

NATIVE AMERICAN RIGHTS FUND

Annual Report 2019





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 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."

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: Jamie Okuma (Luiseño, Shoshone-Bannock) specializes in one-of-a-kind pieces that are hand-executed exclusively by the artist. She has been a professional artist from the age of 18, when her beadwork focused on creating beaded dolls and dance regalia. Today, she combines her background in beadwork with high-end fashion to create what she calls contemporary Native fashion. She has won six *Best in Show* awards: three from the Heard Indian Market and three from the Santa Fe Indian Market. She is one of only two artists to achieve this distinction. Her work has been shown in Germany, Australia, France, and numerous art institutions throughout the United States, including the Metropolitan Museum of Art in New York City. Her work is included in the permanent collections of the Minneapolis Institute of Art, the Metropolitan Museum of Art, the Nelson-Atkins Museum, the Denver Art Museum, and the Smithsonian Institution's National Museum of the American Indian.

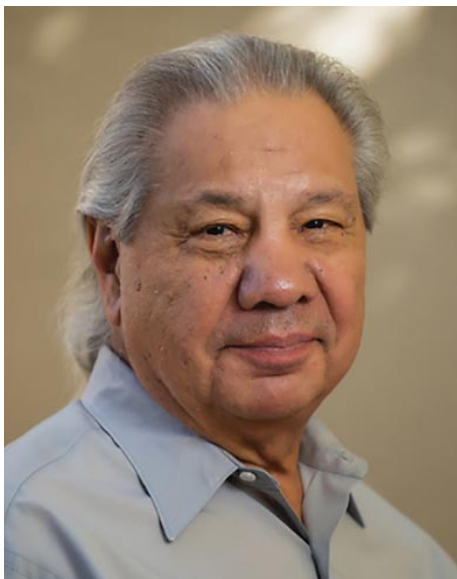


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Executive Director's Report



For 49 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 2019.

We have represented the Little Shell Tribe of Chippewa Indians of Montana for several decades in the federal recognition administrative process at

the Department of the Interior to become a federally recognized tribe. The Tribe simultaneously pursued legislative recognition from Congress with the assistance of counsel in Washington, D.C. These legislative efforts ended successfully in 2019 with the Little Shell Tribe becoming the 574th federally recognized tribe, a stunning victory ending a monumental struggle for justice.

The proposed Keystone XL oil pipeline to run from Canada to the Gulf Coast would cross or come very close to the boundaries of many Indian reservation lands and tribal land holdings. We are representing the Rosebud Sioux Tribe of South Dakota and the Fort Belknap Indian Community of Montana in litigation to stop the pipeline based on Indian treaty, constitutional, trespass and tribal jurisdiction claims. In 2019, the federal government and energy company motions to dismiss the case were denied.

We are representing the Nez Perce Tribe of Idaho in its water rights claims in the Palouse River Adjudication along with federal government as trustee for the Tribe. In 2019, the Tribe and the U.S. filed claims for instream flows in 24 reaches of the Palouse River and its tributaries, for nearly 200 springs claims on private and federal lands, and for water for consumptive uses on two Indian allotments in the Palouse watershed.

The U.S. Court of Appeals for the Federal Circuit recently re-affirmed the superiority of the senior water rights of the Klamath Tribes of Oregon and downriver Klamath Basin tribes over other water interests in the

Klamath Basin. The Klamath Tribes were not parties to the case but we filed several amicus curiae friend of the court briefs on their behalf during the course of the litigation brought by irrigators against the federal government. The Court also affirmed that the Klamath Tribes' water rights include waters in Upper Klamath Lake that secure the Tribes' treaty fishing rights.

We represent the American Indian Higher Education Consortium (AIHEC) as amicus curiae in a case brought against a tribal college by a former employee of the college, alleging the he was discriminated against by the college in violation of federal law. The tribal college, supported by AIHEC, was successful in having the case recently dismissed by the U. S. Court of Appeals for the Ninth Circuit on the ground that the college is an arm of the Confederated Salish and Kootenai Tribes of Montana and the Tribes have sovereign immunity from suit without their consent.

In *Brackeen v. Bernhardt*, the U.S. Court of Appeals for the Fifth Circuit affirmed the constitutionality of the 1978 Indian Child Welfare Act, recognized the political status of tribes and Indians, and upheld the law that is so critical to safeguarding Indian child welfare. The Court held that the U.S. Constitution allows Congress to pass laws that protect the best interests of Indian children. We filed an amicus curiae brief in the case on behalf of 325 tribal nations and 57 tribal organizations.

When the Federal Communications Commission (FCC) tried to exempt 5G wireless cellular infrastructure from the tribal consultation requirements of the National Historic Preservation Act, we filed suit along with co-counsel on behalf of several tribes in the U.S. Court of Appeals for the D. C. Circuit. The Court recently issued an opinion largely holding that the FCC's rulemaking was unlawful by failing to provide a reasoned explanation for why it was within the public interest to exempt the deployment of 5G infrastructure from review.

In closing, I want to thank all of our funders for their support. Without your support, these significant legal accomplishments in 2019 would not have been possible. We can only hope that your support will continue in 2020 so that we can achieve even more legal victories for Native Americans.

John E. Echohawk
Executive Director

Chairman's Message

Greetings Friends.

Let us just say time goes by quickly! I am sad to say that this will be my last letter to you as Chair of the Board of Directors at the Native American Rights Fund. My term on the Board will come to an end in 2020. I am thankful for the time that I have spent with NARF staff and the inspiring people who have served with me on the NARF Board.

Finishing my term in 2020 feels momentous. In 2020, NARF will be celebrating fifty years of fighting for Indian Country. A milestone like this provides an opportunity to mindfully recognize the people, the effort, and the commitment that has brought NARF so much success in its first fifty years. It is an honor to hold a small place in this story and be a part of such a significant movement.

