

# *Native American Rights Fund*

## ANNUAL REPORT 2017





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### The Native American Rights Fund Statement on Environmental Sustainability

It is clear that our natural world is undergoing severe, unsustainable, and catastrophic climate change that adversely impacts the lives of people and ecosystems worldwide. Native Americans are especially vulnerable and are experiencing disproportionate negative impacts on their cultures, health and food systems. In response, the Native American Rights Fund (NARF) is committed to environmental sustainability through its mission, work, and organizational values. Native Americans and other indigenous peoples have a long tradition of living sustainably with the natural world by understanding the importance of preserving natural resources and respecting the interdependence of all living things. NARF embraces this tradition through its work and by instituting sustainable office practices that reduce our negative impact on our climate and environment. NARF is engaged in environmental work and has established a Green Office Committee whose responsibility it is to lead and coordinate staff participation in establishing and implementing policies and procedures to minimize waste, reduce energy consumption and pollution, and create a healthful work environment.

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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. NARF was founded in 1970 and incorporated in 1971 in Washington, D.C.

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**Cover and Art:** Pahponee (Kickapoo and Potawaomi) has been working with clay since the early 1980s. She is a self-taught clay artist who has re-learned the traditional pottery methods of her woodland culture as well as learning contemporary pottery making techniques. After speaking with her tribal elders, Pahponee spent years experimenting with hand-dug clay and commercial clay as well as primitive outdoor dung firing and contemporary kiln firing. Mastering several pottery techniques has provided the platform for Pahponee to create distinctive pottery that expresses her own personal style and innovative spirit. Working with clay is a sacred activity for her. It involves personal interaction between clay, herself, and as Native people say, "All My Relations." View more of Pahponee's work at [www.pahponee.com](http://www.pahponee.com).



**Boulder Office (main)**  
1506 Broadway  
Boulder, CO 80302-6296  
303-447-8760  
[www.narf.org](http://www.narf.org)

**Anchorage Office**  
745 West 4th Avenue, Suite 502  
Anchorage, Alaska 99501-1736  
907-276-0680

**Washington D.C. Office**  
1514 P Street, NW  
(Rear) Suite D  
Washington, D.C. 20005-1910  
202-785-4166

# EXECUTIVE DIRECTOR'S REPORT



For 47 years, the Native American Rights Fund has been providing legal advice and representation to Indian tribes, organizations, and individuals on the most important federal Indian law issues facing them. Since 1970, we have achieved many important legal victories for Native American people through our non-profit legal advocacy and that record of significant legal accomplishments continued in 2017.

In a major Indian water rights case, the United States Supreme Court denied review of a federal court of appeals decision holding that tribal

reserved water rights include rights to groundwater in addition to surface water. We are pleased to be serving as co-counsel for the Agua Caliente Band of Cahuilla Indians who brought the case to prevent the impairment of the quantity and quality of groundwater in the Coachella Valley in California where they are located. In another tribal water rights case on behalf of the Kickapoo Tribe of Kansas, we were able to negotiate and have introduced in Congress the Kickapoo Tribe in Kansas Water Rights Settlement Act after many years of litigation and negotiations.

Many Alaska Natives depend upon federally-protected hunting and fishing rights for their subsistence and we have been involved in litigation for many years protecting those subsistence rights. A recent federal appeals court decision upheld federal regulatory authority over hovercraft on a river on federal land, thus also continuing federal protection of Native subsistence rights in these places. We filed an amicus brief in the case on behalf of Native subsistence users. On behalf of the Native Village of Tyonek in Alaska, we were able to stop a proposed coal mine after several years of advocacy that would have threatened the traditional subsistence lifestyle of the Village.

When President Trump issued an Executive Order revoking and replacing the Bears Ears National

Monument in southeastern Utah, we filed suit on behalf of the Hopi, Zuni and Ute Mountain Ute Tribes asserting that President Trump does not have authority to take that action and only Congress has the power to extinguish national monuments once they are established. These three tribes are part of the Bears Ears Inter-Tribal Coalition that convinced President Obama to proclaim the Monument to protect this significant unprotected cultural landscape still critical to the tribes for spiritual, hunting, and gathering purposes.

Federal lands around Grand Canyon also have cultural and spiritual significance to several tribes in that area and they support the federal action in 2012 known as the Northern Arizona Withdrawal which prevents any new uranium mining claims. The Withdrawal was challenged in court by several mining companies and individuals, but a federal appeals court recently upheld the Withdrawal. We filed an amicus brief in the case on behalf of five tribes and two Native organizations.

The Standing Rock Sioux Tribe is in litigation against the U.S. Army Corps of Engineers over the proposed construction of the Dakota Access Pipeline in North Dakota that passes through the Tribe's ancestral lands containing sacred places and burial grounds and threatens the Tribe's water supply since it would pass under the Missouri River at Lake Oahe just a half a mile upstream of the Tribe's reservation boundary. A federal district court issued a favorable ruling for the Tribe, finding that the Army Corps of Engineers failed to adequately consider the impacts of a potential oil spill on fishing and hunting rights or environmental justice concerns, and ordered further environmental analysis. We filed an amicus brief in the case in support of the Tribe on behalf of twenty Native organizations and tribes.

The 1978 Indian Child Welfare Act was passed to stop the disproportional removal of Indian children from their families by state agencies and state courts and their placement in non-Indian foster or adoptive homes or residential institutions. When a conservative think tank filed a lawsuit challenging the constitutionality of the Indian Child Welfare Act, we filed an amicus brief in the case on behalf of three national Native organizations supporting a motion to dismiss and the case was successfully dismissed.





The ancestral homelands of the Santa Ynez Band of Chumash Indians in California containing significant archaeological sites and a number of ancient burials along the Santa Clara River were threatened by a large development project that was challenged in court. We represented the Santa Ynez Band and asserted that they were never consulted by the Army Corps of Engineers about the project as required by law. The litigation was successfully settled and the Santa Ynez Band received cultural resource protections and support for their cultural center.

In closing, I want to thank all of our funders for their support. Without your support, these significant legal accomplishments in 2017 would not have been possible. We can only hope that your support will continue in 2018 so that we can achieve even more legal victories for Native Americans.

**John E. Echohawk**  
Executive Director

# CHAIRMAN'S MESSAGE



*Aloha māi kakou*

This is my sixth and final year serving as a NARF board member, and I am ever thankful for the opportunity and experiences that I have had being a part of the NARF family. To be a warrior for justice is a struggle, but an honor because we are part of something so much bigger than ourselves. In looking back over NARF's 47 years, we see that the work that we do today is firmly rooted in the efforts of those who have come before us. We must remain steadfast and continue to build on those efforts to create justice for our Native peoples. Even though my time on the board is ending, I will always be an advocate for NARF.

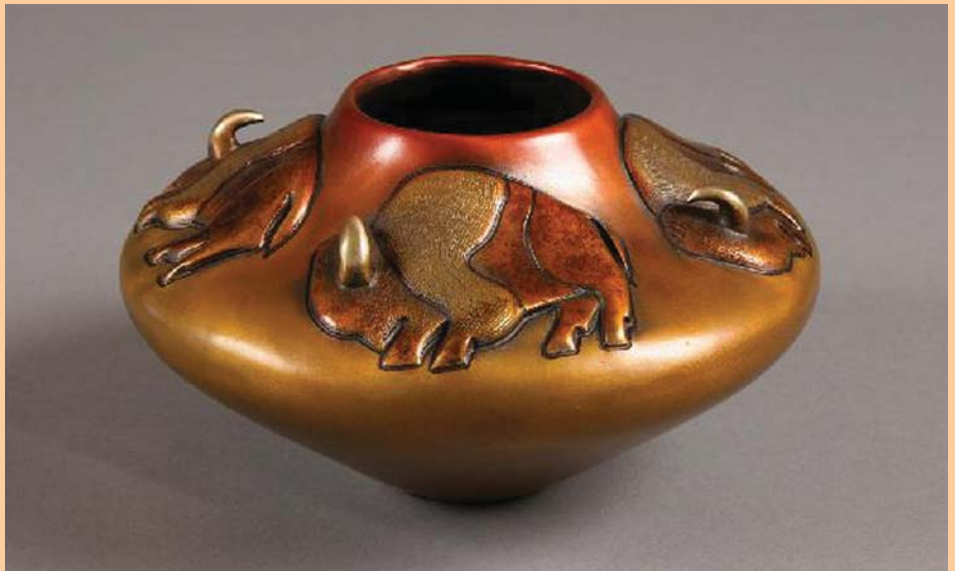
To make the necessary and significant impact that we seek—sustaining justice, protecting Native rights, preserving tribal sovereignty—we must all remain tireless advocates. It is through your support, based upon your continuing belief in the importance of NARF's work, that true justice is made possible. As the work that we are doing today to improve and protect the rights of our people is built upon the legacy of those who came before us, we are sowing the seeds for tomorrow. And so, on behalf of the staff and board of NARF, *mahalo nui loa* (thank you very much) for your continuing support.

*A hui hou* (until we meet again).

*Mahalo,*

**Moses K. N. Haia III**

Outgoing Chairman, Board of Directors



# BOARD OF DIRECTORS

The Native American Rights Fund has a governing board composed of Native American leaders from across the country—wise and distinguished people who are respected by Native Americans nationwide. Individual Board members are chosen based on their involvement and knowledge of Indian issues and affairs, as well as their tribal affiliation, to ensure a comprehensive geographical representation. The NARF Board of Directors, whose members serve a maximum of six years, provide NARF with leadership and credibility, and the vision of its members is essential to NARF's effectiveness in representing its Native American clients.

**NARF's Board of Directors:** *Front row (left to right): Julie Roberts-Hyslop (Native Village of Tanana); Peter Pino (Zia Pueblo); Moses Haia, Chairman (Native Hawaiian), Robert McGhee, Vice-Chairman (Poarch Band of Creek Indians); Anita Mitchell, (Muckleshoot Indian Tribe). Back row (left to right): Gary Hayes (Ute Mountain Ute Tribe); Michael Smith (Chickasaw Nation); Tex Hall, Board Treasurer (Three Affiliated Tribes); and Kurt BlueDog (Sisseton-Wahpeton Sioux). Not pictured: Richard Peterson (Central Council of the Tlingit and Haida Indian Tribes); Larry Olinger (Agua Caliente Band of Cahuilla Indians); Stephen Lewis (Gila River Indian Community); and Jefferson Keel (Chickasaw Nation).*



# NATIONAL SUPPORT COMMITTEE

The National Support Committee assists NARF with fundraising and public relations efforts. Some members are prominent in the fields of business, entertainment, and the arts. Others are known advocates for the rights of the underserved. All are committed to upholding the rights of Native Americans.

