ILSC	Endowment Fund	asset fund	all funds	all funds
Cash and cash equivalents	\$ 313,073	\$	\$ 61,416	\$	\$	\$ 374,489	\$ 25,221
Marketable securities, at cost	794,653			1,015,000		1,809,653	5,245
Grants receivable		364,897				364,897	38,375
Unbilled grants receivable		315,568				315,568	818,578
Bequests receivable	805,382					805,382	431,595
Other receivables	346,439					346,439	225,096
Mailing list acquisition costs							208,266
Donated art	108,025					108,025	188,000
Prepaid expenses and other assets	91,620					91,620	29,211
Interfund receivable (payable)	(243,908)	243,908					
Property and equipment, at cost:							
Land and buildings					313,937	313,937	313,937
Improvements to land and buildings					181,757	181,757	181,757
Office equipment and furnishings			17,411		510,036	527,447	532,976
Professional library					144,191	144,191	133,597
Less: accumulated depreciation			(6,872)		(705,929)	(712,801)	(656,634)
	<u>\$ 2,215,284</u>	<u>\$ 924,373</u>	<u>\$ 71,955</u>	<u>\$ 1,015,000</u>	<u>\$ 443,992</u>	<u>\$ 4,670,604</u>	<u>\$ 2,475,220</u>
Liabilities and Fund Balances							
Accounts payable	\$ 360,538	\$	\$	\$	\$	\$ 360,538	\$ 435,949
Other accrued expenses	304,847					304,847	319,999
Deferred revenue	805,382	924,373	61,416			1,791,171	606,323
Line of credit							300,000
Mortgage and notes payable					78,251	78,251	101,809
Fund balances	744,517		10,539	1,015,000	365,741	2,135,797	711,140
Commitments							
	<u>\$ 2,215,284</u>	<u>\$ 924,373</u>	<u>\$ 71,955</u>	<u>\$ 1,015,000</u>	<u>\$ 443,992</u>	<u>\$ 4,670,604</u>	<u>\$ 2,475,220</u>

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

Native American Rights Fund, Inc. Notes to Financial Statements

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

NARF receives a significant portion of its support in the form of restricted government and foundation grants. NARF's paying clients are concentrated among Native American tribes.

Revenue from restricted grants and contracts 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 unre-

stricted 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.

The NARF 21st Century Endowment Fund

The NARF 21st Century Endowment Fund (the "Endowment") was established on December 31, 1991 with a \$1,000,000 challenge grant from the Ford Foundation. Under the terms of the grant NARF has five years to match Ford's contribution on a \$2 for \$1 basis. At the end of the five year period, Ford will reconsider its initial contribution if its challenge has not been met. All endowment contributions have been recognized as capital additions.

Endowment funds are invested in mutual funds managed by an outside investment manager. Interest earned on the endowment investments is unrestricted and has been used currently to finance NARF programs. Investments are carried at the lower of cost or market. Unrealized gain on the investments at September 30, 1992 was approximately \$37,000.

Interfund Receivable (Payable)

All funds received by NARF which are not specifically identified as endowment funds are deposited in a general bank account. Segregation of cash and certain other assets and liabilities between non-Indian Law Support Center ("ILSC") restricted and unrestricted funds is not maintained in the accounting records. Segregation of revenue and expenditures applicable to restricted funds (including segregation within the restricted fund by grant source), unrestricted funds 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, 1992.

Donated Art

During fiscal 1990, NARF received donations of Native American art in collaboration with an association of Native American artists. A portion

Native American Rights Fund, Inc.