Since NARF was founded in 1970, so much has changed. Many battles have been won. Concepts like tribal sovereignty, government-to-government relations, and self-determination have become well-established principles of Indian Law. Native voices have been heard, and our issues are represented in the national arena in a way they never were before. There is a lot to celebrate.

Unfortunately, even though battles have been fought and won, many of the challenges that existed in 1970, we are still fighting today. Still, we witness broken treaties, attempts to limit participation in state and federal elections, and ignorance about ongoing Native issues. We still fear some of our fellow Americans vision of a future that does not include Native Americans and tribes. That reality can be disheartening.

That is exactly why NARF was created and has stood the test of time. NARF fights discriminatory forces and protect the rights of tribes and tribal citizens. Fifty years of fighting for progress does not change that mission. From what I have seen at NARF, the attorneys and staff today are fully committed to enforce the laws that protect Native American human rights, natural resources, cultures, and sovereignty. The fight will continue, and NARF shall endure.

There is a duty to our people, our cultures, and our survival. NARF heeds that duty, and I call upon you, NARF supporters, to also respond to this call. Your donations and support are absolutely necessary for this work to continue. As you read through this annual report, please recognize that every step forward is only because of a shared commitment to make progress happen. Even as my service on the NARF Board comes to an end, my commitment to this movement remains strong. I look forward to the progress that we will continue to create together in the years to come.

Mvto. (Thank you.)

Robert R. McGhee
Chairman, NARF Board of Directors



Board of Directors

The Native American Rights Fund has a governing board composed of Native American leaders from across the country. Board members are chosen based on their involvement and knowledge of Indian issues and affairs, as well as tribal affiliation, to ensure comprehensive geographical representation. The vision of the Board members is essential to NARF's effectiveness in representing its Native American clients.

NARF's Board of Directors (L to R): **Kenneth Kahn** (Santa Ynez Band of Chumash Indians); **Derek Valdo** (Pueblo of Acoma); **Michael Colbert Smith** (Chickasaw Nation); **Rhonda Pitka** (Athabaskan/Inupiaq); **Robert Miguel** (Ak-Chin Indian Community); **Lacey Horn, Treasurer** (Cherokee Nation); **Camille Kalama** (Native Hawaiian); **Robert McGhee**, Chairman (Poarch Band of Creek Indians); **Kurt BlueDog**, Vice-Chairman (Sisseton-Wahpeton Sioux); **Jamie Azure** (Turtle Mountain Band of Chippewa); **Rebecca Miles** (Nez Perce Tribe);

Not pictured: **Anita Mitchell** (Muckleshoot Indian Tribe); **MaryAnn Johnson** (Portage Creek)



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.

Randy Bardwell, *Pechanga Band of Luiseno Mission Indians*

Deborah Bardwell

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, *Pascua 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

NARF's first Board of Directors developed priorities to guide the Native American Rights Fund in its mission to preserve and enforce the legal rights of Native Americans. Those five priorities continue to lead NARF today:

- **Preserve tribal existence**
- **Protect tribal natural resources**
- **Promote Native American human rights**
- **Hold governments accountable to Native Americans**
- **Develop Indian law and educate the public about Indian rights, laws, and issues**

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



Preserve Tribal Existence

The US Constitution recognizes that Indian tribes are independent governmental entities with inherent authority over their members and territory. Tribal governments possess the power to regulate the internal affairs of their members as well as activities within their reservations. 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. Under the priority to *preserve tribal existence*, NARF empowers tribes to live according to Native traditions, to enforce their treaty rights, to ensure their independence on reservations, and to protect their right to self-govern (sovereignty).

TRIBAL SOVEREIGNTY AND JURISDICTION

Tribal Sovereignty Protection Initiative

From the 19th into the mid-20th century, the US Supreme Court repeatedly affirmed the principle that tribes retain inherent sovereignty over their members and territory. However, 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, which reached a crisis point in 2001. In response, NARF partnered with the National Congress of American Indians (NCAI) in 2001 to develop the Tribal Sovereignty Protection Initiative. The Initiative monitors legislation, judicial appointments, and cases related to tribal interests.

~ Tribal Supreme Court Project

A major component of the Initiative is the Tribal Supreme Court Project. Staffed by NARF and NCAI, it monitors cases potentially headed to the US Supreme Court as well as those accepted for review. The Project is based on the idea that a strong and coordinated approach can reduce, and even reverse, the erosion of tribal sovereignty by Supreme Court Justices who appear to lack an understanding of federal Indian law and are unfamiliar with the practical challenges facing tribal governments. 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.

During the October 2019 term, there have been fewer petitions for review filed in Indian law cases than we have seen in several years. Currently, there are only

two Indian law petitions that are granted review. In an unusual twist, the two cases present the same question: whether the Muscogee (Creek) Nation's reservation was disestablished. The question first reached the Court last term in *Sharp v. Murphy* (17-1107). After oral argument, the Court requested supplemental briefing, then announced that the case would be scheduled for re-argument in the October 2019 term. Argument had not been scheduled when, in December 2019, the Court granted review in *McGirt v. Oklahoma* (18-9526), which presents the same reservation disestablishment question as *Murphy*.

~ Judicial Selection 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.

To date, the Senate has confirmed 187 Article III judges nominated by President Trump. The rate of judicial confirmations in this administration is outpacing the previous three presidents. As it does in all administrations, the Judicial Selection Project has monitored these nominations and produced research memoranda on both of President Trump's US Supreme Court nominees and, as warranted, on lower court judicial nominees.

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 dismissed the case, holding that it lacked jurisdiction over the case, which was 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 held that the trial court did have jurisdiction over Big Horn Electric and remanded the case to the Crow Civil Court. Big Horn Electric then filed a complaint in federal district court, asking the court to find that tribal court remedies had been exhausted and that the tribal court lacked jurisdiction over the suit. NARF,



representing the Apsaalooke Appeals Court judges and Crow Tribal Health Board members, filed motions to dismiss. Those motions were denied, and the federal district court found that exhaustion had occurred. In November 2019, the parties began briefing cross motions for summary judgment on the issue of tribal jurisdiction. Summary judgment briefing should be completed by January 2020.