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Randy Bardwell, Pechanga Band of Luiseño Mission Indians

Jaime Barrientoz, Grande Traverse Band of Ottawa and Chippewa Indians

John Bevan

Wallace Coffey, Comanche

Ada Deer, Menominee

Harvey A. Dennenberg

Lucille A. Echohawk, Pawnee

Jane Fonda

Eric Ginsburg

Jeff Ginsburg

Rodney Grant, Omaha

Dr. Marion McCollom Hampton

Chris E. McNeil, Jr., Tlingit-Nisga'a

Billy Mills, Oglala Lakota

Amado Peña, Jr., Yaqui/Chicano

Wayne Ross

Nancy Starling-Ross

Mark Rudick

Pam Rudick

Michael G. Sawaya

Ernie Stevens, Jr., Wisconsin Oneida

Andrew Teller, Isleta Pueblo

Verna Teller, Isleta Pueblo

Richard Trudell, Santee Sioux

Rebecca Tsosie, Pasqua Yaqui

Tzo-Nah, Shoshone Bannock

Aine Ungar

Rt. Rev. William C. Wantland, Seminole

W. Richard West, Southern Cheyenne

Randy Willis, Oglala Lakota

Teresa Willis, Umatilla

Mary Wynne, Rosebud Sioux



# INTRODUCTION

One of the initial responsibilities of NARF's first Board of Directors was to develop priorities that would guide the Native American Rights Fund in its mission to preserve and enforce the legal rights of Native Americans. That Board developed five priorities that continue to lead NARF today:

1. Preserving tribal existence
2. Protecting tribal natural resources
3. Promoting Native American human rights
4. Holding governments accountable to Native Americans
5. Developing Indian law and educating the public about Indian rights, laws, and issues

This report includes NARF's recent work within each priority.





# PRESERVING TRIBAL EXISTENCE

Under the priority of *preserving tribal existence*, NARF constructs the foundations necessary to empower tribes to live according to Native traditions, to enforce their treaty rights, to insure their independence on reservations, and to protect their sovereignty (right to self-govern). Tribal governments possess the power to regulate the internal affairs of their members as well as other activities within their reservations and NARF fights to protect that right.

## Tribal Sovereignty and Jurisdiction

The U.S. Constitution recognizes that Indian tribes are independent governmental entities with inherent authority over their members and territory. In treaties with the United States, Indian tribes ceded millions of acres of land in exchange for the guarantee that the federal government would protect the tribes' right to self-government.

### *Tribal Sovereignty Protection Initiative*

From the 19th to mid-20th centuries, the Supreme Court repeatedly affirmed the fundamental principle that tribes retain inherent sovereignty over their members and their territory. Then, with the 1978 decision in *Oliphant v. Suquamish Indian Tribe*, the Supreme Court began chipping away at tribal sovereignty by restricting tribal jurisdiction and extending state jurisdiction. In response, NARF partnered with the National Congress of American Indians (NCAI) in 2001 to develop the Tribal Sovereignty Protection Initiative to restore the principle of inherent tribal sovereignty and safeguard the core of sovereignty that remains. The Initiative monitors legislation, judiciary, and cases related to tribal interests.

### *~ Tribal Supreme Court Project*

A major component of the Initiative is the Tribal Supreme Court Project, which monitors cases potentially headed to the Supreme Court as well as those actually accepted for review. The Project also ensures that attorneys representing Indian interests before the Supreme Court have the support they need, including coordinating the filing of a limited number of strategic amicus briefs. Staffed jointly by NARF and NCAI, the Tribal Supreme Court Project is based on the principle that a strong, consistent, coordinated approach will be able to reverse, or at least reduce, the on-going erosion of tribal sovereignty by Supreme Court Justices who appear to lack an understanding of the foundational principles underlying federal Indian law and who are unfamiliar with the practical challenges facing tribal governments.

October Term 2016 was an eventful year. In April 2017, the Court issued its opinion in *Lewis v. Clarke*, reversing the Connecticut Supreme Court and holding that, "in a suit brought against a tribal employee in his individual capacity, the employee, not the tribe, is the real party in interest and the tribe's sovereign immunity is not implicated." After a stunning victory in *Michigan v. Bay Mills Indian Community* in June 2014, which affirmed the doctrine of tribal sovereign immunity, the Court created a bright line rule that tribal sovereign immunity does not extend to suits brought against tribal employees or officials in their individual capacity unless there is a determination that the Tribe is the "real party in interest." However, the Court left open the question of whether tribal employees and officials would be entitled to "official immunity" (i.e., immunity for actions taken within the scope of their employment) on a similar basis as state and federal employees. The implications of this decision are unclear at this point, but should begin to be clarified through pending and future litigation.

In June 2017, the Court issued its opinion in *Matel v. Tam*, affirming the U.S. Court of Appeals for the Federal Circuit and holding that the disparagement clause of federal trademark law violates the First Amendment's Free Speech Clause and is unconstitutional. Although *Tam* is not an Indian law case, its impact was immediate in relation to the *Blackhorse* litigation pending before the U.S. Court Appeals for the Fourth Circuit which challenged the trademark registration of the Washington NFL football team. NARF expressed its disappointment with the Court's decision which clears "the legal pathway for the Washington professional football team to continue to use a racial slur for Native Americans as its mascot." And while the Court explicitly acknowledged that this type of demeaning speech is "hateful," it found that "the proudest boast of our free speech jurisprudence is that we protect the freedom to express 'the thought that we hate.'"

The October Term 2017 is shaping up to be a potentially significant one for Indian law. In addition to being the first full term of Associate Justice Neil Gorsuch, a number of pending petitions involve important Indian law issues, as well as subjects the Court has not addressed in a long time.

- On November 7, 2017, the Court heard argument in *Patchak v. Zinke*. While this case involves legislation reaffirming the Secretary of Interior's taking of land into trust for the Gun Lake Tribe, the petition was

granted for the Court to consider a separation of powers question, not an Indian law question: whether Congress may direct a federal court to promptly dismiss a pending lawsuit as Congress did with its Gun Lake Act, which directed the dismissal of any legal cases relating to the property in question.

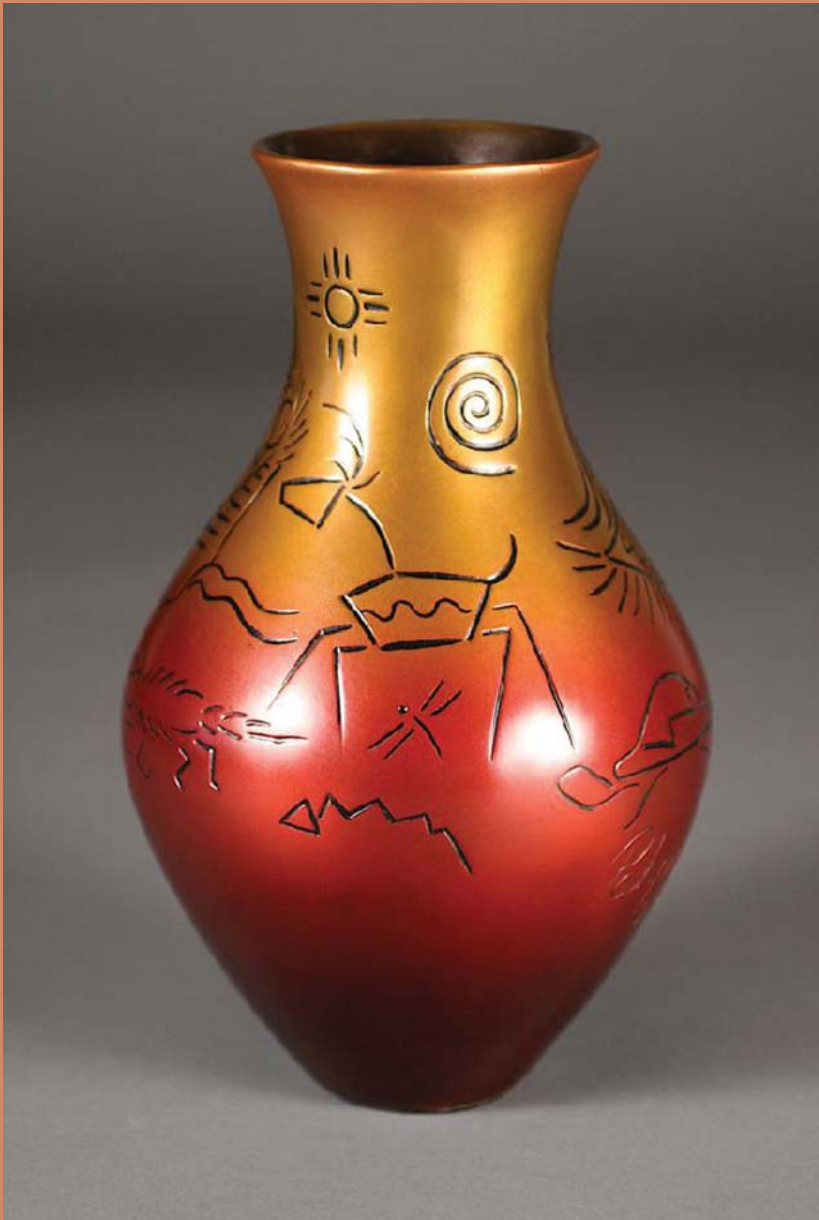
- On November 27, 2017, the Court denied review in a significant Indian water rights case that was the subject of two petitions, *Coachella Valley Water District v. Agua Caliente Band of Cahuilla Indians* and *Desert Water Agency v. Agua Caliente Band of Cahuilla Indians*. The petitions sought review of a Ninth Circuit Court of Appeals decision, which held that when the United States established the Agua Caliente Band of Cahuilla Indians' reservation as a homeland, the federal government reserved appurtenant water sources—including groundwater—for use by the Tribe. Thus, the Court's denial of these petitions preserves an important Indian water rights victory in the lower courts.
- On the same day, the Court denied review in another case that also was the subject of two petitions, *Upstate Citizens for Equality v. U.S.* and *Town of Vernon v. U.S.*. Both petitions challenged the Secretary of the Interior's authority to take 13,000 acres of land into trust for the benefit of the Oneida Nation of New York.

#### ~ Judicial Selection Project

In addition to the Tribal Supreme Court Project, another important component of the Tribal Sovereignty Protection Initiative is the Judicial Selection Project. The Project's focus is research and education: to educate the federal judiciary about tribal issues, to educate tribal leaders about the federal judiciary, and to reach out to elected officials and the public at large about the need for federal judges who understand the unique legal status of Indian tribes.

On April 10, 2017, Neil M. Gorsuch took his seat as an Associate Justice of the Supreme Court of the United States, filling the year-long vacancy following the death of Justice Antonin Scalia. NARF prepared a report reviewing his background, analyzing his judicial philosophy, and examining his experience with Indian law cases. Justice Gorsuch has significantly more experience with Indian law cases than any other recent Supreme Court nominee. His opinions generally recognize tribes as sovereign governments. However, the twenty-eight Indian law cases on which he participated prior to sitting the U.S. Supreme Court addressed only a subset of issues important to Indian tribes.

In April 2017, NARF presented at the National Native American Bar Association (NNABA) annual meeting. The Judicial Selection Project has coordinated its efforts with NNABA, which has a standing committee on judicial selection. The presentation focused on



current federal judicial vacancies and was followed by a discussion forum on judicial vacancies and how to support Native candidates interested in pursuing a career in the judiciary.