Statement of Support, Revenue, Expenses, Capital Additions and Changes in Fund Balances

	For the year ended September 30,					
	1992			1991		
	Current Funds			The NARF 21st Century Endowment Fund	General fixed asset fund	Total all funds
Support and Revenue	Unrestricted	Non-ILSC Restricted	ILSC			Total all funds
Governmental grants	\$	\$ 2,354,688	\$ 238,252	\$	\$	\$ 2,592,940
Foundation and trust grants		659,907				659,907
Contributions	1,870,220					1,870,220
Legal fees		484,001				484,001
Other	449,478		50,497			499,975
Total support and revenue	2,319,698	3,498,596	288,749			6,107,043
Expenses						
Program services:						
Litigation and client services	1,361,206	2,472,341	200,838		56,887	4,091,272
National Indian Law Library	81,348	147,752	12,018		3,400	244,518
Total program services	1,442,554	2,620,093	212,856		60,287	4,335,790
Support services:						
Management and general	243,093	441,526	37,223		10,159	732,001
Fund raising	219,470	398,620	32,438		9,173	659,701
Total support services	462,563	840,146	69,661		19,332	1,391,702
Total expenses	1,905,117	3,460,239	282,517		79,619	5,727,492
Excess (deficiency) of support and revenue over expenses	414,581	38,357	6,232		(79,619)	379,551
Capital Additions						
Contributions				1,015,000		1,015,000
Investment income				30,108		30,108
Total capital additions				1,045,108		1,045,108
Excess (deficiency) of support and revenue over expenses after capital additions	414,581	38,357	6,232	1,045,108	(79,619)	1,424,659
Fund balances, beginning of year	307,316		5,987		397,835	711,138
Other changes in fund balances:						
Acquisition of property and equipment	(13,187)	(18,457)			31,644	
Acquisition of new mortgage						(105,000)
Repayment of mortgage and notes payable	5,699	(19,900)	(1,680)		15,881	
Realized gains on endowment funds utilized	30,108			(30,108)		
Fund balances, end of year	\$ 744,517	\$	\$ 10,539	\$ 1,015,000	\$ 365,741	\$ 2,135,797
						\$ 711,140

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

of the art was sold during fiscal 1991 and 1992. The remaining art is being held for sale at September 30, 1992. A corresponding liability of \$56,000 is recorded in the accompanying financial statements to recognize a commitment to the artists' association for its assistance in obtaining the art donations.

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.

The costs of providing the various programs and other activities have been summarized on a functional basis in the statement of support and revenue, expenses, capital additions, and changes in fund balances. Accordingly, certain costs have been allocated among the programs and supporting services benefitted.

Professional Staff

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

Fund Raising

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

In 1992 and 1991, the organization incurred joint costs of \$677,891 and \$463,641, respectively, for informational materials and activities that

included fund-raising appeals. These costs were allocated between program and fund-raising expenses as follows:

	1992	1991
Program expenses	\$406,735	\$278,185
Fund-raising expenses	271,156	185,456
	<u>\$677,891</u>	<u>\$463,641</u>

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.

ILSC Furniture, Fixtures, and Equipment.

Property and equipment acquired solely with Legal Services Corporation ("LSC") funds are considered to be owned by ILSC while used in the program or in future authorized programs. However, LSC has a reversionary interest in these assets. In addition, LSC has the right to determine the use of any proceeds from the sale of assets purchased with its 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).

Native American Rights Fund, Inc.

Statement of Cash Flows

	For the year ended September 30,						
	1992						1991
	Current Funds			The NARF 21st Century Endowment Fund	General fixed asset fund	Total all funds	Total all funds
	Unrestricted	Non-ILSC Restricted	ILSC				
Cash Flows From Operating Activities							
Excess (deficiency) of support and revenue over expenses after capital additions	\$ 414,581	\$ 38,357	\$ 6,232	\$ 1,045,108	\$ (79,619)	\$ 1,424,659	\$ 352,225
Adjustments to reconcile excess (deficiency) of support and revenue over expenses after capital additions:							
Deferred revenue and grants receivable recognized as support and revenue		(830,284)	(24,909)			(855,193)	(1,553,526)
Deferred revenue received and grants receivable collected	373,787	1,756,417	61,416			2,191,620	507,017
Bad debt expense	19,766					19,766	32,192
Depreciation			2,370		79,619	81,989	78,466
Loss on disposal of property and equipment							3,160
Decrease (increase) in other receivables	(495,130)					(495,130)	(248,087)
Decrease (increase) in other assets	145,859					145,859	(196,173)
Decrease in donated art	79,975					79,975	
Decrease (increase) in interfund receivable/payable	926,133	(926,133)					
Increase (decrease) in accounts payable	(75,412)					(75,412)	89,183
Increase (decrease) in other liabilities	(15,152)					(15,152)	277,736
Net cash provided by (used for) operations	1,374,407	38,357	45,109	1,045,108		2,502,981	(657,807)
Cash Flows Used For Investing Activities							
Decrease (increase) in marketable securities	(789,408)			(1,015,000)		(1,804,408)	6,007
Acquisition of property and equipment, net			(6,922)		(6,736)	(13,658)	(51,192)
Cash Flows Used In Financing Activities							
Net fund balance transfers	47,528	(38,357)	(1,680)	(30,108)	22,617		
Net (payment) proceeds of debt	(319,766)				(15,881)	(335,647)	176,469
Increase (Decrease) In Cash	312,761		36,507			349,268	(526,523)
Cash and Equivalents at Beginning of Year	312		24,909			25,221	551,744
Cash and Equivalents at End of Year	<u>\$ 313,073</u>	<u>\$</u>	<u>\$ 61,416</u>	<u>\$</u>	<u>\$</u>	<u>\$ 374,489</u>	<u>\$ 25,221</u>