Oneida v. Village of Hobart - Amicus Support

NARF submitted an amicus brief on behalf of the National Congress of American Indians and the Indian Land Tenure Foundation in the 7th Circuit Court of Appeals case, *Oneida v. Village of Hobart*. The case arises from the Village of Hobart, Wisconsin, imposing fines on tribal officials for failure to obtain Village permits for the Tribe's Big Apple Festival, which took place on tribal property. The Tribe sued the Village in federal district court, seeking injunction and a declaration that the Village could not enforce its regulations against the tribe within its reservation. In response, the Village alleged that allotment either disestablished or diminished the Oneida Reservation. While the federal district court held that the Oneida Reservation was not disestablished, it did conclude that the reservation was diminished either by the vesting of fee title of allotments to Indians, or the subsequent conveyance of those allotments to non-Indians. This is a drastic departure from established law, which has held that ownership status of individual land parcels has no bearing on reservation boundaries. Moreover, the dis-

trict court relied on a broad (and incorrect) understanding that Congress intended that General Allotment Act would diminish reservations—a conclusion at odds with a long line of US Supreme Court cases. Accordingly, not only is this case important for the Oneida Nation, but it is crucial to maintaining legal stability and protection for more than 100 tribes that were similarly subjected to allotment.

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.

Little Shell Tribe of Chippewa Indians of Montana

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 several about-face decisions by various Assistant Secretaries for Indian Affairs who found first in favor and then against recognition of the Tribe. The Tribe simultaneously pursued legislative recognition with the assistance of counsel in Washington, DC. These legislative efforts ended successfully in December 2019 with the Little Shell Tribe becoming the 574th federally recognized tribe. A stunning victory ending a monumental struggle for justice.



Protect Tribal Natural Resources

During colonization, tribes' lands diminished to a mere 2.3 percent of their 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 necessary for economic self-sufficiency and self-determination. They are vital to tribal existence. Thus, much of NARF's work is to *protect tribal natural resources*.

INDIAN LANDS

Keystone XL Pipeline

The TransCanada (TC Energy) Keystone XL 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 and Nebraska. Moreover, the proposed pipeline route crosses over sacred Sioux land and an undetermined number of cultural sites and burials, yet no consultation has occurred between the federal government and the tribes affected. For these and other reasons, President Obama had rejected the permit required for the Canada-US boundary crossing in 2015.

In March 2018, the Trump administration reversed course and granted the necessary Presidential permit. A complaint was filed on behalf of the Rosebud Sioux Tribe and the Fort Belknap Indian Community in August 2018. The President issued a second permit for the Keystone XL Pipeline in an effort to circumvent court rulings and injunctions preventing construction. As a result, the Tribes amended their complaint to reflect new claims, including claims for violations of the Fort Laramie and Lane Bull treaties.

The government and TC Energy filed motions to dismiss and a hearing was held in September 2019. In December 2019, the court denied the government's and TC Energy's motions to dismiss. All of the Tribes' claims relating to the new permit were allowed to proceed, including the treaty claims, constitutional claims, trespass claims against TC Energy, and claims that TC Energy and the Keystone XL Pipeline are subject to tribal regulatory jurisdiction. The order is a major victory, and the case will continue.

Shoalwater Bay Indian Tribe

NARF is assisting the Shoalwater Bay Indian Tribe with a litigation request to the United States. The Tribe occupies a small, coastal reservation southwest of Seattle, WA. A state highway crosses through the reservation, and its surface water drainage inundates a portion of the reservation.

On behalf of the Tribe, NARF submitted a litigation request requesting that the United States, as the Tribe's trustee, sue the Washington Department of Transportation.

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 have been significantly delayed. In April 2017, the Acting Assistant Secretary of Indian Affairs withdrew authority from BIA Regional Directors to approve off-reservation, fee-to-trust applications and placed that authority with the Assistant Secretary of Indian Affairs. The remaining applications continue and are in varying stages of completion.

Akiachak Native Community, et al. v. Department of Interior, et al.

In 2006, the Akiachak Native Community, the Chilkoot Indian Association, the Chalkyitsik Village Council, and the Tuluksak Native Community IRA, represented by NARF, brought suit in the US District Court for DC seeking judicial review of 25 CFR Part 151 as it pertains to federally recognized tribes in Alaska. This federal regulation governs the procedures used by Indian tribes and individuals requesting the Secretary of the Interior to acquire title to land in trust on their behalf. At the time, the regulation barred the acquisition of land in trust in Alaska other than for the Metlakatla Indian Community or its members.

In March 2013, the court granted Plaintiffs complete relief on all of their claims—a major victory for Alaska tribes. The State of Alaska and the Interior Department (DOI) filed appeals to the US Court of Appeals for the DC Circuit. However, while the appeal was pending, DOI changed course. In December 2014, DOI published its final rule rescinding the "Alaska Exception." On the State's appeal, DC Circuit ruled 2-1 in favor of the tribal appellees.

Pursuant to the Court of Appeals' decision, DOI completed one trust land acquisition in Alaska in January 2017 with nearly a dozen more pending. However, in July 2018, the Trump Administration officially withdrew the Solicitor's opinion supporting land-into-trust for Alaska Tribes and announced the Department would undertake a wholesale review of whether to reinstate the "Alaska Exception" into the Part 151 regulations. Since the announcement, NARF has represented clients at tribal consultations around Alaska, making clear Alaska tribes will tolerate nothing more than full reinstatement of the trust lands program in Alaska. Written comments were filed in January 2019. The Department now is undertaking an "internal review" period.

WATER RIGHTS

Establishing tribal water rights, especially in arid western states, is a major NARF priority. 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. In most cases, this gives tribes senior water rights in the water-short west. Unfortunately, many tribes have not used their reserved water rights and most of these rights are unadjudicated or unquantified. The major need is to define and quantify the amount of water to which each tribe is entitled.

