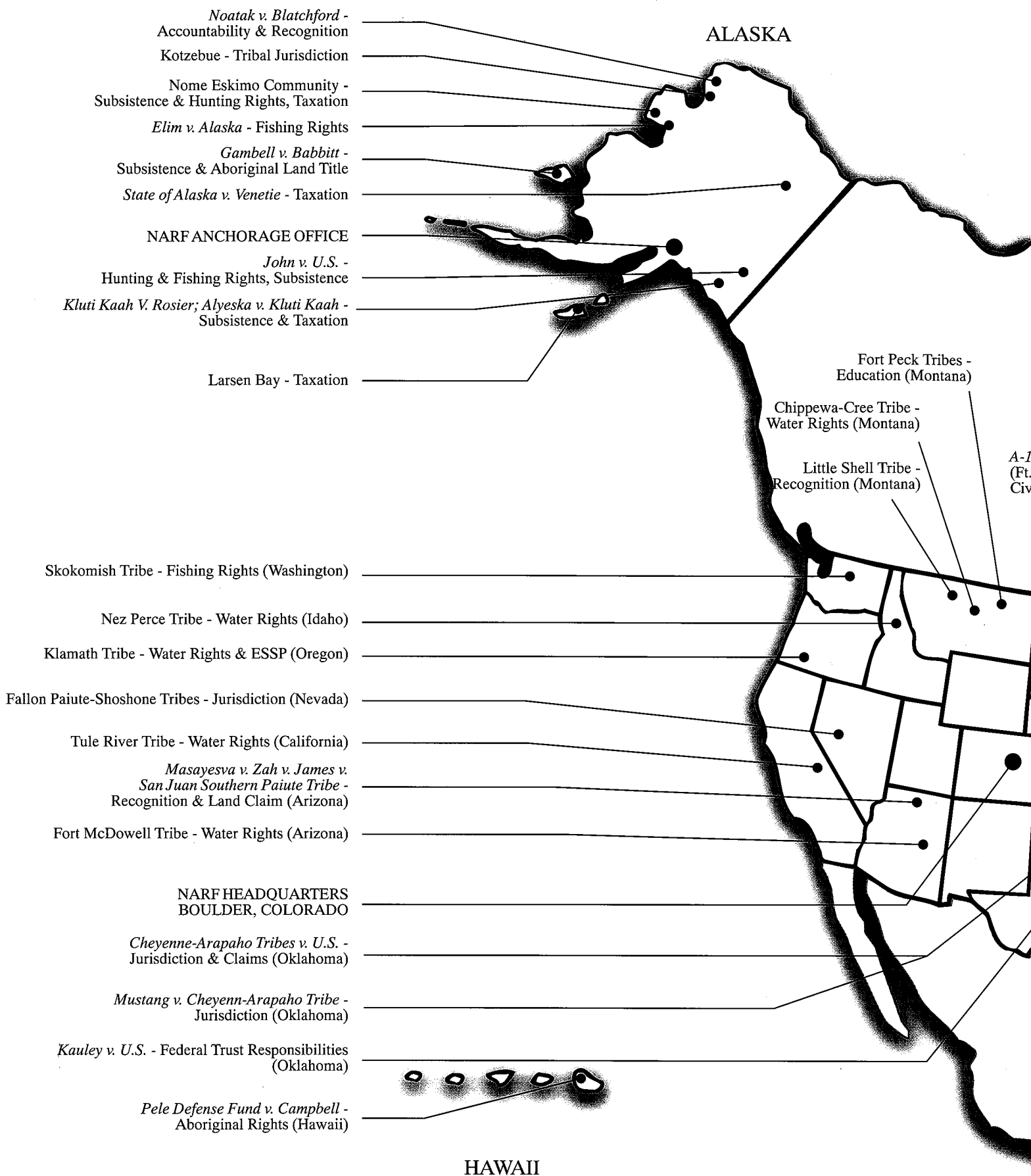


National Indian Law Library

NILL No. 013309 / 1994

# NATIVE AMERICAN RIGHTS FUND







## Major Activities 1994



*Contractors v. State*  
(Berthold Res.) -  
Jurisdiction (North Dakota)

Turtle Mountain Indian Reservation - Tax Code &  
Judgement Fund Claim (North Dakota)

Penobscot Tribe - Tribal Courts, FERC (Maine)

Potawatomi Nation - Land Claim (Canada)

Mashpee Wampanoag Tribe - Recognition (Massachusetts)

Mashantucket Pequot Tribe - Tribal Court & Constitution (Connecticut)

Shinnecock Tribe - Recognition (New York)

White Earth Chippewa - Land Claim (Minnesota)

NARF WASHINGTON, D.C. OFFICE

Pamunkey Tribe - Recognition (Virginia)

Stockbridge-Munsee Tribe - Claim (Wisconsin)

*Miami v. Babbitt* - Recognition (Indiana)

Catawba Tribe - Land Claim (South Carolina)

Rosebud Sioux Tribe - Education (South Dakota)

Winnebago Tribe - Gas Lease (Nebraska)

*NSHS v. Pawnee Tribe v. State* - Repatriation (Nebraska)

Houma Tribe - Recognition (Louisiana)

*Alabama Coushatta Tribe v. U.S.* - Land Claim (Texas)



**National Indian Law Library**  
1522 Broadway  
Boulder, CO 80302

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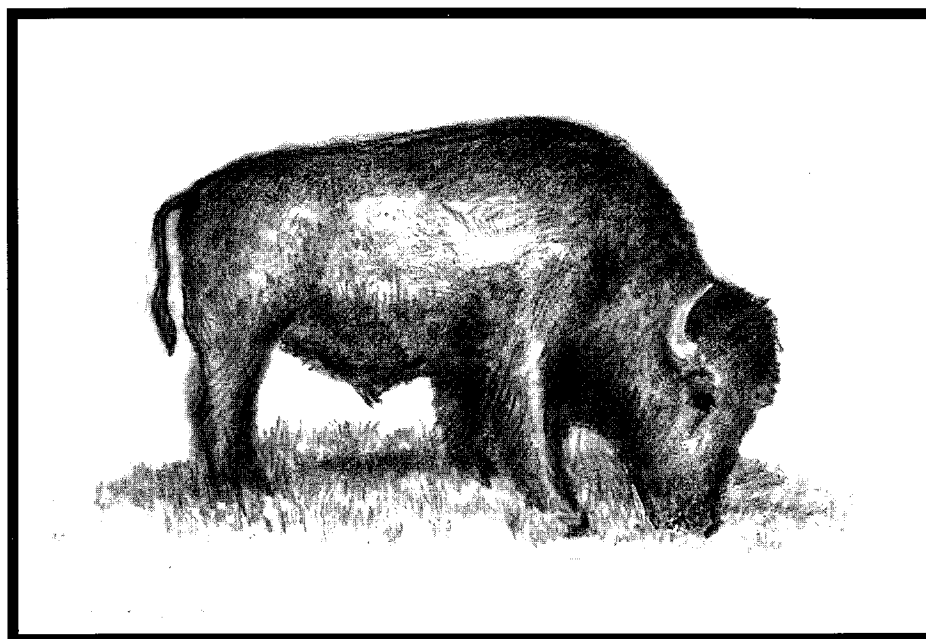
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## **Tax Status**

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.



## *Introduction*

As the Native American Rights Fund enters its 25th year of “standing firm for justice,” NARF has successfully represented Indian tribes and individuals in nearly every state in the nation. The hundreds of cases it has been involved in have encompassed every area and issue in the field of Indian law. NARF’s reputation as a national Indian law advocate is backed by its 24 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**

In the 1960’s, the federal government and private philanthropists began to address the inability of underserved populations to access legal services. The federal government funded a network of legal services programs to serve a variety of populations, and it soon became apparent through the work of those programs that there were several population groups among those needing legal services which had unique needs.

Native Americans, whose lives have long been governed by the hundreds of treaties, thousands of federal statutes, and numerous regulations and administrative rulings which make up the specialized body of law known as Federal Indian law, were one such group whose needs demanded a specialized legal practice with a national purview.

The Native American Rights Fund was formed in California in 1970 to address the need for a central, national perspective in the practice of Federal Indian law. NARF, then a pilot project, was assisted in its work by the legal academic community and California Indian Legal Services. Funding was provided by the Ford Foundation.

The need for NARF’s services was quickly established, and in 1971, NARF moved its growing staff to Boulder, Colorado, a location more central to Indian country. Since the beginning, the national scope of legal work undertaken by NARF as a non-profit 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. 🖐️

## Executive Director's Report

The Native American Rights Fund continued to provide legal advice and representation to Indian tribes, organizations and individuals on issues of major national significance in fiscal year 1994 and this assistance once again resulted in several significant legal victories for Native Americans.

The Cheyenne-Arapaho Tribal Supreme Court upheld the authority of the Cheyenne-Arapaho Tribe of Oklahoma to tax oil and gas activities on lands held in trust by the federal government for individual tribal members within the Tribe's boundaries. NARF is defending the Tribe's sovereign right to tax against challenges by several oil companies subject to the tax. The oil companies are seeking review of the Tribal Supreme Court decision in federal court.

In *A-1 Contractors v. The Honorable William Strate*, NARF obtained a favorable federal appeals court decision upholding the civil jurisdiction of tribal courts on tribal lands even in a personal injury case 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 in North Dakota on Indian lands. A rehearing of the decision is underway.

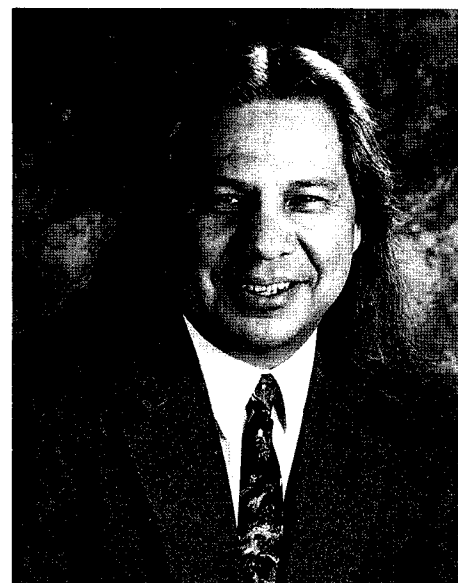
NARF was successful in obtaining a resolution from the United States Senate referring the Potawatomi Nation of Canada's claim for compensation for outstanding treaty entitlements to the Court of Federal Claims. For over 100 years, the Canadian Potawatomi have unsuccessfully sought compensation promised by the United States in treaties ceding tribal lands from 1795 through 1846.

In an important subsistence fishing rights case, the Alaska federal district court ruled in *Katie John v. United States* that Alaska Natives have subsistence fishing rights in all navigable waters in Alaska. The court held also that the federal government, not the State of Alaska, has jurisdiction to manage the subsistence fishing in navigable waters. NARF represents two Athabascan elders, the Mentasta Village Council and the Alaska Federation of Natives in the case, which has been appealed.


As a leading member of the American Indian Religious Freedom Coalition and counsel to the Native American Church of North America, NARF played a key role in the passage of Congressional legislation that exempts the religious use of peyote by Indians in bona fide traditional ceremonies from controlled substance laws of the federal and state governments. This act of Congress in effect overturns the 1990 Supreme Court decision in *Employment Division v. Smith*, which denied the protection of the free exercise of religion clause of the First Amendment of the Constitution to the sacramental use of peyote by Indians.