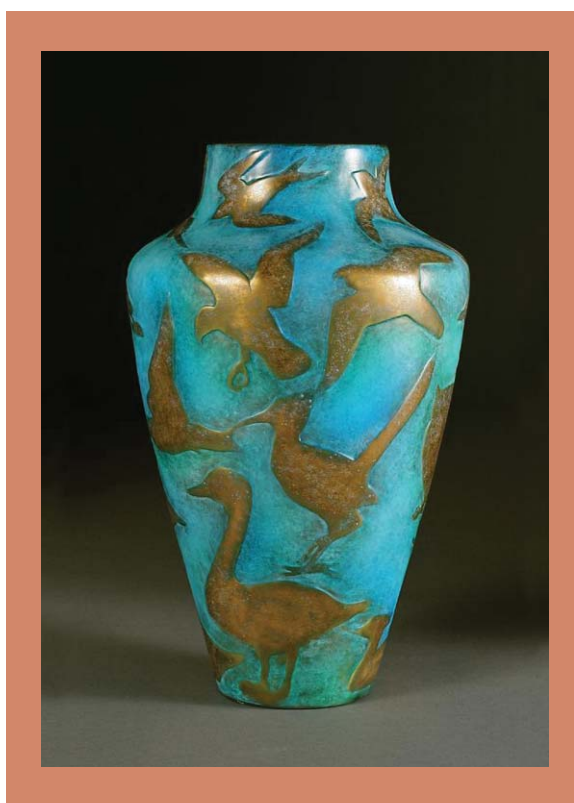
In September, NARF presented at the Native American Judicial Bootcamp at the Shakopee Mdewakanton Sioux Community and was co-sponsored by the Minnesota American Indian Bar Association and the Infinity Project. The purpose of the full-day training was to prepare Native American attorneys for applying to the federal and state judiciary.

#### *Big Horn Electric Cooperative v. Alden Big Man, et al.*

In 2012, Alden Big Man, an elderly member of the Apsaalooke (Crow) Tribe sued the Big Horn Electric Cooperative in the Crow Civil Court pursuant to an Apsaalooke tribal statute limiting heat and electricity service disconnections during winter months for homes where elderly and disabled individuals reside. In 2013, the tribal court issued its ruling and dismissed the case, holding that it lacked jurisdiction over the case, brought against a non-member utility company. Mr. Big Man appealed the ruling to the Apsaalooke Appeals Court. In April 2017, the Apsaalooke Appeals Court issued a decision holding that the trial court did have jurisdiction over Big Horn Electric and remanded the case to the Crow Civil Court for further proceedings. Big Horn Electric then filed a complaint in federal district court in May 2017, asking the court to find that tribal court remedies have been exhausted and that the tribal court and judges lack jurisdiction over the suit, to enjoin the Apsaalooke Appeals Court judges from continuing with the case, and to enjoin Mr. Big Man from further prosecuting the case in the courts of the Apsaalooke Nation. NARF, representing the Apsaalooke Appeals Court Judges and Crow Tribal Health Board Members, filed a Motion to Dismiss for failure to exhaust tribal court remedies and lack of jurisdiction in September 2017.

#### **Federal Recognition of Tribal Status**

NARF represents Indian communities who have survived intact as identifiable Indian tribes but are not federally recognized. Tribal existence does not depend on federal recognition, but recognition is necessary for a government-to-government relationship and the receipt of many federal services.



#### *Little Shell Tribe of Chippewa Indians of Montana*

NARF continues to represent the Little Shell Tribe of Chippewa Indians of Montana in its pursuit of federal recognition. More than 20 years ago, in 1997, the government placed the Little Shell Tribe's federal recognition petition on active review status. Since that time, the Tribe has endured through several about-face decisions by various Assistant Secretary for Indian Affairs who found first in favor and then against recognition of the Tribe. In 2013, NARF urged the Secretary of the Interior to suspend consideration of the Final Determination pending revisions to the federal acknowledgement regulations. The Tribe submitted extensive comments on the draft regulations. New rules for the federal acknowledgement process were published in July 2015. All of the comments the Tribe had raised were addressed to some extent. The Tribe is now proceeding under the new, substantially changed rules and continues to pursue legislative recognition.





# PROTECTING TRIBAL NATURAL RESOURCES

Throughout the process of European conquest and colonization of North America, Indian tribes experienced a steady diminishment of their land base to a mere 2.3 percent of its original size. Currently, there are approximately 55 million acres of Indian-controlled land in the continental United States and about 44 million acres of Native-owned land in Alaska. An adequate land base and control over natural resources are central components of economic self-sufficiency and self-determination and are vital to the existence of tribes. Thus, much of NARF's work involves *protecting tribal natural resources*.

## Indian Lands

### *Eastern Shoshone Tribe, Wind River Indian Reservation Boundaries*

NARF has been retained by the Eastern Shoshone Tribe (EST) of the Wind River Indian Reservation to analyze the Surplus Land Act of March 3, 1905 (1905 Act), and other legislation and cases, to determine their implications for the boundaries of the Reservation. In December 2013, the U.S. Environmental Protection Agency approved the delegation of certain Clean Air Act programs to the EST and the Northern Arapahoe Tribe (NAT), which is also located on the same reservation. The delegation included the conclusion that the boundaries of the reservation were not altered by the 1905 Act. The State of Wyoming filed and was granted in part a Petition for Reconsideration and Stay with EPA. The state filed a petition for review by the U.S. Court of Appeals for the Tenth Circuit. In February 2017, the Court issued a 2-1 decision holding that the intent of Congress in the 1905 Act was to diminish the boundaries of the Wind River Reservation. In July, the EST and NAT filed petitions for rehearing en banc before the entire panel of judges in the 10th Circuit.

### *Hualapai Tribe Fee to Trust Applications*

NARF represents the Hualapai Indian Tribe of Arizona in preparing and submitting applications for the transfer into trust status of eight parcels of land owned in fee by the Tribe. Three of the parcels have been accepted into trust. Decisions on the other five parcels will be significantly delayed. By Memorandum of April 6, 2017, the Acting Assistant Secretary-Indian Affairs withdrew authority from BIA Regional Directors to approve off-reservation fee-to-trust applications and placed that authority with the Assistant Secretary-Indian Affairs. The BIA issued proposed changes to the existing regulations in October 2017 and held tribal consultation meetings in November.

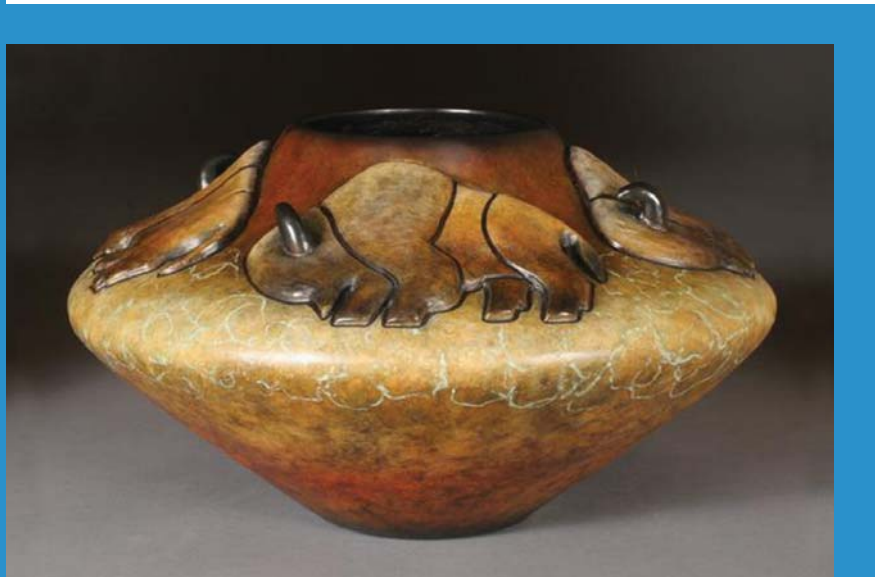
## Water Rights

Establishing tribal water rights, especially in arid western states, continues to be a major NARF priority. The goal of NARF's Indian water rights work is to secure allocations of water for present and future needs for specific Indian tribes represented by NARF and other western tribes generally. Under the precedent established by the Supreme Court in 1908 in *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 reserved water rights are superior to all water rights created after the tribal priority date. Such a date will in most cases give tribes valuable senior water rights in the water-short west. Unfortunately, many tribes have not used their reserved water rights and most of these rights are adjudicated or unquantified. The major need is to define or quantify the amount of water to which each tribe is entitled.

### *Agua Caliente Band of Cahuilla Indians*

NARF, together with co-counsel, represents the Agua Caliente Band of Cahuilla Indians in a lawsuit filed in May 2013 in the U.S. District Court for the Central District of California, asking the court (a) to declare the Tribe's water rights as the senior rights in the Coachella Valley, (b) to quantify these rights, and (c) to prevent Coachella Valley Water District and Desert Water Agency from further injuring residents throughout the Valley by impairing the quantity and quality of water in the aquifer through the import of lesser quality water.

The court issued its ruling in March 2015. The court ruled largely in the Tribe's favor, holding that the Tribe has a reserved right to water, and that groundwater is a water source available to fulfill that right. The water agencies appealed that decision and, in March 2017, a three judge panel of the Ninth Circuit unanimously affirmed the lower court's ruling, holding that the *Winters'* doctrine applies to water sources appurtenant to the Agua Caliente Reservation, including groundwater. The court also broadly construed the original purposes for the creation of the reservation. The water districts petitioned the U.S. Supreme Court for a writ of certiorari. On November 27, that petition was denied and the lower court's decision held.



With this “phase one” part of the trial put to rest, the parties are addressing what are called the “phase two” legal issues. Phase two will deal with the correct method for quantifying the Tribe’s share, whether there is a right to water of a certain quality, and whether the Tribe owns the groundwater storage space under its reservation. A decision on these three legal issues will be issued by the court in the first quarter of 2018, and that decision will guide the “phase three” legal issues of the case which include quantification.

*Palouse River Basin Adjudication –  
Nez Perce Tribe Water Rights*

NARF represented the Nez Perce Tribe in Idaho in its water rights claims in the Snake River Basin Adjudication for over 16 years. NARF’s work with the Tribe has now turned to development of water rights claims in the Palouse River Basin Adjudication (PRBA). In October 2016, the Idaho Water Court issued a commencement order for the PRBA. An initial hearing was held on the PRBA in January 2017. NARF and the Tribe are working with the United States to examine the nature and scope of the Tribe’s water rights claims in the Palouse Watershed.