Agua Caliente Band of Cahuilla Indians

NARF, with co-counsel, represents the Agua Caliente Band of Cahuilla Indians in a lawsuit filed in May 2013 in the US District Court for the Central District of California, asking the court to declare the Tribe's water rights as senior in the Coachella Valley, quantify these rights, and prevent Coachella Valley Water District and Desert Water Agency from further impairing the quantity and quality of water in the aquifer through the import of lesser quality water. 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. In March 2017, the Ninth Circuit unanimously affirmed the lower court's ruling. The water districts' petition to the US Supreme Court was denied, and the lower court's decision held.

With "phase one" done, the parties addressed "phase two" legal issues. Phase two dealt with the correct method for quantifying the Tribe's water share, the

right to water of a certain quality, and whether the Tribe owns the groundwater storage space under its reservation. Settlement discussions were started and then suspended in 2018. Briefing and discovery on phase two issues occurred in early 2019. In April 2019, the court dismissed the Phase two claims holding that, since the Tribe could not show that it presently had a shortage of water, it was not sufficiently injured to prove standing. This decision was made despite unrebutted evidence that the aquifer depth underlying the reservation had lowered substantially and the water had been degraded by the water districts' activities.

The Tribe has filed a motion to amend the 2013 complaint, to add allegations relating to the Tribe's injuries and the Tribe's pumping of groundwater, and to more accurately frame the issue of the ownership of the pore space under the reservation.

Palouse River Basin Adjudication - Nez Perce Tribe Water Rights

NARF represents the Nez Perce Tribe in its 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 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 late 2019, the US and the Tribe filed claims for instream flows in 24 reaches of the Palouse River and its tributaries, for nearly 200 springs claims on private and federal lands, and for water for consumptive uses on two allotments in the Palouse watershed.

Klamath Basin Water Rights

Represented by NARF, the Klamath Tribes' water rights were recognized in the federal courts in *United States v. Adair* in 1983, but the courts left quantification of the Tribal water rights to the State of Oregon's 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 under review in the Klamath County Circuit Court. The court adopted a phased approach for the review.

In 2017 and 2018, the Klamath County Circuit Court resolved jurisdictional and other legal issues as well as general procedural issues. Importantly, the court

issued rulings limiting discovery and the introduction of new evidence, preventing a complete do-over of the administrative proceedings. However, the court ruled that a *de novo* standard of review would apply, in which the court will “look anew” at the determinations of OWRD in the FFOD and may give deference to OWRD’s determinations.

Now the KBA is in Phase 3, which addresses the substantive exceptions filed to the individual water right claim determinations in the FFOD. The first of three claim groups were resolved in September 2019. The second claim group was argued in November 2019. Opening motions for the third claim group (tribal claims) were filed in December 2019.

Related case *Baley v. US*: 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. The Tribes were not parties to the case, but NARF filed several *amicus* briefs on their behalf. In December 2017, the irrigators appealed to the US Court of Appeals for the Federal Circuit. Briefing was in 2018. In November 2019, the appeals court declared, once again, that the Klamath Tribes’ water rights are the most senior in the region. The court also affirmed that the Klamath Tribes’ water rights include waters in Upper Klamath Lake that secure the Tribes’ treaty fishing rights.

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. 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. In December 2016 the federal team delivered its report to the Tribe. The Tribe and its team performed a detailed analysis and critique of the report and met with Interior Department officials in March 2018 to brief them and bring them up to speed on



negotiation developments. In spring of 2019, the Interior Department committed to some funding, but not enough to construct a meaningfully sized water storage project on the reservation. Legislative efforts continue.

Kickapoo Tribe in Kansas

At times in recent decades, the water supply for the Kickapoo Reservation has violated the Safe Drinking Water Act of 1974. Consequently, the Kickapoo people fear they are unable to safely drink, bathe, or cook with tap water. There also 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 protection. In June 2006, the Kickapoo Tribe in Kansas, represented by NARF, filed a federal court lawsuit to enforce express promises made to the Tribe to build a reservoir project, the most cost-effective way to improve the water supply. Although the Nemaha Brown Watershed Joint Board #7, the Natural Resources Conservation Service of the US Department of Agriculture, and the State of Kansas made promises to the Tribe over two decades ago, they continued to actively develop the region’s water resources. The result was 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 of that water.

In September 2016, the Tribe and the state executed a settlement agreement that includes a negotiated water right for the Tribe, as well as all of the details for the administration of the Tribe's 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. Bills were introduced and considered during the 115th Congress, but were not enacted into law. In June 2019 the Kansas congressional delegation introduced new bills, to begin anew the legislative approval process for the water settlement.

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 the implementation, which includes allocating water and funding as well as examining groundwater management strategies.

HUNTING AND FISHING RIGHTS

Tribal rights to hunt and fish are grounded in tribal sovereignty and affirmed in many treaties and agreements. As with water, the overall demand for game and fish today often exceeds the supply. In contrast, subsistence is the sustainable Native philosophy of taking only what you need. NARF has defended tribal hunting, fishing, and subsistence rights in a variety of cases, most recently focused in Alaska. There often are no roads or 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.

Organized Village of Saxman IRA Council Rural Determination Status

The Alaska National Interest Lands Conservation Act (ANILCA) of 1980 provides a subsistence harvest

priority to Alaska's rural residents. However, it does not define who qualifies as rural. Saxman village is a coastal community of approximately 400 residents, most of whom are Alaska Native. In 2007, the Federal Subsistence Board (FSB) promulgated a final rule that revoked Saxman's rural community status. The FSB reasoned that Saxman's close proximity to the town of Ketchikan—they are connected by a two-mile long road—justified aggregating the two communities as one non-rural community. NARF assisted the tribe as it sought to reinstate its rural status.