NARF represents the Pawnee Tribe in its case against the Nebraska State Historical Society and through settlement repatriated the remains and burial good of over 400 deceased Pawnees to the Tribe for reburial in accordance with their religious traditions. The Historical Society had sought to block the Tribe's access to Historical Society's records to prove their claim by avoiding compliance with the state public records law.

NARF also successfully challenged regulations proposed by the Secretary of Education that



would have allowed the states to review the 29 tribally-controlled Indian community colleges for eligibility for a student financial aid program. As a result of negotiations on behalf of the American Indian Higher Education Consortium, the Department of Education agreed that the Indian colleges could not be subjected to state jurisdiction for this review and are arranging for federal or tribal governmental review.

These and many other important case developments in fiscal year 1994 show that Native Americans can receive justice if given the opportunity to be 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 you will continue your support as we approach the 25th anniversary of our founding. 

John E. Echohawk  
Executive Director



## *Chairperson's Message*

In 1995, the Native American Rights Fund is entering its 25th year of service to Native people throughout this nation. During these years, NARF has achieved successes and precedent-setting victories that few thought were possible. NARF has fought for the rights of Native people in every conceivable forum — federal, state and tribal courts, the halls of Congress, state legislatures, corporate meeting rooms, city halls, and tribal council chambers; and they have fought against every conceivable adversary—the U.S. government, state governments, city governments, corporations and other adversaries seeking to deny or limit the rights of Native Americans or intending to challenge tribal sovereignty.

As a member of the Confederated Salish & Kootenai Tribes of the Flathead Reservation and an attorney for the Tribes, I have witnessed NARF's dedication and determination first hand. Some years back, for example, the Salish/Kootenai Tribe and NARF diligently worked together for nearly a decade to halt the construction of a dam and hydroelectric project at Kootenai Falls in northwest Montana. Kootenai Falls has served as a sacred vision questing site and center of the Kootenai religion since the beginning of time, and the Kootenai people felt a sacred obligation to maintain the spirituality of Kootenai Falls for future generations in order to preserve the integrity of tribal existence. Together with NARF, they were victorious in the struggle to protect Kootenai Falls and the ways of the Kootenai people. Again,

this is but one example of NARF's commitment to standing side by side with tribes as their attorneys, their advisors and, more importantly, their students, in tackling those issues which have been barriers to ongoing tribal existence and future progress.

Several Indian tribes, once thought lost to the annals of history books, have now regained federal recognition and status which could never have been realized without the long-term support and perseverance of NARF. These newly-emerging tribal sovereigns can now prepare to move forward into the 21st century as viable governmental entities. Indian tribes nationwide have come to depend on NARF to provide the consistency and continuity which is so necessary in resolving key issues for all of Indian country. It doesn't matter whether the job takes one year or 20 years, NARF has persisted in seeing each of these controversies through to its conclusion.

It has been my pleasure to work with NARF since its inception and to watch it grow and change throughout these many years. Indian country can be assured that NARF will continue to "Stand Firm for Justice" on behalf of Indian people. As Chairperson for the NARF Board of Directors, I congratulate NARF for its first 25 years of commitment, and with the generosity of tribes and individuals, NARF will be there for another 25 years and more. **□**

Evelyn Stevenson  
Chairperson

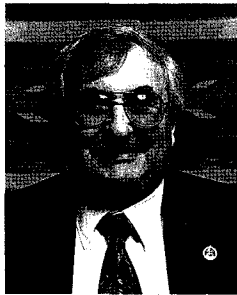
## Board of Directors



**Willie Kasayulie**



**Mildred Cleghorn**



**Cliv Dore**



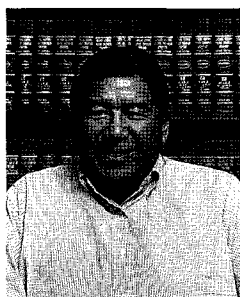
**Kathryn Harrison**



**Rick Hill**



**Twila Martin  
Kekahbah**



**John R. Lewis**



**Will Mayo**



**Rev. Kaleo  
Patterson**

In 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. ↓

**Evelyn Stevenson** (Salish-Kootenai) *Montana* - Chairperson

**Willie Kasayulie** (Yupik) *Alaska* - Vice Chairperson

**Gilbert Blue** (Catawba) *South Carolina* - Not pictured

**Lionel Bordeaux** (Rosebud Sioux) *South Dakota* - Not pictured

**Mildred Cleghorn** (Fort Sill Apache) *Oklahoma*

**Cliv Dore** (Passamaquoddy) *Maine*

**Theresa A. Gomez** (Isleta Pueblo) *New Mexico* - Not pictured

**Kathryn Harrison** (Confederated Tribes of Grand Ronde) *Oregon*

**Rick Hill** (Oneida) *Wisconsin*

**Twila Martin Kekahbah** (Turtle Mountain Chippewa) *North Dakota*

**John R. Lewis** (Mojave/Pima/Tohono O'odham) *Arizona*

**Will Mayo** (Native Village of Tanana) *Alaska*

**Rev. Kaleo Patterson** (Native Hawaiian) *Hawaii*

*Photographs: Thorney Lieberman*



The National Support Committee was established in 1978 to assist NARF with its fundraising efforts nationwide. Some of the individuals on the Committee are prominent in the field of business, entertainment and the arts. Others are known advocates for the rights of the underserved. All of the 40 volunteers on the Committee are committed to upholding the rights of Native Americans. 🐾

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Edward Asner

Katrina McCormick Barnes

David Brubeck

U.S. Senator Ben Nighthorse Campbell  
(Northern Cheyenne)

Harvey A. Dennenberg

Michael Dorris (Modoc)

Michael Driver

Richard Dysart

Louise Erdrich (Turtle Mountain  
Chippewa)

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Sy Gomberg

Will H. Hays, Jr.

Richard A. Hayward (Mashantucket  
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Billy Mills (Oglala Sioux)

N. Scott Momaday (Kiowa)

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Connie Stevens

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Maria Tallchief (Osage)

Andrew Teller (Isleta Pueblo)

Verna Teller (Isleta Pueblo)

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Dennis Weaver

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\* Resigned during the fiscal year

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Attorney

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Attorney

Norma B. Weston\*  
Legal Secretary

## The Preservation of Tribal Existence



The most critical issue facing Indian tribes today is the preservation of their existence as governmental entities with all the power and authority that such 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 also 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

Because they are sovereign, self-governing bodies, tribes possess the power to regulate the internal affairs of their members as well as the activities within their reservations. Conflicts often arise with states, the federal government, and others over tribal sover-

eignty. During 1994, 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 Tax Commission*, 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. Several affected oil companies filed a lawsuit challenging the Tribe's right to tax them. The oil companies filed suit in an Oklahoma federal court, but 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. The Cheyenne-Arapaho Tribal Court ruled in favor of the Tribe, upholding the Tribe's authority to tax oil-and-gas activities on trust allotments. The oil companies appealed to the Tribal Supreme Court. In December, 1993, the Tribal Supreme Court upheld the tax and the oil companies have now appealed to federal court. The United States government has

responded favorably to the Tribes' requests to participate in the case in support of the Tribes' right to tax.

NARF continued representing the Kluti Kaah Native Village of Copper Center, a traditional tribe, in its effort to collect tribal taxes from several 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 Kluti Kaah was not a federally-recognized tribe and, thus, lacked taxing authority. The federal district court in Alaska previously held that the Village may well have tribal status with sovereign tribal authority to tax the Trans-Alaska Pipeline System which runs through Alaska Native lands and called for a trial on those issues. A trial was held in January, 1994, to determine if Native corporation lands traversed by the Trans-Alaska Pipeline is Indian country and thus subject to a tribal tax. A ruling by the court is pending.

NARF represents the Native Village of Venetie in *State of Alaska v. Native Village of Venetie*. This case involves the Tribe's authority to impose a tax

on a non-member who engages in business activity within the Village. The Ninth Circuit Court of Appeals previously ruled that the validity of the tax depends on whether the Village is an Indian tribe as defined under federal law and whether the Village is a "dependent Indian community" and thus Indian country. A trial was held on both issues in the federal district court in November, 1993, and a ruling is pending.

In *A-1 Contractors v. The Honorable William Strate*, the Tribal Court for the Three Affiliated Tribes of the Fort Berthold 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 challenged the Tribal Court decision in federal court. NARF undertook representation of the Tribal Court in the federal proceedings. The federal district court upheld NARF's position 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. A-1 Contractors appealed to the Eighth Circuit Court of Appeals and in November, 1994, the Eighth Circuit issued an opinion affirming the civil jurisdiction of the Tribal Court of the Three Affiliated Tribes.

In *Nevada v. Hicks*, NARF represents the Fallon Paiute-Shoshone Tribes in a federal court case where their tribal court has been sued after the tribal court of appeals found tribal jurisdiction over a civil case arising on the

reservation. The complaint was filed in tribal court by a tribal member against the State of Nevada and state officials. This case provides a precedent setting legal issue that may very well impact all tribes.

NARF filed an amicus curiae brief in *Department of Taxation and Finance of the State of New York v. Milhelm Attea & Bross, Inc.* on behalf of thirteen tribes and the National Congress



Photograph: Western History Collections, University of Oklahoma Library

of American Indians in support of tobacco wholesalers and against the State of New York in this case in the United States Supreme Court. The issue in this case was the existence and scope of the State's authority to regulate cigarette sales to tribal members and non-tribal members on the reservation. In June, 1994, the Court ruled entirely in favor of the State. The Court extended the State's right to "precollect" taxes on sales to non-members to wholesalers as well as retailers. The Court also upheld the State's regulation of imposing quotas of sales to members.

## Indian Economic Development Law Project

The emphasis of NARF's Indian Economic Development Law Project has continued to be on achieving increased control by tribal governments over their communities and their destinies. One avenue to achieving control is

through the development of tribal government agencies. This requires the development of tribal governmental infrastructures necessary to implement and administer tribal entities such as courts and regulatory agencies. NARF recognizes that independent sources of revenue from which to fund locally derived priorities — i.e. a tribal tax base, and greater capacity to manage and foster the integrity of tribal homelands as they affect the health and the environment of Indian country residents — is necessary to the task.

In working toward this goal, the Project has continued to serve on the National Indian Policy Center (NIPC) Task Forces for Natural Resources, the Environment, the Law, and Administration for Justice. The Project has been assisting the NIPC with the review and prioritization of proposals for a research paper on tribal courts and tribal taxation.

The Project continues to operate from the perspective that environmental and economic development issues are integrally related in Indian country. This perspective takes into account that reservations are permanent homelands for tribes and that any

planned development which affects the land, resources or the people, must take into account their impact for several generations to come; and, that environmental issues are themselves serious economic development opportunities that must be carefully studied and assessed. Based on these propositions the Project has been fully involved with the Environmental Protection Agency's (EPA) Tribal Operations Committee in efforts to establish a national office within EPA and to insure adequate funding for tribal environmental programs.

The Project has continued its work in the development of an Economic Self-Sufficiency Plan for the Klamath Tribe of Oregon. This work includes assisting the Klamath Tribe with the return of ancestral forest lands taken from them during the termination era. The Project is also working with the Turtle Mountain Chippewas of North Dakota to recodify the Tribe's laws. Help is also being provided to the Winnebago Tribe of Nebraska in finalizing an agreement between the Tribe and a gas company, and in formalizing a lease payment to the Tribe.