*Klamath Basin Water Rights*

The Klamath Tribes’ water rights were recognized in the federal courts in the United States v. Adair litigation in 1983, but the federal courts left quantification of the Tribal water rights to the State of Oregon’s general stream adjudication, the Klamath Basin Adjudication

(KBA). Following conclusion of the 38-year-long administrative phase of the KBA, the Tribes were able to enforce their water rights for the first time during the 2013 irrigation season. The Oregon Water Resources Department’s (OWRD’s) Findings of Fact and Order of Determination (FFOD) issued in the KBA are now subject to judicial review in the Klamath County Circuit Court. The Klamath Court has adopted a phased approach for the judicial review of the FFOD.

In 2017, the Klamath County Circuit Court resolved jurisdictional and other threshold legal issues (Phase 1A) as well as general procedural issues (Phase 1B). It also began working on the final sub-phase (Phase 1C) dealing with threshold or cross-cutting issues not addressed in earlier sub-phases. Importantly, the court issued rulings limiting discovery and the introduction of new evidence, thus preventing a complete do-over of the administrative proceedings. However, the court ruled that a de novo standard of review will apply, in which the court will “look anew” at the determinations of OWRD in the FFOD and may give deference to OWRD’s determinations. The court also determined the list of issues for resolution in Phase 1C and opening briefs addressing those issues were filed in October 2017.

*Related case Baley v. U.S.:* After sixteen years of litigation, the Court of Federal Claims resoundingly re-affirmed the superiority of the senior water rights of the Klamath Tribes and downriver Klamath Basin tribes over other water interests in the Klamath Basin. Though the tribes were not parties to the case, NARF filed several briefs as amicus curiae (“friends of the court”) on behalf of the Tribes.

*Tule River Tribe*

After almost 30 years of advocacy, the Tule River Indian Tribe, represented by NARF, successfully settled its water rights in November 2007 by signing a settlement agreement. The settlement agreement secured a domestic, municipal, industrial, and commercial water supply for the Tribe. The Tribe now seeks federal legislation to ratify the agreement and authorize appropriations to develop the water rights through the creation of water infrastructure and reservoirs on the Tule River Reservation.

The Tribe’s team assisted the federal team in developing an appraisal of several alternatives. The federal team promised to be done with the study by November 2015 so that the Tribe could proceed to



negotiate an appropriate settlement to present to Congress. Only in December of 2016 did the federal team deliver its report to the Tribe. The Tribe and its team performed a detailed analysis and critique of the report and is evaluating political options for moving forward.

#### *Kickapoo Tribe in Kansas*

According to the Environmental Protection Agency, the water supply for the Kickapoo Reservation is in violation of the Safe Drinking Water Act of 1974. The Kickapoo people are unable to safely drink, bathe, or cook with tap water. There is not enough water on the reservation to provide basic municipal services to the community—the Tribe is not able to provide local schools with reliable, safe running water and the fire department cannot provide adequate fire protection due to the water shortage. In June 2006, the Kickapoo Tribe in Kansas, represented by NARF, filed a federal court lawsuit in an effort to enforce express promises made to the Tribe to build a Reservoir Project, the most cost effective and reliable means by which the Tribe can improve the water supply. The Nemaha Brown Watershed Joint Board #7, the Natural Resources Conservation Service of the U.S. Department of Agriculture, and the State of Kansas made these promises to the Tribe over two decades ago. Since that time, these parties have been actively developing the water resources, resulting in the near depletion of the Tribe's senior federal water rights. The federal government, the state, and the local watershed district all concede the existence of the Tribe's senior Indian reserved water rights; the real issue is the amount of water needed to satisfy the Tribe's rights, and the source or sources of that water.

In September 2016, the Tribe and the state executed the “Global Settlement Agreement” which includes a negotiated water right for the Tribe and all of the details for the administration of the Tribe's senior water right in the Delaware River watershed. The Tribe and NARF developed legislation in consultation with the Kansas congressional delegation to approve the water right negotiated with the state. In November 2017, Kansas Senator Moran introduced S.2154 Kickapoo Tribe in Kansas Water Rights Settlement Agreement Act, which was referred to the Senate Indian Affairs Committee.

#### *Pauma Band of Luiseno Indians*

The Pauma Band of Luiseno Indians is one of the five tribes party to the San Luis Rey Water Rights

Settlement. The San Luis Rey Tribes' water rights were initially addressed by a Congressionally-approved Settlement Act in 1988. However, for a wide variety of reasons, the settlement was unenforceable and did not address the needs of the tribes. In 2016, a bill amending the original settlement act was passed by Congress, and the San Luis Rey Water Rights Settlement is now in its implementation stage. NARF represents the Pauma Band in this implementation phase, which will include allocation of water and funding and groundwater management strategies.

#### **Hunting and Fishing Rights**

Subsistence is the inherently sustainable Native philosophy of taking only what you need. There are often no roads and no stores in rural Alaska, and so no other group of people in the United States continues to be as intimately connected to the land and water and as dependent upon its vast natural resources as Alaska's indigenous peoples.

#### *Bering Sea Elders Group*

The Bering Sea Elders Group (BSEG) is an alliance of thirty-nine Yup'ik and Inupiaq villages that seeks to protect the sensitive ecosystem of the Bering Sea, the subsistence lifestyle, and the sustainable communities that depend on it. NARF has designed a comprehensive plan to help this group of Alaska Native villages in their efforts to protect the area and become more engaged in its management.

NARF worked with BSEG on their efforts to protect the northern Bering Sea. In December 2016, this work resulted in President Barack Obama signing an historic executive order creating the Northern Bering Sea Climate Resilience Area. This was an incredible victory for NARF's clients. However, in April 2017, President Trump signed an executive order called “Implementing an America-First Offshore Energy Strategy.” While the order was aimed at re-opening Arctic and Atlantic areas for offshore drilling, it also entirely revoked Executive Order 13754. This reversal occurred without notice and despite all indications that the suite of northern Bering Sea protections—including the focus on the role of Tribes in future decisions—were not in danger. BSEG responded immediately in the media, determined to restore the important conservation, economic, and cultural provisions. BSEG held an Executive Committee meeting in August and a full Summit in September, where the Elders passed

a resolution calling for the reinstatement of the Executive Order and its protections. BSEG and allies are working with federal representatives to restore the provisions.

#### *Pebble Mine*

Alaska's Bristol Bay region is home to the largest wild salmon runs in the world. It is also home to the Yup'ik, Dena'ina, and Alutiiq peoples who depend on sustainable salmon runs for their subsistence. In 2013, NARF helped create the United Tribes of Bristol Bay (UTBB), a consortium of tribes in the region. UTBB was formed for tribes to directly address regional large-scale mining proposals threatening salmon-rearing streams. Exercising its delegated governmental authority, with NARF as counsel, UTBB has engaged the federal government in direct government-to-government consultation on large scale mining in Bristol Bay like the proposed Pebble Mine.

The proposed Pebble Mine would sit on the headwaters of the largest salmon-producing river in Bristol Bay. In February 2014, EPA gave notice that it would initiate a Clean Water Act 404(c) process for the proposed mine. Section 404(c) authorizes EPA to prohibit or restrict the discharge of material in waters when it determines that such disposal would have an unacceptable adverse impact on various resources, including fisheries, wildlife, municipal water supplies, or recreational areas. As soon as the EPA announced that it would study the Pebble Mine, the State of Alaska requested a stay to allow the developer to submit a permit under the NEPA process. EPA granted the State and the Corp. of Engineers an extension to respond to the notification of 404(c) process. That stay ended in April 2013; in May, Pebble Limited Partnership (PLP) filed suit challenging EPA's Section 404(c) review process as exceeding its statutory authority under the Clean Water Act. After months of litigation, the district court and the U.S. Court of Appeals both dismissed the case.

In September 2014, PLP filed another complaint against EPA for relief under the Federal Advisory Committee Act (FACA). In November 2014, the court granted the preliminary injunction, thereby halting EPA's work on the 404(c) process in Bristol Bay. As the case continued, the judge issued a broad order quashing PLP's subpoenas, finding that they pushed federal discovery rules to their very limits. After the order, PLP withdrew its remaining subpoenas, but less than four months later PLP began serving narrower subpoenas,

which Judge Holland again quashed. In the last days of 2016, the parties requested a stay of the proceedings in order to negotiate a settlement of the case.

In May 2017, the parties reached a total settlement of the litigation. Key terms of the settlement include: (1) dismissing all Pebble's pending lawsuits against the EPA; (2) EPA's agreeing to propose to withdraw the proposed Section 404(c) determination; (3) EPA's agreeing it will not move to finalize any Section 404(c) action until 48 months from the date of the settlement or until the U.S. Army Corps of Engineers issues its final environmental impact statement, whichever comes first. In light of this reversal in course by the EPA, NARF and UTBB will continue to work to protect Bristol Bay throughout the forthcoming federal and state permitting process surrounding the Pebble Mine.

#### *John Sturgeon v. Sue Masica et al.*

In *John Sturgeon v. Sue Masica et al.*, the federal courts upheld the right of the National Park Service to prohibit the use of a hovercraft on a river inside a National Park or Preserve. The lower federal courts ruled in favor of the federal government on the basis that nationwide Park and Preserve rules generally apply to all lands and waters that are inside a Park or Preserve. Yet, a key provision of the 1980 Alaska National Interest Lands Conservation Act (ANILCA) was intended to exempt those kinds of lands from precisely these kinds of federal park rules.

Because the Ninth Circuit's ruling resulted in Alaska Native Claims Settlement Act (ANCSA) lands being subject to Park regulations, ANCSA corporations joined in petitioning for review of the case by the U.S. Supreme Court. The Court granted review, and NARF filed an amicus brief on behalf of subsistence users in support of the federal government because of concern that the case may inadvertently implicate subsistence fishing rights established by the *Katie John* litigation.

In March 2016, the Supreme Court agreed that the lands get special treatment under ANILCA and are not to be treated as if they were federal "public" lands. But the Court went no further than that. The Supreme Court said it was for the lower courts to decide if the Nation River is "public land" for purposes of ANILCA (which is how the *Katie John* court viewed the issue) and whether the Park Service has the power to regulate activities in the River even if the River does not qualify as federal "public land." NARF filed an amicus brief supporting the federal government's position and the

subsistence fishing rights established by the Katie John line of cases. In October 2017, the Ninth Circuit Court of Appeals upheld for the second time the right of the Park Service to prohibit the use of a hovercraft on the Nation River. In reaching its ruling, the Court relied upon and reaffirmed all three of the Court of Appeals' prior "Katie John" decisions.

#### *Chuitna Mine*

NARF represented the Native Village of Tyonek (NVT) in response to a permit proposal by PacRim to mine coal from the Beluga coal fields in the Cook Inlet. As proposed, Chuitna would have been the largest strip mine in Alaska. NVT focused on the National Historic Protection Act (NHPA) to identify historic properties eligible for listing. In March 2017, PacRim Coal announced its decision to suspend pursuit of permitting efforts on the Chuitna Coal Project. In June 2017, the Army Corps published in the Federal Register that it was terminating the EIS process.