In May 2015, legislation to reinstate Saxman as a rural community was introduced and soon thereafter the FSB adopted the proposed administrative rule favoring Saxman's rural status. NARF continues to work with the Tribe on issues surrounding the FSB and federal subsistence management program, including future policy issues surrounding rural community status.

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, as well as the subsistence lifestyle and the 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.

In December 2016, NARF's work with BSEG resulted in President Barack Obama signing an historic Executive Order creating the Northern Bering Sea Climate Resilience Area. 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 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 and related legislation was introduced in April 2019.



Finally, NARF is working with BSEG in its ongoing negotiations with the bottom trawl industry. These negotiations resulted in the creation of a working group, which is a co-management body with equal representation between the bottom trawl industry and Native villages that are close to the industry's primary fishing grounds.

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 National Environmental Policy Act (NEPA) process. EPA granted the state and the Corp of Engineers an extension to respond to the notification of 404(c) process. The stay ended in April 2013, and Pebble Limited Partnership (PLP) filed suit in May challenging the EPA's review process. The district court and the US Court of Appeals both dismissed the case.

So, in September 2014, PLP filed another complaint against EPA. 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 PLP began serving narrower subpoenas, which also were 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 US Army Corps of Engineers issues its final environmental impact statement, whichever comes first. PLP filed its federal permit application in December 2017, thereby beginning the NEPA review process. NARF and UTBB continue to work to protect Bristol Bay throughout the federal and state permitting process surrounding the Pebble Mine.

In June 2019, Gov. Dunleavy briefly met with President Trump on Air Force One; subsequently, he told reporters that he was convinced that the president was "doing everything he can to work with us on our mining concerns." One day after the meeting, according to CNN, the EPA held an internal meeting and informed staff that they were reversing course and removing protections for the Bristol Bay. In July 2019, the Trump Administration announced it would formally withdraw the proposed 404(c) determination from the Bristol Bay watershed.

The action was undertaken with no public input, no tribal consultation, and no prior notice to Bristol Bay's tribes. In response to this illegal act, local interests formed the Bristol Bay Defense Alliance, consisting of NARF's client the United Tribes of Bristol Bay, Bristol Bay Native Association, Bristol Bay Regional Seafood Development Association, Bristol Bay Reserve Association and Bristol Bay Economic Development Corporation. The Alliance is taking legal action on behalf of the local people who rely on the Bristol Bay fishery and all it sustains. The suit is based on the fact that the agency changed its position without good reason or explanation, which are required by law. NARF and its partners filed the suit in October 2019.

Ch'u'itnu Traditional Cultural Landscape

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. NVT focused on the National Historic Protection Act (NHPA) to identify historic properties eligible for listing and protections. In March 2017, PacRim Coal announced its decision to suspend pursuit of permitting efforts on the Chuitna Coal Project. Regardless of the closed permitting process, NVT nominated the entire Ch'u'itnu watershed for inclusion on the National Register of Historic Places as a Traditional

Cultural Landscape (TCL). 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.

In April 2018, the Alaska Historical Commission voted 6-2 that the Ch'u'itnu Historic District, Traditional Cultural Property was eligible for listing on the National Register. The State Historic Preservation Officer rejected the recommendation, but sent the nomination to the Keeper of the National Register for final determination. In June 2018, the Keeper requested additional documentation. A revised nomination was returned to the Keeper in June 2019. In August 2019, the Keeper requested more documentation. NVT and NARF continue their efforts to get the Ch'u'itnu TCL before the Keeper for a final determination.

Arctic National Wildlife Refuge

The Arctic National Wildlife Refuge's Coastal Plain is home to the calving grounds of the Porcupine Caribou Herd—one of the largest wild herds in the world—and of great cultural importance to the Gwich'in Tribes of Alaska, who refer to the area as Iizhik Gwats'an Gwandaii Goodlit (the sacred place where life begins). Since 1980, when the Coastal Plain was first considered for development, the Gwich'in Tribes have worked tirelessly to protect the Refuge and the caribou. NARF represents the Native Village of Venetie Tribal Government, Venetie Village Council, and Arctic Village Council, three federally recognized Gwich'in tribes, and advises them on their rights and strategic options surrounding proposed development of the Coastal Plain.

In 2017, Congress enacted tax reform legislation that contained a provision opening the Arctic National Wildlife Refuge's Coastal Plain to oil and gas development. The Bureau of Land Management (BLM) began the environmental review process to open the Coastal Plain to oil and gas leasing.

In December 2018, the BLM published its draft environmental impact statement (EIS). Despite months of government-to-government meetings, the draft EIS was based on pre-existing data and research from other regions in Alaska that brushed aside the effects on subsistence and cultural resources. The final EIS, released in September 2019, identified the most development-intensive alternative as the preferred option. The BLM's preferred alternative offers the entire Coastal Plain for leasing and includes the least protec-

tions for natural, cultural, and subsistence resources. The BLM has yet to publish a record of decision, finalizing the agency's plans.

ENVIRONMENTAL PROTECTION

NCAI Climate Change Matters

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 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, did not achieve all that it sought, but it achieved significant references that can be built on going forward. The Agreement states that, when taking action on climate change, 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 made efforts to make the traditional knowledge platform a reality.

In December 2018, the 24th Conference of the Parties (COP 24) took the historic step of establishing a Facilitative Working Group for the platform. The working group, which has seven country representatives and seven indigenous representatives appointed by indigenous peoples, met in June 2019. This representation of indigenous peoples is unprecedented, marking the first time that indigenous representatives (chosen by indigenous peoples) are participating on an equal basis with states within a United Nations body. At the June meeting, the working group prepared a two-year work plan that was taken to COP 25 and approved in December 2019.