## Federal Recognition and Restoration

NARF currently represents six 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 administra-

tive 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.

For more than 100 years, these Indian communities have been foreclosed from the benefits of a formal federal relationship with the federal government. Through administrative acknowledgment, NARF is now trying to bridge that gap. NARF is assisting the Little Shell Tribe of Chippewa Indians of Montana, the Mashpee Wampanoag Tribe of Massachusetts, the Houma Tribe of Louisiana, the Shinnecock Tribe of New York, and the Pamunkey Tribe of Virginia in the federal acknowledgment process.

In *Miami Nation of Indians v. Babbitt*, NARF is challenging the Department of Interior's denial of the Miami Nation's petition for federal recognition. An Indiana federal district court rejected the Tribe's claim that they were recognized by an 1854 treaty and have never been terminated. The court is currently considering other Miami claims that the Interior Department erroneously rejected their petition by misapplying criteria that must be met for recognition.

NARF continues to work with Congress on behalf of its federal recognition clients to reform the present acknowledgment process of the Department of the Interior through legislation. Targets of reform include overcoming the increasing problems of bureaucratic delays, unequal treatment in evaluation of peti-

tions, lack of an independent appellate process, and non-standardized criteria. Without Congressional attention to these issues, NARF predicts that its clients will be waiting for federal acknowledgment well into the 21st century. H.R. 4462, a bill to establish an independent Commission on Indian Recognition to be appointed by the President, thereby taking administrative acknowledgment decisions out of the hands of the Bureau of Indian Affairs, was passed by the House but failed to get through the Senate during the 103rd Congress. At the same time, the Department of Interior published final rules for federal recognition in March, 1994. NARF believes that these new rules will be more favorable to recognition clients than the previous rules. ▀



## The Protection of Tribal Natural Resources

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

### Protection of Indian Lands

With the settlement of both the *Catawba Indian Tribe v. South Carolina* and *Catawba Indian Tribe v. United States* cases, NARF is now assisting the Catawba Tribe in implementing the Catawba Indian Land Claim Settlement Act of 1993. The settlement provides for payment to the Tribe of \$50 million over a 5-year period from federal, state, and local governments and private contributors and restores tribal status which had been terminated by the federal government in 1959. The settlement funds will be placed in tribal trust funds dedicated to land acquisition, economic development, education, social services, elderly assistance,

and annual per capita distribution. The settlement also effectuates a comprehensive jurisdictional compact between the Tribe and the State and calls for additional in-kind contributions from the State and local governments.

NARF has represented the Alabama-Coushatta Tribe of Texas since 1981 in its lawsuit against the United States for breach of trust. In *Alabama-Coushatta v. United States*, the Tribe is suing the United States for its failure to protect the Tribe's possession of its 6.5 million acres of aboriginal territory. The Tribe is pursuing a money-damages claim against the United States under a 1983 Congressional Reference resolution that permits the Tribe to bring its claim before the United States Court of Federal Claims under the Indian Claims Commission Act. In 1993, the Court ruled that the Tribe had established aboriginal title to some undetermined portion of the claim area by 1830, but refused to reconsider their previous 1987 ruling that the United States was not liable because the Tribe's aboriginal title had been extinguished by prior sovereigns. NARF's appeal of this ruling is pending.

In *Cheyenne-Arapaho Tribe v. United States*, NARF was successful before the Tenth Circuit Court of Appeals 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 Tribe wants the right to negotiate its own leases at fair, competitive rates. The Court's decision affirmed the federal government's fiduciary duty to manage Indian trust lands prudently and recognized the Tribe's role in securing competi-

tive prices for its resources. The case is currently pending in federal district court and the Court of Federal Claims on the issue of the amount of damages owed to the Tribe.

NARF represents the San Juan Southern Paiute Tribe of Arizona in the consolidated cases of *Masayesva v. Zah v. James* and *Navajo Tribe v. U.S. v. San Juan Southern Paiute Tribe*. The federal district court affirmed the federal government's recognition of the Paiute's status as an Indian tribe and held that NARF had established 75 acres for the Paiute's exclusive use, and that it had shown joint use with the Navajo Tribe of approximately 48,000 acres of disputed land in northern Arizona. NARF has filed a notice of appeal to the Ninth Circuit for the Tribe on their land claim. In the meantime, several negotiating sessions with the Ninth Circuit Court of Appeals Mediator and the Navajo Tribe were held in fiscal year 1994 and an agreement in principle to settle the case was reached which would provide a reservation for the Paiutes. NARF and the Tribe will continue to work out the details of the agreement.

NARF assisted the Potawatomi Nation in Canada in obtaining a forum in the United States for consideration of the merits of the Tribe's claim for compensation for outstanding treaty entitlements. For the past 100 years, the Tribe has been trying unsuccessfully to obtain the compensation it believes is due to it under 12 treaties concluded between the Potawatomi and the United States between 1795 and 1846. These treaties provided for annuities and compensation for cessions of land. NARF was successful in obtaining a congressional reference resolution for the Pottawatomi as the resolution was

passed by the United States Senate in October, 1994. NARF will now prepare for the litigation of the Pottawatomie treaty claim in the United States Court of Federal Claims.

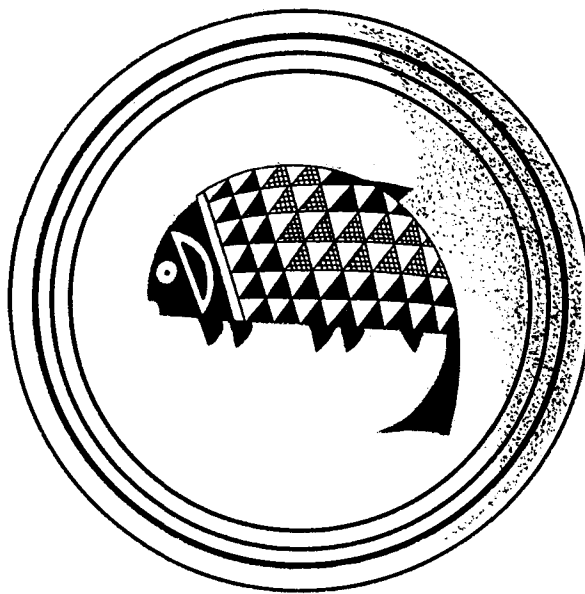
NARF is assisting the White Earth Band of Chippewa Indians in Minnesota in their attempt to secure Congressional legislation that would transfer to the Band 24,200 acres of National Federal Wetlands and 21,480 acres of land within the Tamarac National Wildlife Refuge, all of which are lands that are held by the United States and are located within the boundaries of the Band's reservation.

In other matters, the Stockbridge-Munsee Tribe of Wisconsin is represented by NARF in their claim to former tribal lands in New York State. NARF has assisted the Pamunkey Tribe of Virginia to establish the boundaries of its reservation. The Penobscot Indian Nation of Maine was advised by NARF relative to the Tribe's involvement in a number of Federal Energy Regulatory Commission relicensing proceedings in the Penobscot River basin.

## Water Rights

Under the precedent established by the United States Supreme Court in 1908 in the case of *Winters v. United States* and confirmed in 1963 in *Arizona v. California*, Indian tribes are entitled under federal law to sufficient water for present and future needs, with a priority date at least as early as the establishment of their reservations. These tribal reserved water rights are superior to all state-recognized water rights created after the tribal

priority date, which in most cases will give tribes valuable senior water rights in the water-short West. Unfortunately, most tribes have not utilized their reserved water rights and most of these rights are unadjudicated or unquantified. As a result, tribal water claims constitute the major remaining water allocation issue in the West, with approximately 50 lawsuits pending in the western states involving these claims. The major need in each case is to define or quantify the exact amount of water to which each tribe is entitled. NARF pursues



these claims on behalf of tribes through litigation or out-of-court settlement negotiations.

NARF is asserting the Chippewa-Cree Tribe's rights to water flowing on and through its reservation in Montana. The Tribe, the Montana Reserved Water Rights Compact Commission, and the federal government continued formal negotiations to settle the Tribe's reserved water rights. The Tribe has submitted a third revised settlement proposal to address water allocation issues on the Big Sandy, Box Elder and Beaver Creek drainages. The

revised proposal calls for the construction of a domestic water pipeline from an off-reservation federal reservoir to the reservation. The Tribe is also proposing that the State convey a ten-year option to purchase state lands which are contiguous to tribal land.

In *United States and Klamath Tribe v. Oregon*, the Klamath Tribe, upon the threat that it will forever waive its water rights, is being forced by the State of Oregon to quantify its reserved water rights in order to protect its treaty hunting and fishing rights. Protection of this irreplaceable natural resource is crucial to the cultural survival of the Tribe.

NARF continues to assist the Klamath Tribe in obtaining and reviewing the hydrological, biological, and other studies necessary to quantify the Tribe's reserved water rights. NARF also represents the Tribe in an ongoing court battle to determine whether state or federal courts have jurisdiction over this important issue, which is pending in the Ninth Circuit Court of Appeals.

This complex case, which affects the environmental integrity of thousands of miles of habitat living on the banks of the Upper Klamath River Basin, has involved close coordination with officials from the United States Departments of Interior and Justice, who, as trustee, are asserting water rights claims on behalf of the Tribe.

NARF is assisting the Tule River Tribe of California in validating their claim to surface and ground water. The Tribe's water rights have never been adjudicated and its domestic water system, which serves 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 assisting the Tribe in establishing a Tribal Water Rights Office, which is an essential component for presenting and settling the Tribe's water rights claim. NARF finalized a conceptual water development plan for the Tule River Reservation that would maintain a water delivery storage system to provide enough water to the Tribe to develop a sustainable homeland.

NARF is also assisting the Nez Perce Tribe of Idaho to secure reserved water rights in the Snake River Basin. The United States and the Tribe filed water rights claims in state court in 1993 hoping to secure sufficient water for instream flows to protect tribal fisheries and for domestic and irrigation uses. The Tribe, the federal government and the State are now involved in negotiations.

NARF continued implementing the Fort McDowell Indian Community Water Rights Settlement Act of 1990 by finalizing the necessary agreements and drafting of leases of Central Arizona Project water received by the Tribe under the settlement.

In September, 1994, NARF successfully co-sponsored a conference on Indian water law with Stanford University Law School. Also, in May, NARF participated in an Indian water rights conference for the Acoma Pueblo, the Laguna Pueblo and Canonicito Navajo. These conferences have grown out of interest among Indians and non-Indians in resolving Indian water rights issues through out-of-court settlements.

## Hunting and Fishing

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

In *Katie John v. United States*, two Athabascan elders and long-time NARF clients, who were denied their right to subsistence fishing by the State of

subsistence priority applied to all navigable waters in the State of Alaska and that the State of Alaska lacks jurisdiction to manage subsistence fishing in navigable waters. Navigable waters include nearly all lakes and rivers, as well as coastal waters three-miles offshore. The State of Alaska and the United States have appealed this decision to the Ninth Circuit Court of Appeals.

In *Elim v. State of Alaska*, Norton Sound villages claim that the False Pass June fishery is unlawfully intercepting chum salmon bound for Norton Sound streams and subsistence users.



Alaska and United States governments, achieved a major victory in the federal district court for Alaska. The elders were joined in the case by the Mentasta Village Council and the Alaska Federation of Natives, also represented by NARF, in the argument that the federal government has the obligation to provide subsistence fishing rights in all navigable waters in Alaska.