As part of the NHPA process, NARF helped NVT nominate the entire Ch'u'itnu watershed for inclusion on the National Register of Historic Places as a Traditional Cultural Landscape. The designation would recognize the profound importance the Ch'u'itnu watershed has played in shaping and sustaining NVT's peoples' culture, traditions, identity, and subsistence lifestyle. The goal is also to ensure that impacts to Tubughna cultural, traditional, and subsistence practices are taken into consideration during future consultation processes for projects within the Ch'u'itnu.

The nomination was submitted to the Alaska Office of History and Archeology in February, 2017. The Alaska Historical Commission was to take up the Ch'u'itnu nomination at a meeting, in December 2017. NARF will continue to work with NVT to petition the Secretary to take tribally owned lands into trust.

#### **Environmental Protection**

Much of NARF's current environmental protection work is related to climate change. The effects of climate change on indigenous peoples throughout the world are acute and will only get worse. NARF represents the National Congress of American Indians (NCAI) on climate change matters at the international level through the United Nations Framework Convention on Climate Change (UNFCCC). NARF and NCAI are ensuring that indigenous rights are protected in any international treaty or agreement governing greenhouse gas emissions reductions.



In December 2015, the Paris Agreement, the first ever universally binding accord on climate change, was adopted under the UNFCCC. The International Indigenous Peoples Forum on Climate Change (indigenous caucus), which NARF participates in, has been involved in the UNFCCC process for years. While the indigenous caucus did not achieve all that it sought, it did achieve some very significant references that can be built on going forward. The language in the Agreement states, when taking action on climate change, that the rights of indigenous peoples must be acknowledged and that traditional, indigenous knowledge shall help guide the science used to address climate change. It also recognizes the need to strengthen that knowledge and establishes a platform for the sharing of information and best practices.

Since the Paris Agreement, the indigenous caucus has begun efforts to make the traditional knowledge platform a reality. Several meetings were held throughout 2017, and NCAI and NARF signed onto a statement submitted by tribes and organizations from the United States. The discussion process culminated in the preparation of a position paper for discussion and recommendation on the platform that was made at COP 23 in Bonn in November 2017.





# PROMOTING HUMAN RIGHTS

Although basic human rights are considered a universal and inalienable entitlement, Native Americans face an ongoing threat of having their rights undermined by the United States government, states, and others who seek to limit these rights. Under the priority of the *promoting human rights*, NARF concentrates on enforcing laws regarding equal protection and freedom from discrimination in voting, education, incarceration, and religion. NARF also helps develop laws that provide unique protections for Native collective rights, traditions, culture, and property such as sacred places, peyote, eagle feathers, burial remains, and funerary objects.

## Religious Freedom and Sacred Places

### *Sacred Places Project*

NARF has a long history in the protection of Native religion and cultural property, including sacred places. NARF's Sacred Places Project focuses on monitoring legal issues impacting sacred places for Native peoples, collaborating with various groups that are already working to protect sacred places, monitoring and participating in litigation to protect sacred places, and advocating for greater protection and access for sacred places at the congressional and administrative levels.

### *Bears Ears*

For several years, the Bears Ears Inter Tribal Coalition, a consortium of five sovereign Indian nations (Hopi Tribe, Navajo Nation, Ute Indian Tribe, Ute Mountain Ute Tribe, and Pueblo of Zuni) has worked to protect Bears Ears region in Utah, America's most significant unprotected cultural landscape. The Bears Ears region contains at least 100,000 archaeological sites, some dated back to 12,000 BCE, and is still critical to many tribes today for spiritual and hunting and gathering purposes. On December 28, 2016, President Obama issued a Proclamation designating the Bears Ears National Monument. The Proclamation also established the Bears Ears Commission "to provide guidance and recommendations on the development and implementation of management plans and on management of the monument." The Commission has now been fully constituted and consists of one elected officer each from the Hopi Nation, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe, and Pueblo of Zuni.

In April 2017, President Trump attacked this important designation. Trump signed an executive order directing Department of Interior Secretary Ryan Zinke to conduct a review of the Bears Ears National

Monument to determine if it was created without "public outreach and proper coordination." However, the suggestion that the monument's designation lacked outreach and coordination is disingenuous. The Bears Ears National Monument was created after years of advocacy and many public meetings in the Bears Ears region and in Washington, DC. The effort to protect Bears Ears was very long, very public, and very robust.

In August 2017, Zinke submitted recommendations to shrink several monuments, including Bears Ears. Despite Zinke's claim to be giving the people their voice back, his recommendation ignored an outpouring of public support for Bears Ears and other monuments. More than 95% of comments received by the Department of the Interior supported keeping the national monuments, including 65% of comments from Utah residents. NARF, on behalf of its three tribal clients (the Hopi Tribe, Pueblo of Zuni, and Ute Mountain Ute Tribe) filed comments in opposition to the plan to remove Bears Ears from public lands protection on May 26 and again on July 10, 2017.

On December 4, President Trump issued an Executive Order revoking and replacing the Bears Ears National Monument. However, President Trump does not have the authority to take that action. Only Congress has the power to extinguish monuments once established. NARF represents the Hopi, Zuni, and Ute Mountain Ute Tribes and sued the Administration the day the action was taken for violation of the Separation of Powers enshrined in the Constitution and for violation of the Antiquities Act itself.

At the same time, Representative Rob Bishop (R-UT) has introduced House Bill 3990 that would provide the President the authority to revoke and diminish national monuments designated under the Antiquities Act. HB 3990 has passed out of the Natural Resources Committee and is awaiting a vote for the full House. We will be fighting this bill on behalf of our tribal clients.

### *Keystone Pipeline*

The TransCanada Keystone Pipeline is a massive oil pipeline intended to link the oil producers in Canada with the refiners and export terminals on the Gulf Coast. It stretches 1,179 miles and crosses or comes very close to the boundaries of many reservations and tribal land holdings, including the Oceti Sacowin or Great Sioux Nation lands from before the Fort Laramie Treaty of 1868. It also crosses many rivers and the Ogallala Aquifer, which provides water to South



Dakota, Nebraska, and others. Moreover, the proposed pipeline route crosses over sacred Sioux land and an undetermined number of cultural sites and burials. Despite these realities, no consultation has occurred between the federal government and the tribes affected. For these and other reasons, President Obama rejected the permit required for the Canada-US boundary crossing in 2015. In March 2017, the Trump Administration reversed course and granted the necessary permit. NARF represents the Rosebud Sioux Tribe in determining what course of action to take to best protect the Tribe's citizens, natural resources, and sacred places.

#### *Northern Arizona Withdrawal*

In 2012, then-Interior Secretary Salazar announced that he was withdrawing over a million acres of Bureau of Land Management and Forest Service land around the Grand Canyon from any new uranium mining claims, an action known as the Northern Arizona Withdrawal. Several mining companies and individuals challenged the Withdrawal on many grounds, including that the Withdrawal violated the Establishment Clause of the U.S. Constitution because it relied on American Indian spiritual beliefs and therefore constituted an impermissible establishment of religion. NARF, representing the Indian Peaks Band of Paiute Indians, the San Juan Southern Paiute Tribe, and the Morningstar Institute,

filed an amicus brief in one of those cases, *Yount v. Jewell*. NARF's amicus brief addressed the Establishment Clause argument as well as the other American Indian cultural arguments that the mining companies raised. The court upheld the Northern Arizona Withdrawal.

The mining companies appealed this decision to the U.S. Court of Appeals for the Ninth Circuit. NARF, representing the Paiute Indian Tribe of Utah, San Juan Southern Paiute Tribe, Kaibab Band of Paiute Indians, Hualapai Tribe of the Hualapai Reservation, Northwestern Band of the Shoshone Nation, the Morning Star Institute, and the National Congress of American Indians, again filed an *amicus* brief. The Ninth Circuit held oral argument in this case in December 2016. In December 2017, the Ninth Circuit affirmed the district court's opinion upholding the Northern Arizona Withdrawal.

#### *Southern Utah Wilderness Alliance, et al. v. Schneider*

In May 2015, environmentalists and historic preservation advocates secured a victory in *Southwest Utah Wilderness Alliance, et al. v. Schneider* when a Utah federal district court ordered the Bureau of Land Management (BLM) to conduct on-the-ground surveys to identify cultural artifacts in need of protection on more than 4,000 miles of dirt roads and trails where BLM permits off-road vehicles to be driven. BLM appealed that decision in the U.S. Court of Appeals for the Tenth Circuit. NARF, representing the Paiute Indian Tribe of Utah, Indian Peaks Band of Paiutes, the Southern Ute Indian Tribe, and the Morning Star Institute, filed an amicus brief in the Tenth Circuit in support of the environmentalists and requested that the surveys be conducted. A settlement agreement was executed in January 2017. The settlement terms include requirements for new travel planning on thirteen different areas under federal management, including additional and more intensive cultural resource surveys and inventories, as well as other provisions related to wilderness areas, updated oil and gas guidance and modeling efforts, and vacating the district court opinion. NARF continues to monitor the progress of the case and the viability of the settlement.

#### *Solonex v. Jewell*

In September 2014, NARF filed an amicus brief on behalf of the Blackfoot Tribe in the federal district court case, *Solonex v. Jewell*. The energy company is challenging the United States government's process and decision to limit oil and gas development in areas that would threaten the Tribe's sacred sites. When the court ordered the federal government to decide whether it



would seek to cancel or to lift a suspension on Solonex's gas permit on lands sacred to the Tribe, the United States decided to cancel the oil and gas lease. Solonex since has amended its complaint challenging the authority of the United States to cancel the lease. In October 2016, NARF filed an *amicus* brief on behalf of the Tribe. In early 2017, the parties completed briefing on motions for summary judgment, so the matter is before the court.

*Standing Rock Sioux Tribe v. Army Corp of Engineers - Amicus Brief Strategy*

NARF and the National Congress of American Indians (NCAI) are assisting the Standing Rock Sioux Tribe and their attorneys to develop and coordinate an effective *amicus* brief strategy in their lawsuit in federal court in Washington, DC, against the U.S. Army Corps of Engineers in relation to the Dakota Access Pipeline (DAPL). The litigation involves two broad issues surrounding the proposed construction of a major crude-oil pipeline that passes through the Tribe's ancestral lands. First, the pipeline passes under the Missouri River at Lake Oahe, just a half a mile upstream of the tribe's reservation boundary, where a spill would be culturally and economically catastrophic. Second, the pipeline passes through areas of great cultural significance, such as sacred sites and burial grounds that the National Historic Preservation Act (NHPA) was enacted to protect.

In December 2016, the U.S. Army Corps of Engineers issued a statement that it would not grant an easement to allow the Dakota Access Pipeline to cross under Lake Oahe. The Corps determined that further environmental review was warranted. However, on January 24, 2017, President Trump issued a "Memorandum for the Secretary of the Army [re]: Construction of the Dakota Access Pipeline" directing the Army to take "any and all actions appropriate" to review and approve the easement, rescind or modify the December memo, and consider any prior determinations in the matter.