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

Statement of Cash Flows

NARF considers all highly liquid short-term investments purchased with an original maturity of three months or less to be cash equivalents. Interest received during fiscal years 1992 and 1991 was \$53,181 and \$25,202, respectively. Interest paid during fiscal years 1992 and 1991 was \$8,960 and \$19,178, respectively.

Marketable Securities

Marketable securities are presented in the financial statements in the aggregate at cost.

	Cost	Market
Current unrestricted fund	\$ 794,653	\$ 794,653
Endowment fund	1,015,000	1,052,000
	<u>\$1,809,653</u>	<u>\$1,846,653</u>

Investments are composed of the following:

	Cost	Market
Certificates of deposit	\$ 300,000	\$ 300,000
Mutual funds	1,507,300	1,544,300
Other	2,353	2,353
	<u>\$1,809,653</u>	<u>\$1,846,653</u>

2. Restricted Grants Receivable and Deferred Revenue

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

	September 30			
	1992		1991	
	Grants receivable	Deferred revenue	Grants receivable	Deferred revenue
Bureau of Indian Affairs (Unbilled in 1991)	\$639,063	\$ —	\$818,578	\$ 1,660
The Rockefeller Foundation		12,827	32,314	—
John D. and Catherine T. MacArthur Foundation		43,614	—	68,714
Department of Health and Human Services - Administration for Native Americans	41,402	—	—	44,084
Ford Foundation		833,333	—	—
Legal Services Corporation		61,416	—	24,909
Other		34,599	6,061	35,361
	<u>\$680,465</u>	<u>\$985,789</u>	<u>\$856,953</u>	<u>\$174,728</u>

Native American Rights Fund, Inc.

Statement of Functional Expenses

	For the year ended September 30,							
	1992						1991	
	Program services			Support services				
	Litigation and client services	National Indian Law Library	Total	Management and general	Fund raising	Total	Total expenses	Total expenses
Salaries and Wages								
Professional staff	\$ 1,037,684	\$ 78,577	\$ 1,116,261	\$ 285,230	\$ 102,206	\$ 387,436	\$ 1,503,697	\$ 1,627,961
Support staff	316,758	34,874	351,632	99,149	35,525	134,674	486,306	526,838
Fringe benefits	308,148	56,815	364,963	96,628	34,556	131,184	496,147	497,475
Total salaries and related costs	1,662,590	170,266	1,832,856	481,007	172,287	653,294	2,486,150	2,652,274
Contract fees and consultants	1,238,830	3,599	1,242,429	39,016	101,380	140,396	1,382,825	1,686,212
Travel	266,794	4,360	271,154	48,625	23,864	72,489	343,643	314,389
Space costs	91,517	11,972	103,489	51,205	10,190	61,395	164,884	128,881
Office expenses	613,937	31,523	645,460	77,772	331,247	409,019	1,054,479	898,682
Equipment maintenance and rental	58,777	12,382	71,159	18,043	6,286	24,329	95,488	39,487
Litigation costs	13,762	9	13,771				13,771	12,101
Library costs	72,360	6,062	78,422	3,349	2,726	6,075	84,497	66,889
Expenses before bad debts and property transactions	4,018,567	240,173	4,258,740	719,017	647,980	1,366,997	5,625,737	5,798,915
Bad debts	14,123	844	14,967	2,522	2,277	4,799	19,766	29,071
Loss on disposal of property and equipment	1,020	61	1,081	182	164	346	1,427	3,160
Depreciation	57,562	3,440	61,002	10,280	9,280	19,560	80,562	78,466
Total expenses	\$ 4,091,272	\$ 244,518	\$ 4,335,790	\$ 732,001	\$ 659,701	\$ 1,391,702	\$ 5,727,492	\$ 5,909,612