In March, 1994, the federal district court ruled that the federal

NARF filed a motion in state court seeking to enjoin the Commissioner of Fish and Game and compel him to take steps to minimize the harvest of chum salmon. The court declined the motion and referred the decision of the final chum cap to the Governor of Alaska for resolution. The Governor chose a cap of 350,000. Cross-petitions for review were then filed with the Alaska Supreme Court and the Court set aside the order referring the matter



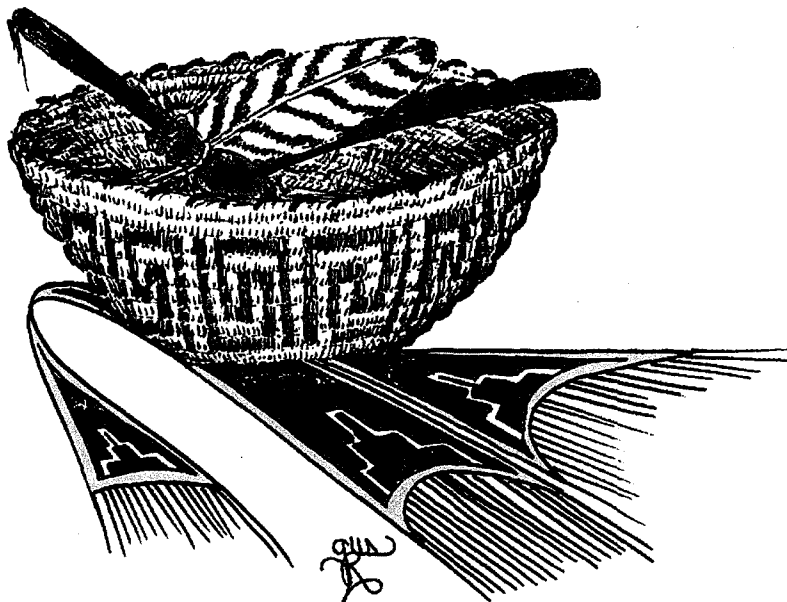
to the Governor which resulted in the cap being raised to 700,000 for the 1994 season.

In the case *Nome Eskimo Community v. Babbitt*, NARF is assisting Nome Eskimo Community in asserting its rights and authority to manage its historic and traditional subsistence fishery. The Tribe has claimed aboriginal title in the Outer Continental Shelf beyond the State's three mile limit. This case is currently pending before the United States Ninth Circuit Court of Appeals where NARF has filed its opening brief. The results of this case will have a direct impact on other cases, such as the eleven Native villages in the Norton Sound area of Alaska who are seeking the establishment of their aboriginal right to hunt and fish on the Outer Continental Shelf in *Gambell v. Babbitt*.

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. NARF argues that the Board of Game violated the state subsistence law

by failing to provide an adequate hunting season to obtain moose for subsistence uses, and seeks to establish that the subsistence priority include consideration of customary and traditional uses of a resource.

NARF assisted the Skokomish Tribe in the State of Washington to intervene in the City of Tacoma's proceeding for the relicensing by the Federal Energy Regulatory Commission of the Cushman Dams on the Skokomish River. The Skokomish Tribe holds treaty reserved fishing rights in the Skokomish River. The Cushman Dams, built in 1926 and 1930, have effectively eliminated all salmon habitat for about 17.5 miles above and below the dams. The Tribe seeks compensation for damage done and mitigation measures to restore the Tribe's fishery. The Tribe has initiated negotiations with the City of Tacoma through use of preliminary data which shows that the dams can be operated to put water back into the river and still produce hydropower for the City of Tacoma at a profit. ❖



**The Tanana Chiefs Conference, Inc.**



**upper left**  
Peter John of Minto, AK, Traditional Chief of the tribes of the Tanana Chiefs Conference



**lower left**

Peter John, right, of Minto, AK - Traditional Chief for Tanana Chiefs Conference region tribes. David Salmon, left, of Chalkyitsik, AK - Second Traditional Chief for all TCC-region tribes.



**upper right**

E. Ann Edwards of Alatna, AK cuts fish.



**middle right**

Will Mayo, president of Tanana Chiefs Conference, addresses 1992 Alaska Federation of Natives Convention.

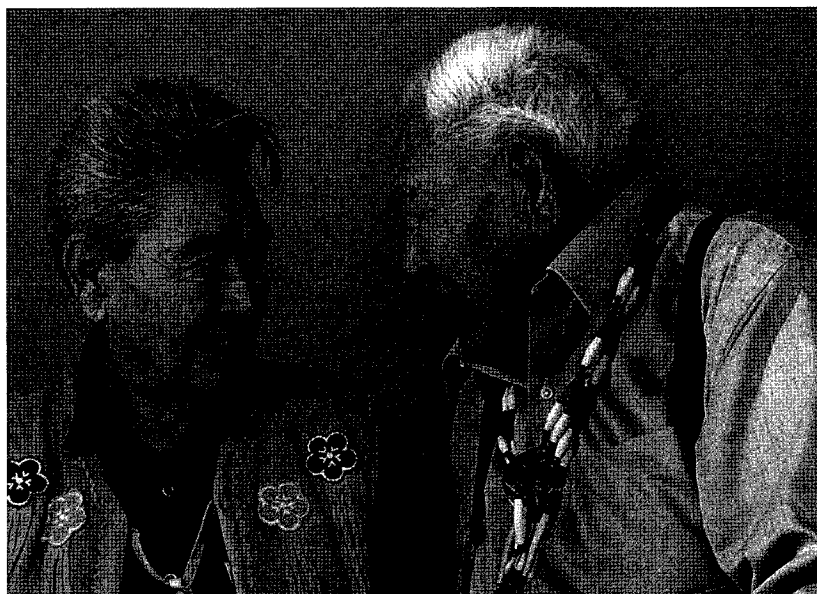
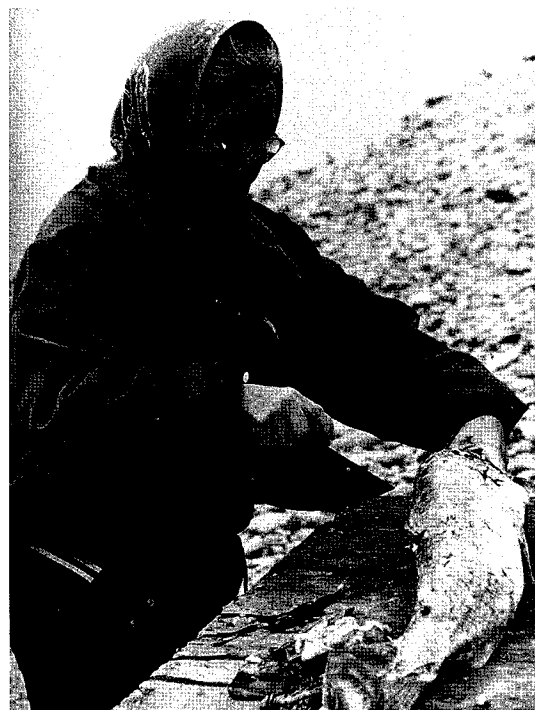


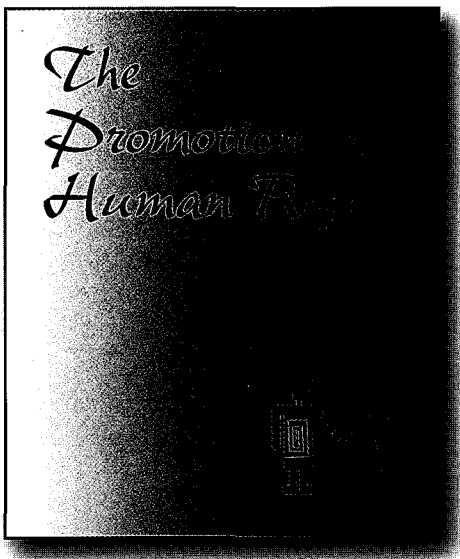
**lower right**

Lindberg Bergman of Allakaket, AK hangs fish to dry.



Photographs: Tom Thompson





In 1994, NARF provided assistance in several matters involving religious freedom and education. NARF, on behalf of its clients, seeks to enforce and strengthen laws which are designed for the unique needs and problems of Native Americans in this area.

## Religious Freedom

Most Americans take freedom of worship for granted, as a pillar upon which our nation was founded. Religious freedom has always been given a preferred place in American concepts of individual liberty. However, there has been a long history of government suppression of traditional religions practiced by American Indians that is unprecedented for any other religion in our nation. The suppression of traditional Indian religions began in 1492 and has continued to the present, ranging from the government's outright prohibition of Indian religious practices in the late 19th and 20th centuries to current government developments which threaten to destroy sacred sites.

In 1978, Congress enacted the American Indian Religious Freedom Act (AIRFA) in an effort to create a "policy" that reversed

this deplorable treatment. Since the enactment of AIRFA, many people have expressed the sentiment (or fear) that it lacked any "teeth" for enforcement. While it was the intention of Congress to have traditional religious practices protected, federal land management agencies have ignored AIRFA altogether when making decisions that impacted American Indian religious sites.

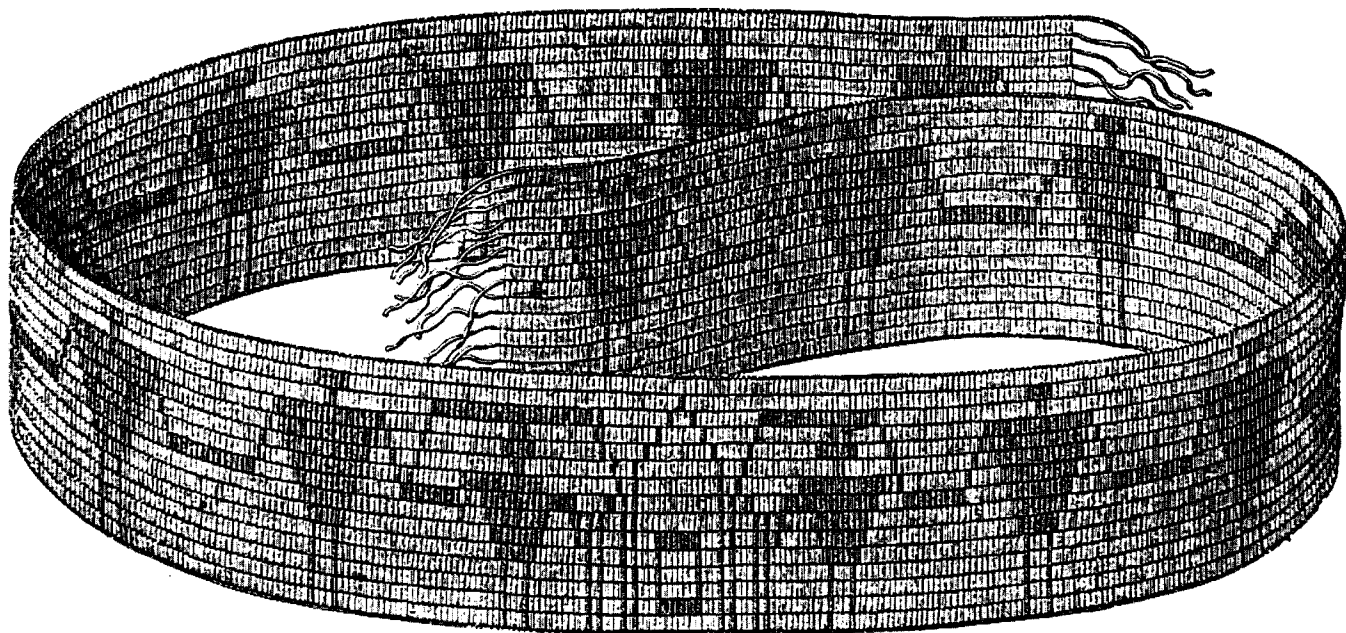
Since then, two United States Supreme Court decisions attested to the ineffectiveness of AIRFA. In 1988, the United States Supreme Court ruled that construction of a logging road through an area held sacred by the Karok, Tolowa and Yurok peoples of California, would not violate the First Amendment rights of these American Indians whose spiritual lives are inextricably linked to that area (*Lyng v. Northwest Indian Cemetery Protection Association*). In effect, the Court found that the public interest, that is, six miles of paved roads and the timber cutting it would facilitate, holds greater weight and warrants greater protection than the religious lives of peoples who have for hundreds of years used this sacred mountain area for the ceremonies which they believe renew the world. Two years later, the United States Supreme Court found that the possession and sacramental use of peyote by members of the Native American Church, an Indian religion of pre-Columbian antiquity, was likewise not necessarily protected by the First Amendment's free exercise clause (*Employment Division, Department of Human Resources of Oregon v. Smith*). Similarly, the United States Supreme Court restricted the free exercise clause as it applies to prisoners, leaving prisoners' religious rights to the discretion of prison officials

(*O'Lone v. Estate of Shabazz*).