On February 8, 2017, the U.S. Department of Justice informed the court that the Army Corps had provided notice of its intention to grant an easement to Dakota Access, LLC to construct a pipeline under Corps-managed federal land at Lake Oahe. On February 9, 2017, the Cheyenne River Sioux Tribe filed an emergency motion for a Temporary Restraining Order (TRO); on February 10, NARF filed an *amicus* brief on behalf of the Great Plains Tribal Chairman's Association in support of the TRO, focusing on the irreparable harm prong of the TRO in relation to historical trauma and

psychological harm. The court denied the TRO and the preliminary injunction.

In February 2017, both Standing Rock Sioux Tribe and Cheyenne River Sioux Tribe filed amended complaints and motions for summary judgment challenging the issuance of the easement. NARF, in conjunction with NCAI, coordinated an *amicus* brief strategy in support of the Tribes' motions for summary judgment.

In June 2017, the court issued a favorable ruling for the Tribes, finding that the Army Corps of Engineers "did not adequately consider the impacts of an oil spill on fishing rights, hunting rights, or environmental justice, or the degree to which the pipeline's effects are likely to be highly controversial." However, the court ordered supplemental briefing on the question of whether remand (to the Corps) with or without stopping the flow of oil in the pipeline is appropriate. In this remedy phase of the proceeding, NARF filed an *amicus* brief on behalf of the Great Plains Tribal Chairman's Association, NCAI, and eighteen Tribes and Tribal organizations. The brief argued two primary points: (1) failing to vacate the Corps permits and easement would destroy the federal government's obligation to protect the Tribes' resources and reduce Tribal treaty rights to mere paper promises, and (2) failing to vacate would be an affront to environmental justice by continuing the historic shifting of burdens to Indian Tribes.

In October 2017, the court decided to allow oil to continue flowing in the pipeline while the Corps addresses the errors in its environmental analysis identified by the court in its opinion. However, he did not rule on the Tribes' request that the court impose a series of conditions on the continued operation of DAPL under Lake Oahe. He will allow the parties additional briefing on that issue. NARF and NCAI continue to work to coordinate an *amicus* strategy going forward in this phase of the litigation

*Native American Church of North America*

NARF has represented the Native American Church of North America (NACNA) and its member chapters for four decades in the litigation and legislative arenas. Most recently, NARF has worked on a project to research the impact of peyote decline on NACNA members and to develop and support access to and the use of peyote for NACNA. Importing from Mexico, where most naturally occurring peyote grows, is presently not legal, and artificial cultivation is difficult and extraordinarily expensive, so North American peyotists depend on the only region where peyote



abundance occurs in the United States, the Rio Grande River Valley in south Texas. In recent years that supply of peyote is becoming less sustainable due to a myriad of factors: growing Indian demand; exploitation and commercialization by non-Indian people; damage from land use practices including cattle ranching; and damage from incorrect harvesting practices and over-harvesting of the peyote cactus.

For the last few years, the Peyote Research Group has focused on raising awareness in Texas of the need to protect the sacrament. NARF and NACNA representatives have held many meetings with landowners, peyoteros, and botanists to develop relationships. Most recently, NARF has closed on the purchase of 605 acres of south Texas land, made possible by a grant from the RiverStyx Foundation of California.

### **Indian Education**

#### *Boarding School Healing Project*

During the 19th and into the 20th century, pursuant to federal policy, Native American children were forcibly abducted from their homes to attend Christian and government-run boarding schools. The purpose was to "civilize" the Indian and to stamp out Native culture. Cut off from their families and culture, the children were punished for speaking their native language,

banned from conducting traditional or cultural practices, shorn of traditional clothing, and taught that their culture and traditions were sinful. Often placed far from home, they were frequently neglected or abused physically, sexually, and psychologically. They were returned to their communities, not as the Christianized farmers that the policy envisioned, but as deeply scarred human beings with none of the acculturated skills (e.g., parenting, extended family, language, cultural practices) gained by those who are raised in a cohesive community.

There has been scant recognition and no acceptance of responsibility by the U.S. federal government that initiated and carried out this policy of cultural genocide. There are no realistic legal avenues to seek redress or healing from the enduring wounds inflicted on the individuals and communities of tribal nations. Unlike in other countries (e.g. Canada, Australia), there has been no official U.S. proposal for healing or reconciliation.

NARF represents the Native American Boarding School Healing Coalition in seeking appropriate acknowledgment by the United States and major Christian denominations of their roles in establishing and implementing the boarding school policy of cultural genocide. The Coalition provides education and outreach in Indian Country, churches and the non-Indian public, Congress, and international venues.

#### *Tribal Education Departments National Assembly*

NARF founded the Tribal Education Departments National Assembly (TEDNA) more than ten years ago with funding from the U.S. Department of Education to start a new, first-of-its-kind national membership organization for Tribal Education Departments (or Agencies). With NARF's assistance, TEDNA has become a leading Indian education organization that focuses on tribal governance over K-12 education provided by state, federal, and tribal schools. NARF continues to represent TEDNA on national legislative and administrative matters, including direct federal appropriations for TEDs, substantive provisions in legislation and regulations, and negotiations in other instruments and documents. For example, in May 2017, NARF assisted TEDNA with its testimony to the U.S. House of Representatives subcommittee on Interior Department appropriations. In July 2017, NARF drafted a letter of support for S. 943, a bill that would require the Interior Department to update the student count used for program funding. In October 2017, NARF drafted a letter of support on H.R. 1528, the Native American Indian Education Act, which would provide for federal funding for out-of-state

Native American students at state universities that offer tuition waivers to in-state Native American students. NARF also provides training for TEDNA and its partners on various national, state, and tribal education legislation and other legal matters.

In 2015, TEDNA was awarded one of the U.S. Department of Education's Indian Education Act discretionary grants, a Native Youth Community Project (NYCP) Grant. Under this four-year grant, TEDNA is partnering with four tribes and several educational entities in a project that focuses on improving college and career readiness for tribal students. NARF is reviewing and analyzing tribal education codes to identify areas for increased or improved tribal governance to enhance in college and career readiness. NARF provided trainings on this point at TEDNA NYCP meetings in 2017.

Since January 2017, NARF has been helping TEDNA draft a Memorandum of Understanding (MOU) between TEDNA and the Bureau of Indian Education (BIE) that provides for TEDNA to offer technical assistance to TEDs that receive direct federal funding through the Interior Department. Finally, NARF has conducted research for TEDNA on best practices for tribal consultation on education matters. NARF presented the results of this research during the Oklahoma Sovereignty Symposium in June 2017, a data quality seminar in July 2017, TEDNA's annual meeting in October 2017, and at a TEDNA forum, in conjunction with the National Congress of American Indian's annual convention in October 2017.

### Indian Child Welfare Act Defense Project

The Indian Child Welfare Act (ICWA) was passed by the U.S. Congress in 1978. A congressional investigation showed that American Indian and Alaska Native children were being removed disproportionately from their families by state agencies and state courts and placed in non-Native foster or adoptive homes or residential institutions. Congress found that many of these removals and placements were due to state officials' inability or unwillingness to understand tribal cultures and societies. The impact of the removals and placements was extremely detrimental to the children, their families, and tribes. The ICWA Defense Project is a partnership between the Native American Rights Fund, the National Indian Child Welfare Association, the National Congress of American Indians, and the ICWA Appellate Clinic at Michigan State University School of Law, formed to protect the rights of children, families, and tribes in ICWA proceedings nationwide.

In June 2016, the Bureau of Indian Affairs (BIA) issued Regulations for Indian Child Welfare Act Proceedings, capping off more than a year of BIA ICWA reforms that represented major progress in addressing many of the problematic areas that have arisen since ICWA was enacted in 1978. The new regulations went into effect in December 2016 and the BIA released updated ICWA Guidelines. Subsequently, a network of ICWA opponents filed multiple lawsuits challenging the Guidelines and ICWA's constitutionality.

In Minnesota, members of the Academy of Adoption Attorneys filed a constitutional challenge to the Minnesota Indian Family Preservation Act (MIFPA). The case, *Doe v. Jesson*, claimed that the MIFPA violated the rights of Indian children and parents by requiring them to notify the tribe of the adoptive proceeding and by allowing a tribe to intervene in the case. NARF assisted the attorneys for the tribe involved, the Mille Lacs Band of Ojibwe, and provided research and technical assistance in forming a response. In August 2017, the court declared the proceedings moot.

In July 2015, the Goldwater Institute—a conservative think tank located in Phoenix, Arizona—filed *A.D. v. Washburn* challenging the constitutionality of ICWA and the revised Guidelines. NARF, on behalf of the National Indian Child Welfare Association, National Congress of American Indians, and Association on American Indian Affairs, filed an *amicus* brief in the case supporting the motion to dismiss. In March 2017, the federal district court dismissed Goldwater's case for lack of standing. Goldwater has appealed to the Ninth Circuit.

In addition to this litigation work, NARF has conducted trainings and provided technical support on the new ICWA regulations. In the last year and a half, NARF staff conducted over twenty trainings reaching over 1,150 state legislators, state judges, state attorneys, tribal leaders, tribal ICWA workers, tribal attorneys, child welfare attorneys and practitioners, volunteers who serve as Court Appointed Special Advocates, state social workers, and *guardians ad litem*. NARF also answered more than forty technical assistance requests from tribal attorneys, parents' attorneys, private practitioners, and nonprofit legal service providers.

NARF also has been working to build the ICWA Defense Project coalition with a series of meetings sponsored by NARF's Kellogg Foundation grant.

Finally, NARF has been heavily involved in recent efforts in Alaska to transfer more control over the



state's child welfare system to tribes through a compacting process, similar to what has been used in the Indian Health Service context. This effort will allow tribes to enter into an agreement with the state to provide services and/or perform functions that are currently provided by the Alaska Office of Children's Services.

### **Voting and Civil Rights**

#### *Brakebill, et al. v. Jaeger*

On December 13, 2017, NARF again brought action against the state of North Dakota seeking to overturn North Dakota's newest discriminatory voter ID law. NARF filed an amended complaint on behalf of Native American plaintiffs impacted by the discriminatory law. Last year, NARF fought to enjoin enforcement of North Dakota's voter ID law, which disproportionately prevented Native Americans from exercising their right to vote. In that action, Judge Daniel L. Hovland of the U.S. District Court for the District of North Dakota found "[i]t is undisputed that the more severe conditions in which Native Americans live translates to disproportionate burdens when it comes to complying with the new voter ID laws." Judge Hovland, therefore, held the law likely violated the U.S. Constitution because it disproportionately kept Native Americans from voting and required the state to provide a fail-safe mechanism for those without IDs in the 2016 general election. Judge Hovland wrote, "... it is clear that a safety net is needed for those voters who simply cannot obtain a qualifying voter ID with reasonable effort."