Promote Human Rights

To promote Native American human rights, NARF focuses on laws providing equal protection and freedom from discrimination in areas such as 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

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) worked to protect the Bears Ears region, America's most significant unprotected cultural landscape. The Bears Ears region, located in Utah, contains at least 100,000 archaeological sites, some dated back to 12,000 BCE, and remains critical to many tribes today for spiritual as well as hunting and gathering purposes. In response to these efforts, in December 2016, President Obama designated the Bears Ears National Monument and 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 included 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 directed the Department of the Interior to review the Bears Ears National Monument to determine if it was created without "public outreach and proper coordination." 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.

Despite an outpouring of public support for Bears Ears, in December 2017, President Trump issued an Executive Order revoking and replacing the national monument. Representing the Hopi, Zuni, and Ute Mountain Ute Tribes, NARF sued the Administration for violations of the Antiquities Act, the Separation of Powers, the Property Clause and the Administrative Procedures Act. The government filed a motion to dismiss and NARF responded on behalf of the Hopi, Zuni, and Ute Mountain Ute Tribes. The court has also


granted motions to intervene by the State of Utah and a number of other groups, but imposed stringent conditions on them that the Tribes had requested. In October 2019, the court denied the government's motion to dismiss, but instructed the plaintiffs to file amended complaints. The court will allow the government to file new motions to dismiss after that. The Tribes filed their amended complaint in November 2019 and will file a motion for summary judgment in January 2020.

Solonex v. Jewell

NARF represented the Blackfeet Tribe as amicus curiae in the federal district court case, *Solonex v. Jewell*. Solonex LLC challenged the authority of the United States to cancel its oil and gas lease in areas that would threaten the Tribe's sacred sites. In 2017 and 2018, the parties completed briefing and oral arguments on motions for summary judgment and in September 2018, the judge entered summary judgment in favor of Solonex, concluding that the lease cancellation was "arbitrary and capricious" because more than 30 years of indecision by the agency constituted an unreasonable delay. The judge also concluded that Department of the Interior did not give Solonex appropriate notice that it was canceling the lease, which violated a duty to act in good faith. The plaintiffs appealed the decision and NARF filed an *amicus* brief on behalf of the Tribe in this case and a case with an almost identical legal issue, *Moncrief v. U.S. Dep't of the Interior*. In October 2019, *Moncrief* settled, and the leaseholder agreed to voluntarily relinquish its lease. The Solonex lease is the last one remaining in the area. That appeal will be argued in January 2020.

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 against the US Army Corps of Engineers in relation to the Dakota Access Pipeline (DAPL). In December 2016, the 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, in January 2017, President Trump directed the Corps 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.



In February 2017, the Department of Justice informed the court that the Corps had provided notice of its intention to grant an easement to Dakota Access, LLC, to construct a pipeline under Lake Oahe. 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 Corps "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." In February and March 2018, the Cheyenne River Sioux Tribe and Standing Rock Sioux Tribe requested that the court issue clearer guidelines for the Corps' consultation with the Tribes in the remand process, asserting that the Corps has been unresponsive to requests for information and otherwise not meaningfully engaged with the Tribes in developing an oil spill response plan. In April 2018, Dakota Access filed its oil spill response plan, after which the court denied the Tribes' request for clarification and consultation guidelines, ruling that the request was mooted by the filing of the oil spill response plan.

In August 2018, the Corps issued a decision affirming its original decision to issue a construction permit for DAPL. The Corps concluded that the "... review on remand did not reveal 'significant new circumstance[s] or information relevant to environmental concerns.' The court ordered proposals for post-remand proceedings. The Tribes filed motions for summary judgment in August 2019. NARF filed an amicus brief supporting the Tribes' motions for summary judgment on behalf of 14 tribes and eight tribal organizations. Responses and cross-motions for summary judgment from Dakota Access and the United States were filed in October 2019. NARF and NCAI continue to work with the Tribes' attorneys and coordinate *amicus* strategy as requested.

National Register of Historic Places Rulemaking

In early 2019, the National Park Service (NPS) announced proposed rulemaking that would change the regulations that implement the National Register of Historic Places (NRHP). Among some minor house-keeping and administrative changes, the NPS proposed substantive changes that are targeted specifically at tribes and Native Hawaiian organizations.

The changes are intended to prevent traditional cultural properties, cultural landscapes, and places of traditional religious and cultural significance from being listed on the NRHP and considered in the Section 106 review process. The proposed changes discredit the value of protecting these types of cultural resources and sideline tribes and Native Hawaiian organizations in Federal regulatory, planning and permitting. NARF represents the Native Village of Tyonek in this rule-making. The public comment period closed in April 2019. Initially, the NPS refused to consult with tribes (and Native Hawaiian organizations), but relented under significant pressure. The NPS held a single "consultation" meeting in Nevada in June 2019, and a single teleconference in July 2019. The NPS also extended the time tribes could comment on the proposed rule-making to July 2019.

Along with over seventy tribes and Native organizations, NARF submitted extensive comments on the proposed rulemaking on behalf of the Native Village of Tyonek and attended the "consultations." Of the over 3,000 comments the NPS received, only five were in support of the rulemaking. Currently, the NPS is reviewing the comments it received.

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 litigation and legislative action. For the past two years, NARF has worked 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. 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 Project 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. A meeting with Texas Department of Public Safety officials was held in January 2018 to brief them on the Project

In 2017, NARF closed on the purchase of 605 acres of south Texas land, made possible by a grant from the RiverStyx Foundation of California. NARF worked with Native American Church representatives and the philanthropy community to create a nonprofit organization to hold title to the land and put a peyote conservation project in place. Meetings on the land took place throughout 2019. Work coordinating with the local ranching community continues, and the first of several adobe structures is underway on the land.

Graduation Eagle Feather and Regalia Project

Every spring, NARF is contacted by Native American students from across the country who are being prohibited from wearing eagle feathers at graduation ceremonies. By and large, once schools come to understand the religious and cultural significance of eagle feathers, they make accommodations and exceptions for Native American students. Unfortunately, there are still a handful of school districts that persist in restricting Native American religious liberty and speech. This insistence on uniformity of dress puts Native American students in the position of having to choose between participating in the celebration of a great accomplishment with their classmates or following their Native religious and cultural traditions.