Because religion is the foundation that holds Native communities and cultures together, religious freedom is a NARF priority issue that cuts across many of its priorities, such as tribal existence, sovereignty, and human rights. As a result, NARF has utilized its resources to protect First Amendment rights of Native American students, prisoners, members of the Native American Church, and tribal rights in repatriating burial remains, and protection of sacred sites. Since Native American religious freedom affects basic cultural survival of Indian tribes, NARF believes that American law and social policy must provide adequate legal protection.

To combat this injustice, NARF and other Native organizations formed the American Indian Religious Freedom Coalition (which is presently composed of over 100 Indian tribes, Native organizations, religious groups, environmental organizations and human rights groups) to develop and support federal legislation to overturn these Supreme Court cases and restore Native Americans to the protections of the First Amendment.

In representing the Native American Church of North America, NARF played a key role in the passage of legislation in 1994 that exempts the religious use of peyote by Indians in bona fide traditional ceremonies from controlled substance laws of the federal and state governments. It also prohibits discrimination against Indians for such religious use, including the denial of otherwise applicable benefits under public assistance programs. The religious freedom legislation was introduced by Congressman Bill Richardson (D-N.M.), and was



passed by unanimous vote and consent by both the House and Senate. On October 6, 1994, President Clinton signed the bill into law, Public Law 103-344. This bill closes the door to governmental prohibition of sacramental use of peyote and effectively reverses the *Smith* decision.

In 1993, Senator Daniel Inouye, Indian Affairs Committee Chairman, and other co-sponsors introduced the Native American Free Exercise of Religion Act of 1993 (S. 1021) aka "NAFERA". In 1994, NAFERA was replaced with S. 2269, Native American Cultural Protection and Free Exercise of Religion Act of 1994. This replacement bill was introduced to reflect progress made pursuant to year-long negotiations among the Administration, the Senate Committee on Indian Affairs, and the American Indian Religious Freedom Coalition. S.2269 did not advance through the 103rd Congress and is now expected to be reintroduced in the 104th Congress.

NARF represents the Pawnee Tribe of Oklahoma in three separate repatriation cases as discussed below. The first case,

*Nebraska State Historical Society v. Pawnee Tribe of Oklahoma v. State of Oklahoma*, was filed against the Tribe by the Nebraska State Historical Society in state court claiming that the Historical Society was not subject to the

Nebraska

Open Records law, as a tactic to avoid its repatriation duties under the Unmarked Human Burial Sites and Skeletal Remains Protection Act. The second case is a Pawnee repatriation claim against the Nebraska State Historical Society under the Native American Graves Protection and Repatriation Act ("NAGPRA"). The third case is a Pawnee repatriation claim against the Smithsonian Institution's Natural History Museum under the National Museum of the American Indian Act.

A comprehensive settlement was reached in the two Nebraska cases. The Historical Society had sought to block the Tribe's access to Historical Society records under the public records law. The Tribe sought the records to support additional tribal repatriation claims to Pawnee human remains and burial goods held illegally by the Historical Society. The Historical Society had appealed a state court decision that ordered them to provide the museum records to the Tribe. The case was pending before the Nebraska Supreme Court while settlement negotiations were conducted. As a result of these

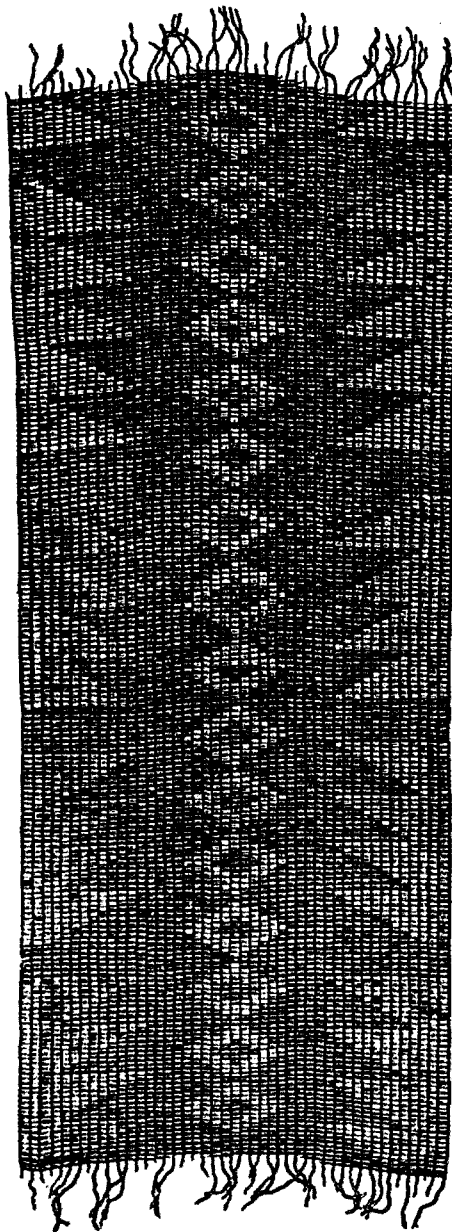


Photograph: Western History Collections, University of Oklahoma Library

negotiations, a comprehensive settlement was reached in January, 1994, whereby the litigation pending before the Nebraska Supreme Court was dismissed and legislation was enacted that recognized the Historical Society as a state agency, thus making the Society comply with the state public records law. The settlement also called for the repatriation of the remains and burial goods of 400-500 deceased Pawnees to the Pawnee Tribe for reburial in accordance with tribal religious traditions.

NARF is continuing to represent the Pawnee Tribe in its repatriation claim against the Smithsonian Institution. The Tribe has had a pending request for the return of over 30 remains from the Smithsonian since August 1988 without any response or effort to negotiate from the Smithsonian. Since this time, another 17 remains have been identified as being ancestral to the Pawnee Tribe. NARF has continued to submit evidence of claims to the Smithsonian on behalf of the Tribe which document the Tribe's cultural affiliation to the remains in question.

NARF fought long and hard for the passage of the Native American Graves Protection and Repatriation Act of 1990. One of the key provisions of the Act was an authorization for federal appropriations to provide the necessary financial resources to tribes and museums to facilitate repatriation. In order to implement this provision, NARF continued to represent the Larsen Bay Community in Alaska in working with Congress to provide funding for tribes and museums. During 1994, Congress appropriated \$2.3 million for repatriation grants to tribes and museums under the budget of the National Park Service. NARF will



continue working towards increasing these appropriations.

In *Harjo v. Pro-Football*, various concerned Indian individuals and Indian organizations have filed a petition with the United States Patent and Trademark Office's Trademark Trial and Appeal Board against the Washington Redskins football team seeking cancellation of the Redskin trademark on the ground that the use of the term is offen-

sive and an inappropriate subject matter for the federal trademark register. NARF represents the National Congress of American Indians, a national organization of 160 Indian tribes, in this matter. In March, 1994, the Trademark Trial and Appeal Board ruled in favor of the Native American coalition and against the Washington Redskins organization striking the affirmative defenses asserted by the Washington football organization, paving the way for a decision on the merits.

## Education

NARF has implemented an Indian Education Legal Support Project with its central theme of "tribalizing education." The goal is to give tribes more control over their most precious resource, their children, and help them to improve Indian education and tribal societies. Rather than focusing on traditional civil rights work such as racial discrimination claims, NARF's efforts are devoted to confirming the unique sovereign rights of Indian tribes based on principles of Indian law. To date these rights and principles have not been addressed adequately in the context of education.

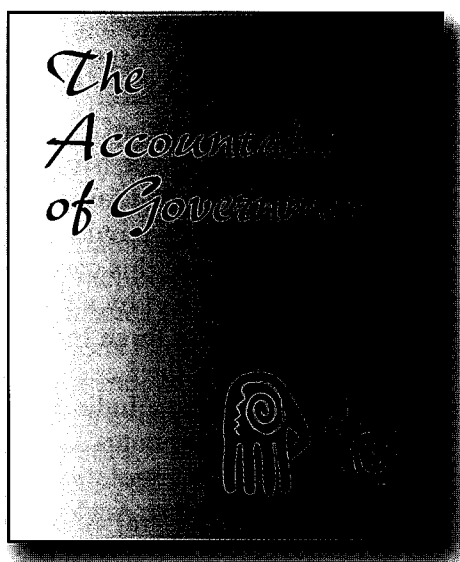
Under the Project, NARF strives to strengthen tribal rights in education. This means helping tribes gain control of the formal education of their members, regardless of the government that primarily provides the education — federal, state, or tribal. As NARF continues to develop and successfully promote cutting-edge legal theories about tribal control of education, work continues in developing tribal education laws, such as education codes, policies, and



plans, and developing tribal-state agreements and compacts as necessary to implement tribal laws; reforming federal and state education laws and policies; and litigation to enforce tribal rights in education.

NARF is continuing to represent the Rosebud Sioux Tribe of South Dakota in obtaining direct federal funding for their education department, exploring other means of maximizing federal education funding for tribes, developing language that would treat tribes as states for purposes of federal education laws, and working on amending the Impact Aid Laws of 1950 to strengthen tribal rights regarding Impact Aid funding. NARF is representing the Fort Peck Tribes (Assiniboine and Sioux) of Montana on developing their tribal education laws.

NARF is also representing the American Indian Higher Education Consortium (AIHEC) on changing regulations proposed by the Secretary of Education under the Higher Education Amendments of 1992 that had allowed states to review the 29 tribally-controlled Indian community colleges for Title IV student financial aid program eligibility. Through negotiation, the Department of Education agreed in July, 1994 that the Indian colleges cannot be subjected to state jurisdiction for this review and are arranging for federal or tribal review. NARF also assisted AIHEC in gaining Administration support for legislation that Congress passed in October, 1994 which gives "land grant" status to the Indian colleges, thus opening the door to new sources of funding and programs. ■



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.