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

3. Mortgage and Notes Payable

Mortgage and notes payable consist of the following:

	September 30,	
	1992	1991
Line of credit; face amount of \$300,000; renewable January 1993; interest at the prime rate (8% in 1991) payable monthly; secured by land and building at 1506 Broadway, Boulder, Colorado	\$	\$300,000
Note payable in equal monthly installments of \$1,750, including interest at 6.5%, with remaining principal balance due October 1995; secured by land and building at 1712 N Street, N.W., Washington, D.C.	62,852	85,750
Promissory note payable in 58 monthly installments of \$320 principal, plus accrued interest at 11%; due April 1996.	15,399	16,059
	78,251	401,809
Less: current portion	(22,231)	(337,059)
Due beyond next fiscal year	\$56,020	\$ 64,750

Annual maturity requirements on the mortgage and notes payable are as follows (fiscal years): 1993 - \$22,231; 1994 - \$22,374; 1995 - \$22,533; 1996 - \$11,113.

4. Commitments

NARF leases equipment under operating leases. Annual future minimum rental payments under operating leases are as follows (fiscal years): 1993 - \$32,520; 1994 - \$25,762; 1995 - \$17,268; 1996 - \$532. Rental expense was \$39,206 and \$49,699 for 1992 and 1991, respectively.

5. Restricted Revenue

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

	Year ended September 30,	
	1992	1991
Bureau of Indian Affairs	\$1,194,125	\$1,302,000
Department of Health and Human Services - Administration for Native Americans	1,162,788	1,200,187
Ford Foundation	166,667	668,894
Legal Services Corporation	238,252	241,915
The John D. and Catherine T. MacArthur Foundation	175,099	178,088
Rockefeller Foundation	104,859	254,076
Skadden Fellowship	44,114	84,088
Bush Foundation	25,094	53,867
Others	625,850	500,945
	\$3,736,848	\$4,484,060

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(Individuals donating \$1,000 or more.)

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Acknowledgement

Fiscal Year

Corporations

Black Oak Books - CA
Dial Corporation -
Santa Fe Tobacco Company - NM
Wild Oats Market - CO, NM
XYZ Corp./James Travel Points Int'l - CO
Stratton Company, Inc. - CT
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Walter and Eleanor Beitzel, Mr. and Mrs.
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Elizabeth and George Adams, Elaine and G.
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Janice and Bob Welcome
Hugh Quinn Foreman
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Elizabeth S. Stein, and Gary L. Olsen
George Olinger
by Dr. Francisco Rubira

Tribal Contributions

American Indian Intertribal Cultural Org.
Ft. Mojave Apache Tribe - AZ
Mashantucket Pequot Tribe - CT
St. Croix Chippewa Indians of Wisconsin - WI

Foundations

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Birnbaum Foundation
Bush Foundation
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Ford Foundation
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John D. & Catherine T. MacArthur
Foundation
National Lawyers Guild
New York Community Trust
Northwest Area Foundation
Rockefeller Foundation
Skadden Fellowship
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Federal Programs

Administration for Native Americans
Bureau of Indian Affairs
Legal Services Corporation

Acknowledgement of Contributions:

Fiscal Year 1992

Matching Gifts

James Shand through Budget Rent-A-Car Corporation
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 Terry Kasper through Digital Equipment Corporation
 Royal C. Downton through Illinois Tool Works Foundation
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Theodore H. Plant through Joseph E. Seagrams & Sons
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 Donna Kirchner through Reader's Digest Foundation
 Elizabeth A. Plaisted through Reader's Digest Foundation
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 Karen Simons through U.S. West Foundation
 Margaret E. McDonough through U.S. West Foundation

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Bequests

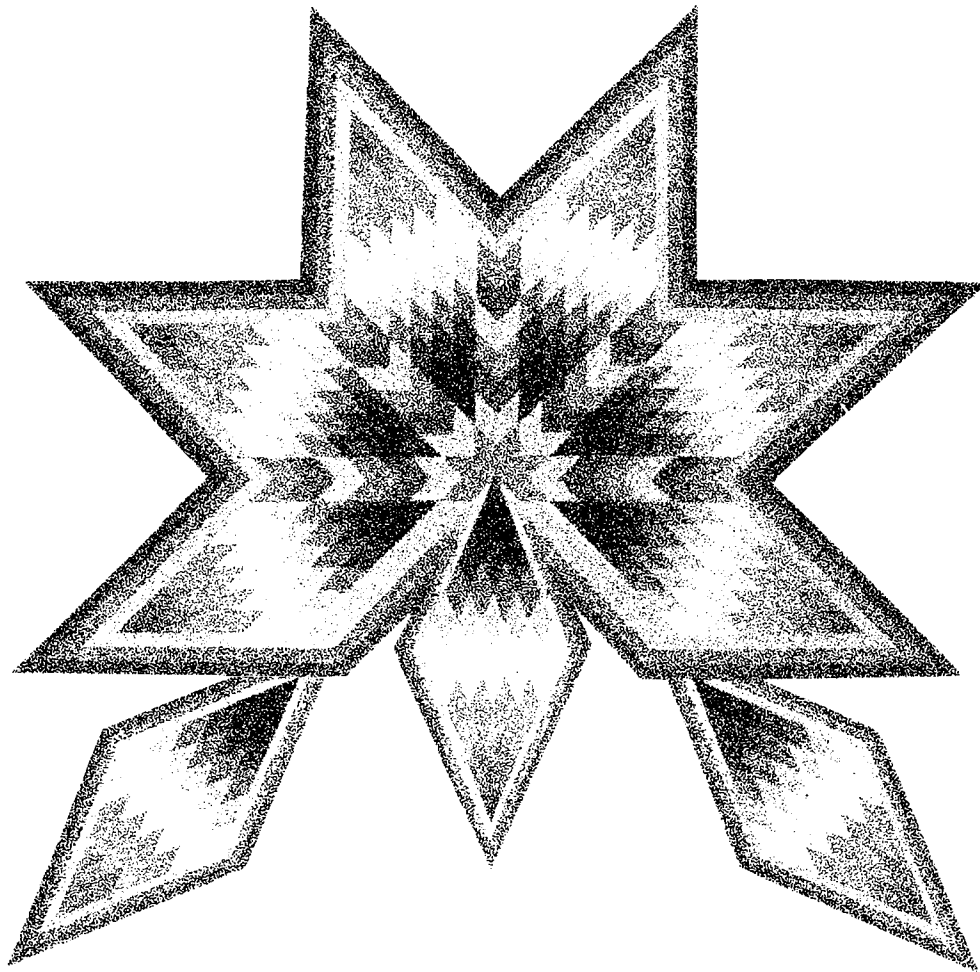
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Thank you to the thousands of federal, state, municipal and private sector employees throughout the country who, through their payroll deduction plans, contributed more than \$130,000 to NARF in 1992.

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■ *Where today are the Pequot? Where are the Narragansett, the Mohican, the Pokanoket, and many other once powerful tribes of our people? They have vanished before the avarice and the oppression of the White Man, as snow before the summer sun.*

Will we let ourselves be destroyed in our turn without a struggle, give up our homes, our country bequeathed to us by the Great Spirit, the graves of our dead and everything that is dear and sacred to us? I know you will cry with me, 'Never! Never!' ■

Tecumseh, Shawnee, USA, 1805