For 2019, NARF received more than a dozen student requests for assistance. When appropriate and as resources permit, NARF may send a letter to the school explaining the religious significance of eagle feathers, and how both federal and state law protects their use. On occasion NARF will pursue litigation on behalf of aggrieved students. Additionally, we are in the early stages of exploring the viability of targeted legislative campaigns that could lead to a “fix” on a state by state basis.

INDIAN EDUCATION

Tribal Education Departments National Assembly

NARF founded the Tribal Education Departments National Assembly (TEDNA) more than fifteen years ago with funding from the US Department of Education to start a 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. Recently, NARF has reviewed tribal education codes to identify areas for increased tribal governance.



NARF also provides training for TEDNA and its partners on various national, state, and tribal education legislation and other legal matters.

In October 2019, TEDNA was awarded a one-year State-Tribal Education Partnership grant to assist five tribes in Virginia (the Chickahominy Indian Tribe; the Chickahominy Indian Tribe Eastern Division; the Monacan Indian Tribe; the Upper Mattaponi Indian Tribe; and, the Pamunkey Indian Tribe) establish education departments, develop education codes, and work with the state to improve education for tribal students. TEDNA has subcontracted with NARF to assist with this work.

Also, in October 2019, TEDNA was awarded a Regional Comprehensive Center grant to assist tribes in Washington, Oregon, and Alaska with their education departments and state partnerships to improve education for tribal students. TEDNA will subcontract with NARF to assist with the Alaska Native tribes served by this grant.



McCoy v. Salish Kootenai College

NARF represents the American Indian Higher Education Consortium (AIHEC) as *amicus curiae* in this case brought against a tribal college by a former employee of the college alleging that he was discriminated against by the college in violation of Title VII if the Civil Rights Act. The college has moved to dismiss on the ground that the Confederated Salish and Kootenai Tribes have sovereign immunity and the college is an arm of the Tribes. AIHEC sought to participate on behalf of its 36 member tribal colleges and universities. In April 2018, over the employee's opposition, the court granted AIHEC's motion to file its *amicus* brief. The court heard oral argument on the college's dismissal motion in August 2018. The court granted the tribal college's motion to dismiss, but the individual appealed to the US Court of Appeals for the Ninth Circuit. In March 2019, AIHEC filed an *amicus* brief in support of the college and the Tribes. In November 2019, the appeals court affirmed the district court's dismissal.

Rosebud Sioux Tribal Education Code Revision Project

In 1987 NARF accepted the request of the Rosebud Sioux Tribe to develop a precedent-setting tribal education code to regulate all K-12 schools on its reservation. The Rosebud Sioux Tribe adopted its Education Code in 1991. In 2015, the Rosebud Sioux Tribe received a grant from the Department of the Interior to

revise its 25-year-old Education Code. The Tribe retained NARF to do this revision, which is ongoing.

Leech Lake Band of Ojibwe Education Code

NARF represents the Leech Lake Band of Ojibwe in drafting a comprehensive education code. NARF met with the Leech Lake Education Director, the Tribal Council, and in-house legal staff in October 2018, and is proceeding with developing the code and gathering input from stakeholders.

INDIAN CHILD WELFARE ACT DEFENSE

The Indian Child Welfare Act (ICWA) was passed by the US Congress in 1978 in response to the disproportionate numbers of American Indian and Alaska Native children being removed 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.

In 2016, the Bureau of Indian Affairs (BIA) issued regulations and guidelines for the implementation of ICWA. The past several years have seen a dramatic increase in the number of legal challenges brought by opponents of ICWA, all with the goal of undermining ICWA and tribal sovereignty. The ICWA Defense Project is a partnership formed to protect the rights of children, families, and tribes in ICWA proceedings nationwide.

Most recently, in October 2018, in the case *Brackeen v. Zinke* (in the US District Court for the Northern District of Texas) the judge ruled that both ICWA and the 2016 ICWA regulations are unconstitutional. The arguments Judge O'Connor relied upon to hold ICWA and the regulations unconstitutional are contrary to the Constitution, congressional intent, and decades of well-established federal Indian law. Tribe defendants asked the United States Court of Appeals for the Fifth Circuit to stay the decision, which it did, and initiated the appeal. NARF worked closely with partners to coordinate *amicus* briefs, including a tribal brief, which was signed by 325 Tribes and 57 Native organizations. The Fifth Circuit held oral argument in March 2019. We are delighted to report that in August 2019, the Fifth Circuit overturned the district court's opinion and affirmed the constitutionality of ICWA.

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. The Alaska Tribal Child Welfare Compact was signed in October 2017. It allows tribes to enter into an agreement with the state to provide services and functions that currently are provided by the Alaska Office of Children's Services. Negotiations are ongoing.

VOTING AND CIVIL RIGHTS

Brakebill, et al. v. Jaeger

In 2016, NARF, on behalf of seven Native Americans from North Dakota fought the state's voter ID law, which disproportionately prevented Native Americans from exercising their right to vote. Judge Daniel L. Hovland of the US 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 US Constitution because it disproportionately kept Native Americans from voting. He 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."

The state legislature amended the law in 2017, but still failed to include meaningful protections for voters' rights. In December 2017, Plaintiffs filed an amended complaint alleging the new law violated the Voting Rights Act and the US and North Dakota Constitutions because of the disproportionate impacts on Native Americans. Plaintiffs also alleged that the law's intent was to burden Native American voters in order to suppress their vote and that the new law constitutes an illegal property requirement to vote. In April 2018, the court stopped enforcement of the new voter ID law. The court ordered the state to accept a much broader swath of IDs for voting purposes and put a significant amount of power back under tribal control. The state appealed to the US Court of Appeals for the Eighth Circuit. In late September, after absentee voting had begun, the Eighth Circuit changed the rules of the election and permitted the state to use residential street addresses even though Native communities in the state often lack them. The Supreme Court upheld that decision.