NARF represents the Native Village of Noatak in *Noatak v. Blatchford*. This case involves a challenge to a state administrative decision that there are no federally recognized tribes in Alaska and that it is unconstitutional to revenue share with tribes to the exclusion on non-Native groups. The United States Supreme Court in 1991 held that the 11th Amendment barred the Tribe's claim insofar as it sought past monetary damages, but remanded the case for a determination of whether any claims for prospective relief were pending. The district court ruled that the case was moot and that, alternatively, any other claims were barred by the State's 11th Amendment immunity. The case is on appeal to the Ninth Circuit Court of Appeals.

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 private developers. The allottees alleged that the federal government had been negligent in administering the Act, thereby squandering the oil and gas resources and royalties of Oklahoma allottees. The federal district court approved a settlement agreement in 1991 in favor of the individual Indian allottees. NARF continues to monitor the implementation of the agreement by the Department of the Interior Minerals Management Service (MMS). NARF is also a member of a federal working group charged with rewriting the MMS' federal oil and gas valuation regulations for Indian leases and land.

NARF and the Native Hawaiian Legal Corporation are challenging the State of Hawaii's 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 and use of Native Hawaiians. The case, *Pele Defense Fund v. Estate of James Campbell*, went to trial in August, 1994. It will establish precedent in determining Native Hawaiian hunting and gathering access rights on those former trust lands held by the State of Hawaii. Post trial briefing has now been completed and a decision is now pending.

NARF filed an amicus curiae brief in *Malone v. Bureau of*

*Indian Affairs* before the Ninth Circuit Court of Appeals. The brief was filed on behalf of the National Indian Education Association, the California Rural Indian Health Board, the California Urban Indian Health Council and the Tule River Tribe. The case involves efforts by the Bureau of Indian Affairs (BIA) to exclude California Indians who are on the California Judgment Fund Distribution Roll from eligibility for higher education grant benefits. This group had been eligible since the BIA first promulgated the eligibility criteria in 1957, but that eligibility has now been changed without proceeding through formal rulemaking under the Administrative Procedures Act. In October, 1994, the Ninth Circuit ruled that the BIA violated federal policy by not proceeding through formal Federal Register rulemaking with new eligibility criteria. The Court, however, did not rule whether the BIA had to write the new rules so as to include California Indians, or to reinstate benefits to plaintiffs before the new rules are declared, but strongly suggested that rules excluding these Indians would violate the "broad language of the Snyder Act."

NARF also filed an amicus curiae brief in the Minnesota Supreme Court and the Minnesota

Court of Appeals on an Indian Child Welfare Act case, *Matter of S.E.G.*. In a strong decision reversing the lower court of appeals and trial court, the Minnesota Supreme Court ruled favorably for the Indian tribes and Indian foster mother in this case which involved an effort by a non-Indian family to adopt three Indian children members of the Leech Lake Band of Chippewa Indians of Minnesota. The lower court's ruling was held to be a violation of the Indian Child Welfare Act's placement preference section.

The Turtle Mountain Band of Chippewa Indians, the Chippewa-Cree Tribes of the Rocky Boys Reservation, and the Little Shell Band of Chippewas, and other Pembina Indians, received damages awards in the Indian Claims Commission in 1964 and 1980. The Pembina Judgment Fund was partially distributed in 1988 and the undistributed portion is still held in trust by the federal government. The Tribes have compiled evidence and have filed a case in the United States Court of Federal Claims asserting that the federal government has mismanaged these funds by using improper investment practices. The Pembina litigation has been stayed to allow, by Congressional order, the Bureau of Indian Affairs to reconcile its trust fund accounts. 🐾

## *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**

Since 1972 the Indian Law Support Center (ILSC) of the Native American Rights Fund has received funding from the Legal Services Corporation to serve as a national support center on Indian law and policy for the national Indian legal services community and other basic field programs serving Native American clients on Indian law related matters. Since its inception literally hundreds of requests for assistance in all areas of Indian law have been answered annually. Because of the unique and complex nature of Indian law and the geographic remoteness of Indian legal services programs, complicated by the difficulty of attracting and maintaining experienced staff, ILSC performs a vital and cost-effective support function to Indian programs



and other legal services providers across the country.

In 1994, ILSC provided assistance to the Indian legal services community through letters and telephone advice on Indian law problems, legal research, archival research, direct field consultation, review of draft pleadings, legal analysis of legislation, training events on Federal Indian law issues, locating expert witnesses and other consultants, and, co-counsel in litigation. In addition, ILSC works with the National Indian Law Library in providing Indian and field legal services programs legal and educational materials.

ILSC also publishes a monthly newsletter, *The Reporter*, and a variety of manuals that include: *Manual For Protecting Indian Natural Resources*; 1988 *Update to The Manual for Protecting Indian Natural Resources*; *A Self-Help Manual For Indian Economic Development*; *Handbook Of Federal Indian Education Laws*; 1986 *Update To Federal Indian Education Laws Manual*; *A Manual On The Indian Child Welfare Act And Laws Affecting Indian Juveniles*; 1992 *Update to the Indian Child Welfare Act and Laws Affecting Indian Juveniles Manual*; and, *Prison Law and the Rights of Native Prisoners*.

The ILSC Project Advisory Committee, the Center's governing body, consists of the following members: Diane Avery, Esq. (Mandan/Hidatsa); Jeff Davis, Esq. (Turtle Mountain Chippewa); Eve Kennedy (Oneida), Vice-Chairperson; Katherine Lowley (Coeur D'Alene); Rose Mary Narcisse (Umatilla); Leo Sheppard, Sr. (Navajo), Chairperson; Thomas Shipps, Esq.; Allan Toledo, Esq. (Jemez Pueblo); Carey Vicenti, Esq. (Jicarilla Apache); and, Jeanette Wolfley, Esq. (Navajo/Shoshone-Bannock).

## The National Indian Law Library

The National Indian Law Library (NILL) is the only law library specializing in legal practice materials which are essential for practitioners of Indian law. Thousands of legal pleadings and opinions from virtually every major Indian law case since the 1950's exists within the NILL collection. These pleadings, the crux of NILL, are deeply appreciated by those familiar with traditional law library resources.

NILL houses the only comprehensive lending collection of past and present Tribal government documents. In the seven years since its inception, the Tribal Government Collection consisting of constitutions, codes, ordinances, resolutions, by-laws and charters has surpassed 750 documents. It provides an invaluable partnership network for those involved in the drafting, correcting and revising of Tribal government documents.

NILL actively collects Indian law related documents. These documents cover a spectrum which includes books, pamphlets, federal government and agencies documents, state government and agencies documents, law review articles, scholarly reports, journal articles, newspaper articles, student reports, and conference and seminar papers.


Access to the contents of the NILL collection is provided through a computerized database. Numerous access points are assigned each record entered in the database. In addition to the basic author, title and subject headings, other access points include the Tribe involved, the jurisdiction, the parties to the

lawsuit, the judges, the attorneys, the citation, the docket number and the NILL subject headings.

The NILL collection has proven to be a unique resource for those working in the arena of federal Indian law. In addition it is invaluable for attorneys and legal advocates working in geographically isolated areas throughout Indian country. These NILL clients make ready use of the telephone, telefax and postal service to acquire legal reference assistance since many of them are without access to even the most basic law library materials.

## Other Activities

In addition to its major projects, NARF staff continues to be 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. 



# Native American Rights Fund Acknowledgments

## FOUNDATIONS/CORPORATIONS

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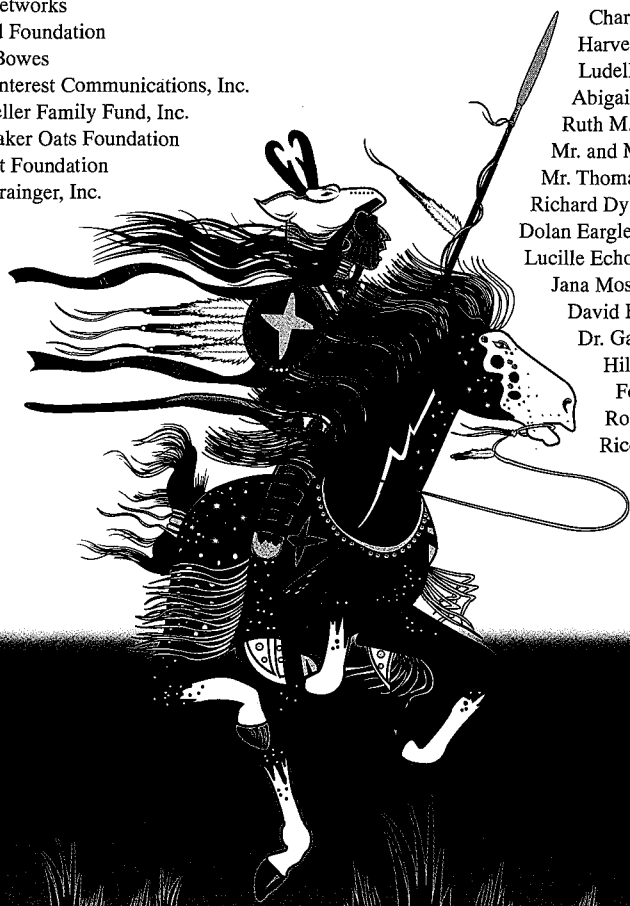
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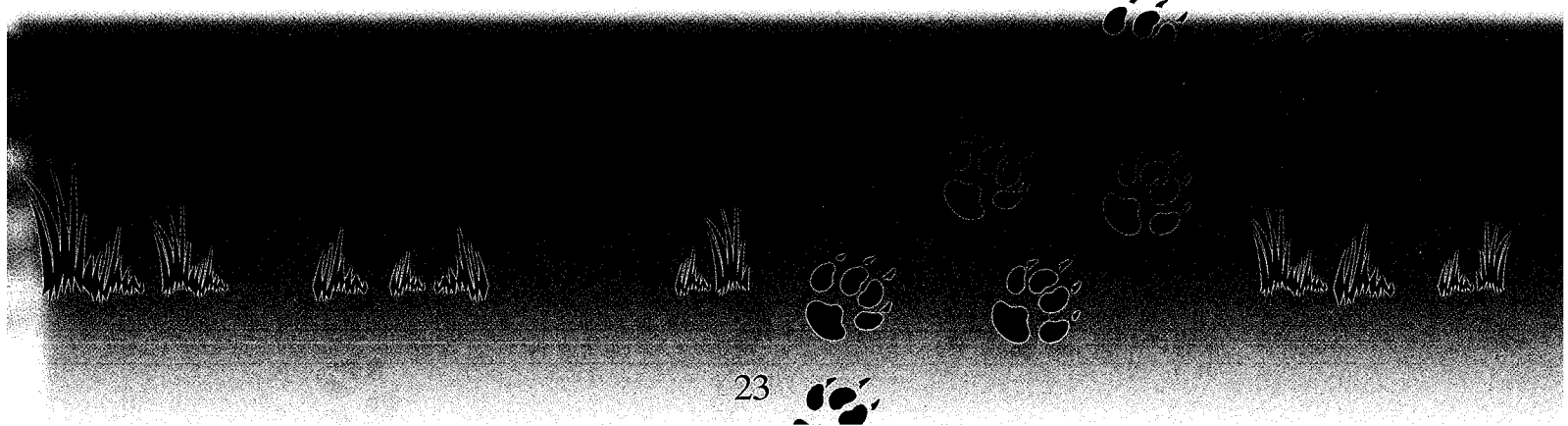
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### **FEDERATED WORKPLACE CAMPAIGNS**

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 \$156,000 to NARF in 1994.