In light of this defeat, the legislature amended their law earlier this year, but the new law failed to include meaningful protections for voters' rights. Plaintiffs Richard Brakebill, Dorothy Herman, Della Merrick, Elvis Norquay, Ray Norquay, and Lucille Vivier amended their suit, which now challenges this recently enacted voter ID law, HB 1369. HB 1369 ignores the problems Judge Hovland identified in his previous opinion and perpetuates voter suppression tactics by requiring every voter to possess a narrowly prescribed form of ID. It also lacks the necessary fail-safe provisions that would ensure that qualified voters are not denied their right to vote. The Legislature passed these provisions despite knowing they would suppress the Native American vote. This law was implemented in order to deny qualified Native American voters access to the ballot box.

#### *Native American Voting Rights Coalition*

In 2015, NARF founded the Native American Voting Rights Coalition (NAVRC), a non-partisan alliance of national and grassroots organizations, scholars, and

activists advocating for equal access for Native Americans to the political process. NARF developed the project to coordinate efforts at overcoming the barriers Native Americans face in registering to vote, casting their ballot, and having an equal voice in elections. NAVRC employs three primary methods to achieve its goal. It educates the public about the unique challenges Native voters face. It works with policy makers and election officials to address those challenges. And, when necessary, NAVRC members may pursue other legal avenues, including litigation, to stop practices that have a discriminatory purpose or effect on Native voters.

In September 2017, NAVRC began holding field hearings across the country. The hearings will constitute the largest survey of Native voters ever conducted and create a documentary record of the circumstances surrounding voting in Indian Country, identifying the unique needs and challenges faced by Native voters.

#### *Smith v. State*

For decades, the Alaska Court System has excluded the residents of over 150 rural villages from being called for jury service. The courts claim that it's too expensive to include rural residents; however, the exclusion of rural residents ends up disenfranchising communities with lower incomes and that are predominately Alaska Native. Not including those communities in the jury pool results in thirty percent of Alaska Natives being excluded from participating in the justice system. It affects perceptions of the justice system—if you're excluded from jury service then you only encounter the courts if you're a victim, witness, or defendant. And, it results in unrepresentative juries and likely disproportionate sentences.

In February 2017, NARF filed an amicus brief before the Alaska Court of Appeals in support of Appellant Smith's arguments that costs savings alone are not a sufficient government interest, under an equal protection and due process analysis, to exclude thirty percent of the Alaska Native community from serving on juries.

### **International Recognition of Indigenous Peoples**

#### *United Nations Declaration on the Rights of Indigenous Peoples*

NARF and the National Congress of American Indians (NCAI) entered into an attorney-client relationship over a decade ago for the purpose of working in the international arena to protect indigenous rights. September 2017 was the tenth anniversary of the United Nation's adoption of the Declaration on the Rights of Indigenous Peoples. The Declaration recog-

nizes that indigenous peoples have important collective human rights in a multitude of areas, including self-determination, spirituality, cultural and linguistic heritage, and lands, territories and natural resources. It sets minimum standards for the treatment of indigenous peoples and can serve as the basis for the development of customary international law. NARF's most recent actions on behalf of the NCAI have focused on the enhanced participation of indigenous institutions at the United Nations (UN).

Until now, indigenous peoples have had to appear in most UN bodies as non-governmental organizations, which is precisely what they are not. A meeting of Indigenous Peoples' representatives from around the world, including one from NCAI, met in November 2016 to discuss areas of consensus. Informal consultations with member states began in December 2016 and continued through July 2017. This series of consultations concluded without any real movement on the issue, but the UN General Assembly committed in September 2017 to continue to consider the issue for the next five sessions, and directed that additional regional consultations take place and that a report be compiled.

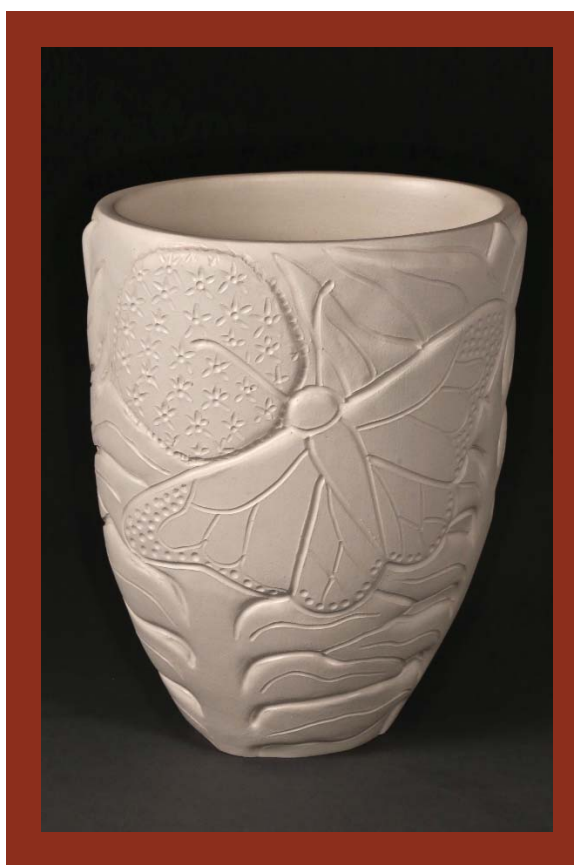
## *Organization of American States Declaration on the Rights of Indigenous Peoples*

The Organization of American States (OAS) has been working on an American Declaration on the Rights of Indigenous Peoples for over twenty-five years. NARF has been representing NCAI on this matter. The General Assembly of the OAS approved the American Declaration on the Rights of Indigenous Peoples in June 2016. This Declaration marks a major victory for indigenous peoples. The American Declaration goes beyond the United Nations Declaration on the Rights of Indigenous Peoples in several respects including, among others, treaties, the rights of children, and the rights of peoples in voluntary isolation. The United States commented it had been a persistent objector to the text and could not be bound by it.

NARF, on behalf of NCAI, attended a meeting of the OAS General Assembly in June 2017. The General Assembly adopted a resolution approving a plan to implement the Declaration.

## *World Intellectual Property Organization*

Recently, NARF has represented NCAI in the ongoing negotiations for an international treaty to protect various intellectual property, including Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions (TCE). The United States has



been participating in these treaty negotiations at the World Intellectual Property Organization (WIPO) since 2000, and since 2016 there has been draft text of the potential treaties. The United States Department of State has delegated authority to the U.S. Patent and Trademark Office (PTO) for these negotiations, but neither the PTO, the State Department, nor any federal agency has ever consulted with American Indian and Alaska Native tribes regarding the negotiations. At its 2016 Annual Convention, NCAI passed a resolution calling for such consultation. In June 2017, the PTO and other federal agencies conducted the first listening session with tribes on this matter.

In May 2017, NARF and the University of Colorado Law School hosted a major drafting session on the WIPO TCE instrument. NARF took a proposed draft of new TCE provisions to the 34th WIPO session in June 2017. The WIPO Indigenous Caucus approved the draft and some of the text from it was introduced into the WIPO draft TCE instrument. In October 2017, the new WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore mandate and work plan were approved by the WIPO General Assembly.

# HOLDING GOVERNMENTS ACCOUNTABLE

Contained within the unique trust relationship between the United States and Native nations is the inherent duty for all levels of government to recognize and responsibly enforce the many laws and regulations applicable to Native peoples. Because such laws impact virtually every aspect of tribal life, NARF maintains its involvement in the legal matters pertaining to *holding governments accountable* to Native Americans.

## Trust Fund Matters

### *Pembina Chippewa v. United States*

In *Pembina Chippewa v. United States*, NARF represents the Turtle Mountain Chippewa, Chippewa Cree, White Earth Band of Minnesota Chippewa, and Little Shell Chippewa Tribes in this case against the federal government for misaccounting and mismanagement of their tribal trust fund, the Pembina Judgment Fund (PJF). Since August 2007, the parties have been engaged in alternative dispute resolution proceedings before a Settlement Judge of the Court of Federal Claims. In July 2015, the parties reached agreement on a monetary amount for a potential settlement of the Plaintiffs' claims in this case. Since that time the parties have been discussing numerous non-monetary components of a potential settlement, and preparing various documents.

### *Muscogee (Creek) Nation v. Zinke*

In January 2014, the Muscogee Creek Nation retained NARF to represent it in its pending action in federal district court for an historical accounting of its trust funds and assets. NARF reviewed the Nation's trust account data provided by the government and assisted the Nation in its settlement negotiations with the government. In August 2016, the final settlement agreement was filed with and approved by the Court. The Joint Stipulation of Dismissal was filed in September 2016 and is awaiting approval by the Court.

### *Intertribal Council of Arizona v. United States*

In April 2015, NARF filed on behalf of the Intertribal Council of Arizona (ITCA) a breach of trust case against the United States seeking damages for mismanagement of the Arizona Intertribal Trust Fund (AITF). The AITF was established by Congress in 1988 to compensate Arizona tribes for the closure of the Phoenix Indian School, an off-reservation boarding school operated by the Bureau of Indian Affairs since 1891. The school's closure allowed the Department of the Interior to exchange the land on which the school had been located for privately owned lands of the

Barron Collier Company in Florida that would become part of a national wildlife refuge. The Phoenix lands were more valuable than the Florida lands, and Congress approved the land exchange only if the difference in value of the properties went to the AITF and a trust fund for the Navajo Nation. Collier paid some, but not all, of the property value and gave the United States notice that they would no longer make payments. The lawsuit seeks to hold the United States liable for the remaining payments into the AITF. In May 2016, the parties to this case (i.e., ITCA and the United States) attempted a voluntary mediation effort, but the mediation was not successful, and the case was returned to active litigation. However, in October 2016, the United States and Collier announced that they had reached a settlement in principle of their claims against each other. It is possible this could lead to a successful negotiated settlement of ITCA's claims against the United States. In the event that the claims must be litigated, ITCA filed a First Amended Complaint in December 2016, which the United States moved to dismiss in February 2017. However, in August 2017 the court terminated the dismissal motion and ordered ITCA to file a second amended complaint.

### *Repeal of the Klamath Tribe Distribution of Judgment Act*

The Klamath Tribe retained NARF to seek repeal of the Distribution of Judgment Fund Act, which was adopted as part of the legislation that terminated the Tribes' government-to-government relationship in 1954. That relationship was restored in 1986, but the remnant legislation was not repealed. The Distribution Act requires distribution of judgments from the United States Treasury to descendants of those who appear on the final roll compiled pursuant to the Termination Act. That would include distribution of tribal funds to a significant number of non-Indians and individuals who are not enrolled members of the Tribes. Repeal would result in funds deposited in the Treasury from judgments against the United States being distributed pursuant to the Distribution of Judgment Funds Act for all Tribes. Senators Merkley and Wyden introduced S. 1223 on May 24, 2017 to repeal the Klamath Tribe Judgment Fund Act. A hearing on the Bill was held in July 2017, and NARF provided testimony in support of its adoption. In December, the Senate Committee on Indian Affairs recommended the bill, as amended, pass.