### **FEDERAL PROGRAMS**

Administration for Native Programs  
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# Acknowledgement of Contributions: Fiscal Year 2000

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## Report of Independent Accountants

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

We have audited the accompanying balance sheet of Native American Rights Fund, Inc. ("NARF") as of September 30, 1994, and the related statements of support and revenue, expenses, capital additions and changes in fund balances and cash flows for the year then ended. These financial statements are the responsibility of NARF's management. Our responsibility is to express an opinion on these financial statements based on our audit. Other auditors, whose report dated December 15, 1993, expressed an unqualified opinion, previously audited and reported upon the financial statements for the year ended September 30, 1993, totals of which are included for comparative purposes only.

We conducted our audit in accordance with generally accepted auditing standards. Those standards 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. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of NARF as of September 30, 1994, and the results of its operations and its cash flows for the year then ended in conformity with generally accepted accounting principles.

Denver, Colorado, December 30, 1994

*Coopers & Lybrand LLP*

## 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.

NARF prepares its financial statements in accordance with generally accepted accounting principles as prescribed by the American Institute of Certified Public Accountants Audit Guide for Audits of Certain Nonprofit Organizations.

The significant accounting policies followed in the preparation of these financial statements are described below.

#### Fund Accounting:

Separate funds have been established according to the restrictions, nature and purposes of the funds as follows:

**Current Funds - Unrestricted** - Represents unrestricted resources available to NARF for support of its programs. Contributions and donations from unrestricted sources are generally recognized when received. Unrestricted donations of marketable securities or other in-kind contributions are recorded as revenue at their estimated fair market value at the date of contribution.

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

**Current Funds - Non-ILSC Restricted** - Represents support in the form of restricted government and foundation grants excluding that received from Legal Services Corporation ("LSC"). 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 or other expenditures 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.

**Current Funds - ILSC** - Represents restricted support from LSC for operations of the Indian Law Support Center ("ILSC").

**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. Interest and earnings of the endowment fund, reinvested in the endowment mutual funds, are reported in the current fund investments and support and revenues.

**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.

Property and equipment acquired solely with 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.

#### Donated Art:

During fiscal 1990, NARF received and recorded at their estimated fair value, donations of Native American art in collaboration with an association of Native American artists. A portion of the art was sold during fiscal 1993 and 1994. The remaining art was written off at September 30, 1994.

#### 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-ILSC restricted and unrestricted funds is not maintained in the accounting records. The restricted cash of the ILSC fund represents cash received from the LSC and deposited in the general account, which has not yet been expended. 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 difference between restricted assets received and deposited in the current fund, and the actual expenditures of those funds in the restricted fund.

#### 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,

(continued on next page)

# NATIVE AMERICAN RIGHTS FUND, INC. BALANCE SHEETS

at September 30, 1994 with comparative totals for 1993

	1994			1993		
	<div> <div>Currents Funds</div> <div> <div>The</div> <div>NARF 21st</div> <div>Century</div> <div>Endowment</div> <div>Fund</div> </div> </div>			<div> <div>General</div> <div>Fixed</div> <div>Asset Fund</div> </div>		
	Unrestricted	Restricted	ILSC		Total	Total
ASSETS	All Funds	All Funds			All Funds	All Funds
Cash and cash equivalents	\$ 361,598	\$ -	\$20,578	\$ -	\$ 382,176	\$ 49,569
Cash escrow accounts	14,112	-	-	-	14,112	-
Marketable securities	1,201,473	-	-	1,007,898	2,209,371	2,221,020
Grants receivable	-	783,541	6,588	-	790,129	671,899
Bequests receivable	432,500	-	-	-	432,500	269,000
Other receivables, net of allowance of \$51,000 in 1994	371,259	-	-	-	371,259	749,611
Employee advances	15,539	-	-	-	15,539	31,796
Donated art	-	-	-	-	-	99,525
Prepaid expenses and other assets	33,451	-	-	-	33,451	32,044
Interfund receivable (payable)	140,835	(140,835)	-	-	-	-
Property and equipment, at cost:						
Land and buildings	-	-	-	-	313,937	313,937
Improvements to land and buildings	-	-	-	-	181,757	181,757
Office equipment and furnishings	-	-	17,411	-	335,081	438,247
Professional library	-	-	-	-	193,198	154,730
Less accumulated depreciation	-	-	(11,612)	-	(572,028)	(636,667)
Total assets	<u>\$2,570,767</u>	<u>\$642,706</u>	<u>\$32,965</u>	<u>\$1,007,898</u>	<u>\$451,945</u>	<u>\$4,706,281</u>

## LIABILITIES AND FUND BALANCES

Accounts payable	\$ 274,231	\$ 8,701	\$ -	\$ -	\$ -	\$ 282,932	\$ 346,538
Other accrued expenses	109,958	-	-	-	-	109,958	241,981
Accrued vacation pay	156,776	-	-	-	-	156,776	155,701
Deferred revenue	1,262,912	634,005	27,166	-	-	1,924,083	855,708
Mortgages and notes payable	-	-	-	-	26,680	26,680	53,411
Fund balances	766,890	-	5,799	1,007,898	425,265	2,205,852	2,923,129
Commitments	-	-	-	-	-	-	-
Total liabilities and fund balances	<u>\$2,570,767</u>	<u>\$642,706</u>	<u>\$32,965</u>	<u>\$1,007,898</u>	<u>\$451,945</u>	<u>\$4,706,281</u>	<u>\$4,576,468</u>

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

(continued from previous page)

expenses, capital additions and changes in fund balances. Accordingly, certain costs have been allocated among the programs and supporting services benefited.

### Professional Staff:

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

### Fund Raising:

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

In 1994 and 1993, NARF incurred joint costs of \$606,210 and \$656,634, respectively, for informational materials and activities that included fund raising appeals. These costs were allocated between program and fund raising expenses as follows:

	1994	1993
Program expenses	\$374,270	\$393,980
Fund raising expenses	231,940	262,654
	<u>\$606,210</u>	<u>\$656,634</u>

### Property and Equipment:

Property and equipment are recorded at cost and depreciation is provided over the estimated useful lives utilizing the straight-line method for buildings (25 years), the professional library (30 years), copiers (5 years), computer hardware and software (5 years), and for other property and equipment (10 years). Maintenance and repairs are expensed as incurred. When properties are retired or disposed of, the related costs and accumulated depreciation are removed from the respective accounts and the gain or loss on disposition is reflected in the results of operations for the period.

Fixed assets with cost and accumulated depreciation of \$148,398 and \$107,040 respectively, included on the detail listing, could not be located during a physical inventory and were, therefore, written-off during 1994.

### Donated and Contributed Services:

No amounts have been recorded in these financial statements for the value of donated or contributed services performed by volunteers.

### 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 paid during fiscal years 1994 and 1993 was \$3,481 and \$4,981, respectively.

### Reclassifications:

Certain reclassifications have been made to the September 30, 1993, financial statements to conform to the 1994 presentation. These reclassifications had no effect on the excess of support and revenue over expenses after capital additions.

### 2. Marketable Securities:

Marketable securities are presented in the financial statements in the aggregate at the lower of cost or market.

	Cost	Market
Current unrestricted fund	\$1,215,866	\$1,201,473
Endowment fund	1,113,551	1,007,898
	<u>\$2,329,417</u>	<u>\$2,209,371</u>

The activity in the endowment fund for the year ended September 30, 1994 is as follows:

Endowment fund account, lower of cost or market, September 30, 1993	\$1,015,000
Plus:	
Contributions received	100,000
Net earnings on investments	58,604
	1,173,604
Less:	
Loss on sale of investments	(1,449)
Unrealized decline in value	(105,653)
	1,066,502
Net earnings transferred to current fund	(58,604)
Lower of cost or market, September 30, 1994	<u>\$1,007,898</u>

(continued on next page)

**NATIVE AMERICAN RIGHTS FUND, INC.**  
**STATEMENTS OF SUPPORT AND REVENUE, EXPENSES, CAPITAL ADDITIONS AND CHANGES IN FUND BALANCES**  
for the year ended September 30, 1994 with comparative totals for 1993

	1994					1993	
	Currents Funds Non-ILSC			The NARF 21st Century Endowment Fund	General Fixed Asset Fund	Total All Funds	Total All Funds
	Unrestricted	Restricted	ILSC				
Support and revenue:							
Governmental grants	\$ -	\$1,776,907	\$ 324,557	\$ -	\$ -	\$2,101,464	\$2,309,920
Foundation and trust grants	-	1,067,202	-	-	-	1,067,202	852,174
Contributions	1,691,478	2,000	-	-	-	1,693,478	2,966,349
Legal fees	376,702	-	-	-	-	376,702	1,068,279
Other	118,801	-	6,836	-	-	125,637	132,714
Net gain on investment transactions	51,951	-	-	58,604	-	110,555	-
Total support and revenue	<u>2,238,932</u>	<u>2,846,109</u>	<u>331,393</u>	<u>58,604</u>	<u>-</u>	<u>5,475,038</u>	<u>7,329,436</u>
Expenses:							
Program services:							
Litigation and client services	2,002,287	1,906,803	226,638	-	-	4,135,728	4,626,704
National Indian Law Library	156,663	149,192	17,733	-	-	323,588	307,140
Total program services	<u>2,158,950</u>	<u>2,055,995</u>	<u>244,371</u>	<u>-</u>	<u>-</u>	<u>4,459,316</u>	<u>4,933,844</u>
Support services:							
Management and general	383,346	330,896	77,559	-	-	791,801	858,701
Fund raising	377,679	321,650	-	-	-	699,329	808,290
Total support services	<u>761,025</u>	<u>652,546</u>	<u>77,559</u>	<u>-</u>	<u>-</u>	<u>1,491,130</u>	<u>1,666,991</u>
Interfund cost allocations	(43,628)	43,628	-	-	-	-	-
Bad debt expenses	51,000	-	-	-	-	51,000	-
Loss on disposal of property and equipment	-	-	-	-	41,358	41,358	-
Loss on disposal of donated art	88,396	-	-	-	-	88,396	-
Depreciation	-	-	2,370	-	51,643	54,013	-
Total expenses	<u>3,015,743</u>	<u>2,752,169</u>	<u>324,300</u>	<u>-</u>	<u>93,001</u>	<u>6,185,213</u>	<u>6,600,835</u>
Excess (deficiency) of support and revenue over expenses before capital additions	<u>(776,811)</u>	<u>93,940</u>	<u>7,093</u>	<u>58,604</u>	<u>(93,001)</u>	<u>(710,175)</u>	<u>728,601</u>
Capital additions:							
Contributions	-	-	-	100,000	-	100,000	-
Investment income	-	-	-	-	-	-	58,731
Net loss on investment transactions	-	-	-	(1,449)	-	(1,499)	-
Total capital additions	<u>-</u>	<u>-</u>	<u>-</u>	<u>98,551</u>	<u>-</u>	<u>98,551</u>	<u>58,731</u>
Excess (deficiency) of support and revenue over expenses after capital additions	<u>(776,811)</u>	<u>93,940</u>	<u>7,093</u>	<u>157,155</u>	<u>(93,001)</u>	<u>(611,624)</u>	<u>787,332</u>
Fund balances, beginning of year	1,509,536	-	8,169	1,015,000	390,424	2,923,129	2,135,797
Other changes in fund balances:							
Acquisition of property and equipment	(19,878)	(73,530)	(7,703)	-	101,111	-	-
Repayment of mortgage and notes payable	(4,561)	(20,410)	(1,760)	-	26,731	-	-
Realized gains and investment income on endowment funds utilized	58,604	-	-	(58,604)	-	-	-
Unrealized loss on endowment fund	-	-	-	(105,653)	-	(105,653)	-
Fund balances, end of year	<u>\$766,890</u>	<u>\$ -</u>	<u>\$5,799</u>	<u>\$1,007,898</u>	<u>\$425,265</u>	<u>\$2,205,852</u>	<u>\$2,923,129</u>

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

(continued from previous page)

Investments are composed of the following:

	Cost	Market	Excess of Cost Over Market
Balance at end of year	<u>\$2,329,417</u>	<u>\$2,209,371</u>	<u>\$(120,046)</u>
Balance at beginning of year	<u>\$2,221,020</u>	<u>\$2,221,623</u>	<u>603</u>
Increase in unrealized depreciation			<u>(120,649)</u>
Realized net loss for year			<u>(31,773)</u>
Total net loss for year			<u>\$(152,422)</u>

The following tabulation summarizes the relationship between carrying values and market values of investment assets.