**Center for Biological Diversity, et al. v. U.S. Army Corps of Engineers, et al.**

NARF represented the Santa Ynez Band of Chumash Indians in a case challenging the issuance of a Clean Water Act Section 404 permit. The proposed Newhall Ranch Project area encompasses 12,000 acres along 5.5 linear miles of the Santa Clara River and calls for the construction of nearly 21,000 homes on approximately 2,550 acres. The project area is also the ancestral homeland of Chumash and includes at least two significant archaeological sites as well as a number of ancient burials. The Corps issued a Clean Water Act Section 404 permit to Newhall in October 2012, and the suit soon followed. The Tribe joined this case to protect their right to government-to-government consultation

under the Administrative Procedure Act (APA) and the National Historic Preservation Act (NHPA). The Tribe's claim is simple: the Corps never contacted, much less formally consulted, the Tribe about the project. The Corps failed to follow the statutory and regulatory mandates with respect to the Tribe. Thus the Section 404 permit the Corp's granted to Newhall is in violation of the NHPA and APA. Oral argument was held in February 2017. Subsequently, Newhall began settlement discussions in earnest and the case was settled in September 2017. The Tribe negotiated for cultural resource protections that exceed what is required by California and federal law, support for their cultural center, and amending of the flawed agreement that previously applied to the project.



# DEVELOPING INDIAN LAW

NARF has three ongoing projects aimed at *developing Indian law and educating the public about Indian rights, laws, and issues*: the Indigenous Peacemaking Initiative, the National Indian Law Library, and the Indian Law Support Center. NARF also participates in numerous conferences and meetings to share its knowledge and expertise in Indian law. During 2017, NARF attorneys and staff served in speaking and leadership capacities at numerous conferences and meetings such as the National Congress of American Indians Executive Council, Midyear and Annual Conventions and the Federal Bar Association's Indian Law Conference. NARF remains firmly committed to continuing its effort to share its legal expertise in support of Indian rights.

## Indigenous Peacemaking Initiative

Indigenous peacemaking is a community-directed conflict resolution process that addresses the concerns of all interested parties. The peacemaking process uses traditional rituals such as the group circle and Clan structures to involve the parties to a conflict, their supporters, elders and interested community members. Within the circle, people can speak from the heart in a shared search for understanding of the conflict, and together identify the steps necessary to assist in healing all affected parties and to prevent future occurrences and conflicts. Learn more from the IPI video at <http://bit.ly/IPI-video>.

The mission of the Indigenous Peacemaking Initiative (IPI) is to promote and support Native peoples in restoring and revitalizing sustainable peacemaking practices. The project is guided by an Advisory Committee consisting of traditional peacemaking experts and practitioners.

Trainings and technical assistance for tribes are an IPI focus. In August 2017, the IPI worked with the Eastern Band of Cherokee Indians to assist in a Community Dispute Resolution program under the Tribal Court including on-site trainings for peacemaking facilitators. August brought the annual Pokagon Band of Potawatomi Tribal Court-sponsored training in Peace Circles. IPI also began community peacemaking discussions at the Ho-Chunk Nation in September, and presented a peacemaker training for the Choctaw Nation Judicial Branch. With Advisory Committee support, IPI has been working on planning and funding recruitment for peace circles development and implementation in southeast Alaska as well.

IPI also provided several presentations and panels this year. IPI and its Advisory recently presented at the Annual National American Indian Court Judges Association meeting in October and the American Indian Justice Conference in December.

## The National Indian Law Library

The National Indian Law Library (NILL) is the only law library in the United States devoted to Indian law. The library serves NARF and members of the public. Since it started as a NARF project in 1972, NILL has collected nearly 9,000 resource materials that relate to federal Indian and tribal law. The collection includes tribal laws and constitutions, pleadings from major Indian cases, and hard-to-find reports and historical legal information. The library maintains an immense website ([www.narf.org/nill/](http://www.narf.org/nill/)), which receives 25,000 visits each month. In addition to making its extensive collection available to the public, NILL provides research assistance related to Indian law and tribal law, and its staff answers over 2,000 questions each year.

The library's holdings include the largest collection of tribal codes, ordinances and constitutions, and the Tribal Law Gateway ([www.narf.org/nill/triballaw/](http://www.narf.org/nill/triballaw/)) continues to be an invaluable resource for researchers and practitioners in tribal law. In the last year, NILL received updates to seventy-eight constitutions/codes from forty-two tribes and completed the migration from its old tribal law index to the new Tribal Law Gateway.

Each week, NILL provides free updates on Indian law through the Indian Law Bulletins ([www.narf.org/nill/bulletins/](http://www.narf.org/nill/bulletins/)), which are available by email or on the website. More than 5,000 subscribers currently receive the bulletin updates. For more than a decade, the library has offered access to federal and state court cases, legal news and scholarship, federal legislation, and regulatory action from agencies and departments like the Environmental Protection Agency and the Bureau of Indian Affairs. In 2017, the library added a bulletin covering tribal court opinions. In addition to the weekly distribution, the Indian Law Bulletins are archived on the NILL website, where they can be used as a searchable database of Native American law and legal news.

### Indian Law Support Center

NARF continues to perform Indian Law Support Center duties by sending regular electronic communications to the twenty-four Indian Legal Services (ILS) programs, hosting a national listserv, handling requests for assistance, and working with ILS programs to secure a more stable funding base. The Indian

Tribal Justice and Legal Assistance Act of 2000 authorizes the U.S. Department of Justice to provide supplemental funding to Indian legal services programs for their representation of Indian people and tribes that fall below federal poverty guidelines. The National Association of Indian Legal Services and NARF have been awarded a civil-program-only grant of \$600,000 in FY 2017 funds that NARF will administer.





# FY 2017 FINANCIAL REPORT

Based on our audited financial statements for the fiscal year ending September 30, 2017, NARF reports total revenue and net assets of \$32,097,408 and \$42,245,235, respectively. Due to presentation requirements of the audited financial statements in terms of recognizing the timing of certain revenues and expenses, they do not reflect the fact that based on NARF's internal reporting, revenue exceeded expenses and other cash outlays resulting in an increase of \$22,347,195 to NARF's reserve fund. After the creation of a \$25 million Future Legal Advocacy Fund, a Board-designated endowment, our reserve fund stands at \$13.5 million.

When compared to fiscal year 2016: There was a slight increase in public contributions. Although we have escalated our direct mail campaigns (donations increased over 60% in that area), bequests had decreased significantly (this area can

vary widely from one year to the next). The significant increase in tribal contributions is due to receiving generous donations from our tribal trust fund clients. Federal awards relate to our Bureau of Justice Assistance contracts, the majority of which is also included in expenses since it is paid-out to sub-recipients, and, although we continue to be awarded new contracts, the amounts vary from year to year. The decrease in foundation grants is due to receiving many new and large foundation grants last year that actually benefit future years. Our relationships with those foundations are strong and renewed funding after the current agreements end is possible. The slight increase in legal fees is mostly due to the actual fees related to our tribal trust fund work. Along with the overall markets, NARF's investments continue to perform well. Also, we added more funds to our investments over the year.

## SUPPORT AND REVENUE COMPARISON

|                              | 2017                |               | 2016                |               |
|------------------------------|---------------------|---------------|---------------------|---------------|
|                              | dollars             | percents      | dollars             | percents      |
| <b>Public Contributions</b>  | 2,121,784           | 6.6%          | 2,074,593           | 15.6%         |
| <b>Tribal Contributions</b>  | 23,771,360          | 74.1%         | 3,457,965           | 25.9%         |
| <b>Federal Awards</b>        | 1,001,888           | 3.1%          | 1,011,476           | 7.6%          |
| <b>Foundation Grants</b>     | 907,065             | 2.8%          | 3,108,832           | 23.3%         |
| <b>Legal Fees</b>            | 2,123,889           | 6.6%          | 2,028,322           | 15.2%         |
| <b>Return on Investments</b> | 2,115,776           | 6.6%          | 1,604,562           | 12.0%         |
| <b>Other</b>                 | 55,646              | 0.2%          | 58,233              | 0.4%          |
| <b>TOTALS</b>                | <b>\$32,097,408</b> | <b>100.0%</b> | <b>\$13,343,983</b> | <b>100.0%</b> |

## EXPENSE COMPARISON

|                                       | 2017                |               | 2016                |               |
|---------------------------------------|---------------------|---------------|---------------------|---------------|
|                                       | dollars             | percents      | dollars             | percents      |
| <b>Litigation and Client Services</b> | 7,738,649           | 69.9%         | 7,749,780           | 71.9%         |
| <b>National Indian Law Library</b>    | 356,178             | 3.2%          | 362,854             | 3.4%          |
| <b>Total Program Services</b>         | <b>8,094,827</b>    | <b>73.1%</b>  | <b>8,112,634</b>    | <b>75.3%</b>  |
| <b>Management and General</b>         | 902,350             | 8.2%          | 861,057             | 8.0%          |
| <b>Fund Raising</b>                   | 2,068,248           | 18.7%         | 1,796,946           | 16.7%         |
| <b>Total Support Services</b>         | <b>2,970,598</b>    | <b>26.9%</b>  | <b>2,658,003</b>    | <b>24.7%</b>  |
| <b>TOTALS</b>                         | <b>\$11,065,425</b> | <b>100.0%</b> | <b>\$10,770,637</b> | <b>100.0%</b> |

Note: This summary of financial information has been extracted from NARF's audited financial statements which received an unmodified opinion by the accounting firm of BKD, LLP. Complete audited financials are available, upon request, through our Boulder office, or at [www.narf.org](http://www.narf.org).

# NARF ACKNOWLEDGMENT OF CONTRIBUTIONS: FISCAL YEAR 2017

NARF's success relies on the generosity of our donors throughout the nation. We invite you to learn more about the benefits associated with each program listed below, please contact our Development Department, 303-447-8760.

We gratefully acknowledge these donors for fiscal year 2017 (October 1, 2016 through September 30, 2017).

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*Peta Uha in the Lakota (Sioux) language means firekeeper, an individual who makes a solemn commitment to ensure that the sacred flame—source of light, heat, and energy for the people—will be kept burning. Peta Uha is a membership program for donors making substantial annual commitments to NARF. Like the firekeepers of old, members of the Peta Uha Council demonstrate constancy and vigilance to ensure the protection of justice for Native Americans.*

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Attorney

Jacqueline D. De León (Isleta Pueblo),  
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K. Jerome Gottschalk, Attorney

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Donald R. Wharton, Attorney

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Attorney

Natalie Landreth (Chickasaw) Attorney

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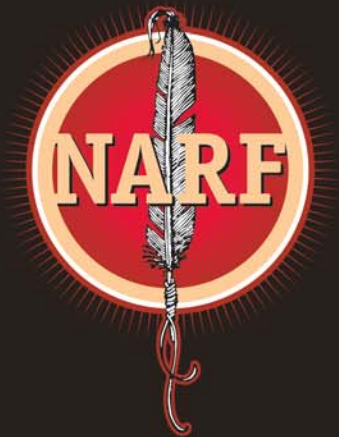
Richard Guest, Attorney

Dan Lewerenz (Iowa Tribe of Kansas and  
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1506 Broadway  
Boulder, CO 80302  
303-447-8760  
[www.narf.org](http://www.narf.org)