(continued on next page)

**NATIVE AMERICAN RIGHTS FUND, INC.**  
**STATEMENTS OF CASH FLOWS**  
for the year ended September 30, 1994 with comparative totals for 1993

	1994					1993
	Currents Funds Non-ILSC			The NARF 21st Century Endowment Fund	General Fixed Asset Fund	Total All Funds
	Unrestricted	Restricted	ILSC			Total All Funds
Cash flows from operating activities:						
Excess (deficiency) of support and revenue over expenses after capital additions	\$(776,811)	\$93,940	\$7,093	\$157,155	\$(93,001)	\$(611,624)
Adjustments to reconcile excess (deficiency) of support and revenue over expenses after capital additions to net cash provided by (used in) operating activities:						
Bad debt expense	51,000	-	-	-	-	51,000
Depreciation	-	-	2,370	-	51,643	54,013
Loss on sale of investments	30,324	-	-	1,449	-	31,773
Unrealized loss on investments	14,393	-	-	-	-	14,393
Loss on disposal of property and equipment	-	-	-	-	41,358	41,358
Loss on disposition of donated art	88,396	-	-	-	-	88,396
Change in operating assets and liabilities:						
Decrease (increase) in cash escrow accounts	(14,112)	-	-	-	-	(14,112)
Decrease (increase) in grants and bequests receivable	(163,500)	(138,979)	20,749	-	-	(281,730)
Decrease (increase) in other receivables	327,352	-	-	-	-	327,352
Decrease (increase) in other assets	14,850	-	-	-	-	14,850
Decrease in donated art	-	-	-	-	-	-
Decrease (increase) in interfund receivable/payable	(60,718)	82,981	(22,263)	-	-	-
Increase (decrease) in accounts payable	(72,307)	8,701	-	-	-	(63,606)
Increase (decrease) in other liabilities	(125,874)	-	(5,074)	-	-	(130,948)
Increase (decrease) in deferred revenue	993,912	47,297	27,166	-	-	1,068,375
Net cash provided by (used in) operating activities	306,905	93,940	30,041	158,604	-	589,490
Cash flows from investing activities:						
(Additions to) proceeds from investments	(40,170)	-	-	(100,00)	-	(140,170)
Purchase of fixed assets	-	-	-	-	(101,111)	(101,111)
Proceeds from sale of donated art	11,129	-	-	-	-	11,129
Net cash provided by (used in) investing activities	(29,041)	-	-	(100,000)	(101,111)	(230,152)
Cash flows from financing activities:						
Net fund balance transfers	34,165	(93,940)	(9,463)	(58,604)	127,842	-
Payment of debt	-	-	-	-	(26,731)	(26,731)
Net cash provided by (used in) financing activities	34,165	(93,940)	(9,463)	(58,604)	101,111	(26,731)
Increase (decrease) in cash	312,029	-	20,578	-	-	332,607
Cash and equivalents at beginning of year	49,569	-	-	-	-	49,569
Cash and equivalents at end of year	\$361,598	\$ -	\$20,578	\$ -	\$ -	\$382,176

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

(continued from previous page)

**3. Restricted Grants Receivable and Deferred Revenue:**

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

	September 30,			
	1994		1993	
	Grants Receivable	Deferred Revenue	Grants Receivable	Deferred Revenue
Bureau of Indian Affairs	\$783,541	\$ -	\$621,266	\$ -
The Rockefeller Foundation	-	40,625	-	42,106
The John D. and Catherine T. MacArthur Foundation	-	15,752	-	70,299
Department of Health and Human Services - Administration for Native Americans	-	278,642	-	-

	September 30,			
	1994		1993	
	Grants Receivable	Deferred Revenue	Grants Receivable	Deferred Revenue
Ford Foundation	\$ -	\$1,000,000	\$ -	\$333,333
Carnegie Corporation	-	112,028	-	120,435
Legal Services Corporation	6,588	27,166	27,337	-
Bequests	-	432,500	-	269,000
Other	-	17,370	23,296	20,535
	\$790,129	\$1,924,083	\$671,899	\$855,708

\$833,333 of the Ford Foundation grant and the bequests deferred revenue of \$432,500 are recorded in the current fund. This portion of the Ford Foundation grant is to be used for general and fundraising purposes, subject to a maximum annual amount of \$600,000.

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# Treasurer's Report

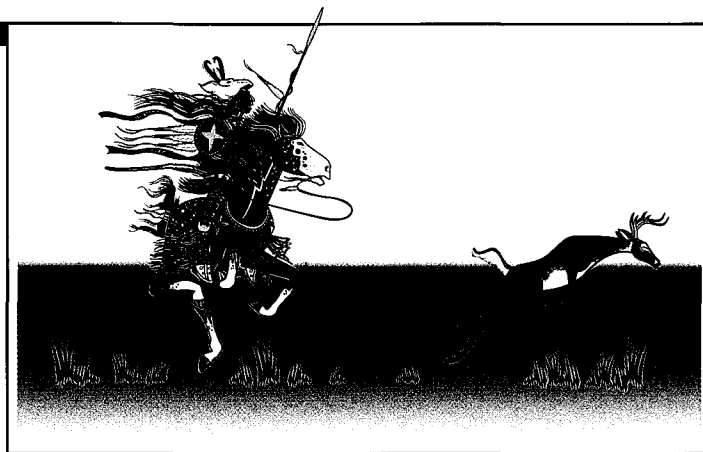
The audited financial statements of the Native American Rights Fund for the fiscal year ended September 30, 1994, show that we received an unqualified auditor's opinion from our independent accountants, Coopers & Lybrand L.L.P. Of significant note for FY94 is the decrease in NARF's unrestricted fund balance from a FY93 high of \$1,509,536 to a FY94 year-end level of \$766,890. NARF's total support and revenue decreased by \$1,854,398 from the previous fiscal year. The most significant variances in revenue are found in the categories of "Contributions" and "Legal Fees".

Contributions from individuals for FY94 decreased by \$1,272,871, primarily due to a few unusually large gifts in FY93 that were not recurring in FY94. Legal Fee revenue was at a low for FY94, primarily due to the successful closure of a number of NARF's fee cases. A comparison of revenue sources for FY93 and FY94 is shown below.

Total expenditures for FY94 decreased by \$415,622. This difference is primarily related to the timing of expenses for fundraising activity and a decrease in travel and consultant expense, coupled with a sensitivity toward maintaining a watchful eye with our expenses. NARF has, again, successfully achieved our goal of keeping expenditures related to support services below or near the 25% level so that as much as possible of every dollar spent can support program services for our Native American constituency.

NARF's expenditures, by function, are compared below for FY93 and FY94.

FUNCTIONAL EXPENDITURES	FY94	FY93
Litigation & Client Services	70.0%	70.0%
National Indian Law Library	5.3%	4.7%
Program Services:	75.3%	74.7%
Management & General	13.0%	13.0%
Fundraising	11.7%	12.3%
Support Services:	24.7%	25.3%



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Changes in deferred restricted amounts during the year are as follows:

	Non-ILSC Restricted	ILSC
Balances at beginning of year	\$586,708	\$ -
Additions, contributions and bequests	1,619,587	298,972
Transfer to unrestricted	(336,767)	-
Deductions, funds expended during the year	(1,235,523)	(271,806)
Balances at end of year	\$634,005	\$27,166

## 4. Mortgage and Notes Payable:

Mortgage and notes payable consist of the following:

	September 30,	
	1994	1993
Notes payable in equal monthly installments of \$1,750, including interest at 7.25%, with remaining principal balance due October, 1995; collateralized by land and building at 1506 Broadway, Boulder, Colorado	\$21,000	\$43,891
Promissory note payable in 58 monthly installments of \$320 principal, plus accrued interest at 11%; due April, 1996	5,680	9,520
	26,680	53,411
Less current portion	(24,840)	(23,938)
Due beyond next fiscal year	\$1,840	\$29,473

Annual maturity requirements on the mortgage and notes payable are as follows (fiscal years): 1995 - \$24,840; 1996 - \$1,840

NARF has an unused \$300,00 line of credit with a bank at the bank's prime rate which expires January 31, 1995, which may be renewed annually by the bank at the bank's approval. Outstanding loans under the line of credit are to be collateralized by NARF's real property in Boulder, Colorado. The line of credit agreement contains covenants which include minimum working capital, limitations on capital expenditures without bank approval and limits on operating expenses that may exceed total annual committed support. No amounts were outstanding at September 30, 1994.

## 5. Commitments:

NARF leases certain space and equipment under operating leases. Annual future minimum rental payments under operating leases are as follows (fiscal years): 1995 - \$105,622; 1996 - \$80,322; 1997 - \$64,915; 1998 - \$41,451. Rental expense was \$93,373 and \$74,566 for 1994 and 1993, respectively.

## 6. Retirement Benefits:

On August 6, 1994, NARF's Board of Directors authorized the adoption of a noncontributory defined contribution plan, effective as of October 1, 1993, for its employees. All employees are eligible to participate in the plan subject to a minimum of six months employment and attainment of age 21. Benefits payable under the plan are based upon a percentage of participants' eligible compensation, funded by a contribution made by NARF. The election to make the contribution and the percentage of employee compensation to be contributed is at the discretion of the Corporate Officers on the last day of each calendar quarter. During fiscal year ended 1994, NARF recognized approximately \$87,000 in costs relating to a contribution to the participants' accounts.

## 7. Concentrations of Credit Risk:

NARF's general bank account and investments are maintained and managed by a single, federally insured depository institution.

NARF's other receivables arise from providing legal representation, assistance and education to Native American people and tribes. The grants receivable are principally due from the Bureau of Indian Affairs.

## 8. New Accounting Pronouncements:

Effective September 30, 1996, NARF will be required to implement SFAS No. 116, "Accounting for Contributions Received and Contributions Made," and SFAS No. 117, "Financial Statements of Not-For-Profit Organizations." The most significant provision of SFAS No. 116 is the recognition of pledges in the financial statements. SFAS No. 117 requires a change in the display of financial statements from those based on fund accounting to a display based on the concept of "net assets." The impact of these pronouncements has not been determined, but is not expected to have a material impact on the fund balance of NARF.