In October 2018, the Spirit Lake Tribe and six individual plaintiffs filed a separate suit the week before the election seeking a temporary restraining order against the implementation of the law. The suit differed slightly from the *Brakebill* case in that these were individuals who lacked residential addresses, not just ID. They were about to be disenfranchised by the law despite being qualified to vote. The Spirit Lake Tribe also joined on its own behalf and in its *parens patriae* capacity on behalf of its many members whose homes are unmarked or who are moving from home to home and lack a permanent address. The court denied the order, citing the closeness to the election, but voiced concerns. The court also approved an order that allowed the six individual plaintiffs to vote in the election. In February 2019, plaintiffs amended the complaint and the Standing Rock Sioux Tribe joined the suit. The state moved to dismiss the complaint. That motion is now fully briefed. We are waiting for the court to decide the motion to dismiss.

In July 2019, a divided Eighth Circuit Court of Appeals vacated the lower court's injunction in *Brakebill*. The court acknowledged that Native American voters may be disenfranchised, but found the lower court's injunction was too broad. Disappointingly, the order from the Eighth Circuit again allows North Dakota to continue using the discriminatory new law, providing no relief to disenfranchised Native voters.


The plaintiffs in *Spirit Lake* asked for the case to move forward so that the case could be decided before the 2020 election. The court set a May 2020 trial date.

Native American Voting Rights Coalition

In 2015, NARF founded the Native American Voting Rights Coalition (NAVRC), a non-partisan alliance of 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.

One of the significant achievements of the Coalition so far is the completion of a thirty-tribe survey of over





5,000 voters in Nevada, Arizona, New Mexico, and South Dakota. The results documented widespread discrimination and disenfranchisement. The final survey was released in January 2018. Subsequently, the Coalition completed its second ambitious project: to conduct field hearings throughout Indian Country to document barriers to registration and voting in non-tribal elections. Information from the hearings will help promote public education, identify policy solutions, and consideration of other legal remedies to expand Native access to voting. NARF completed a public report detailing the findings and is working toward a plan to address the problems encountered. That report has been submitted to Congress and will be published in early 2020.

The NAVRC, led by NARF, developed a detailed strategic plan for the 2020 elections and is working on funding and meeting its many objectives. We have helped with access efforts, such as opening polling places in Nevada and Arizona for the 2018 election, and now are working to prepare for the 2020 Census in Indian Country.

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 disenfranchises 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—when excluded from jury service, then one only encounters the courts as 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. In March 2019, the appeals court held that it was an error to refuse Smith an evidentiary hearing on the issue of whether the transportation and housing of prospective jurors from two Native villages would pose an unreasonable expense. The case is now back before the Superior Court.

INTERNATIONAL RECOGNITION OF INDIGENOUS PEOPLES

United Nations Declaration on the Rights of Indigenous Peoples

Since 1999, NARF has represented the National Congress of American Indians (NCAI) in the international arena to protect indigenous rights. In September 2007, the United Nations General Assembly overwhelmingly adopted the Declaration on the Rights of Indigenous Peoples (Declaration). The Declaration recognizes 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 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. 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.

In 2018, the Human Rights Council began to establish an appropriate status for indigenous peoples representatives and institutions to participate. Discussions continued through 2019 and will be taken up at a special meeting to be held in Ecuador in January 2020.

UN Declaration on the Rights of Indigenous Peoples in Domestic Law Project

NARF and the University of Colorado Law School (CU Law) are initiating a project to guide the implementation of the United Nations Declaration on the Rights of Indigenous Peoples (Declaration) in the United States. The Declaration provides an impetus to redress historic wrongs committed against indigenous peoples and advance the arc of justice. Guided by traditional values, contemporary challenges in Indian Country, and the needs of future generations, the goal of the project is to realize the promises of the Declaration in the US.

The project will research, develop, and execute strategies to bring US law into compliance with the Declaration. These efforts will include educational events and working closely with Native American leaders. The project held a conference in March 2019 to share experiences implementing the provisions of the Declaration. The event generated substantial input and valuable discussion. The next step is to generate summaries of those discussions, and develop concrete priorities and tasks.

Organization of American States Draft 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 addressing 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 attended the first Inter-American week for Indigenous People in 2018 and made office space available to Central American indigenous representatives presenting at the Inter American Commission on Human Rights in December 2018.

World Intellectual Property Organization

NARF represents NCAI in the ongoing negotiations for an international instrument to protect various intellectual property, including Traditional Knowledge, Genetic Resources and Associated Traditional Knowledge (GRAATK), and Traditional Cultural Expressions (TCE). The United States has been participating in these negotiations at the World Intellectual Property Organization (WIPO) since 2000. Since 2009, the negotiations have centered on the draft text of the three potential instruments concerning TK, GRAATK, and TCE.

In May 2017, NARF and the University of Colorado (CU) Law School hosted a drafting session on the TCE instrument. NARF took draft provisions to the 34th WIPO session in June. The WIPO Indigenous Caucus approved the draft and some of that text 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 (IGC) mandate and work plan were approved by the WIPO General Assembly.

Building on that experience, NARF and CU Law hosted another drafting session in May 2018 focusing on the GRAATK instrument. Once again, the draft text was approved by the Indigenous Caucus, thus strengthening the Caucus' ability to participate in negotiations. In June 2018, NARF spoke on the IGC Indigenous Panel on "Practical Measures Relating to Intellectual Property and Genetic Resources: Databases and Contracts - Indigenous Peoples' and Local Communities' Perspectives."

At IGC 39 in March 2019, the Indigenous Caucus met with the WIPO Secretariat concerning a proposed project to help educate about indigenous perspectives on several issues. NARF is part of the committee that was formed to spearhead the project. A NARF article summarizing the 2018 WIPO IGC negotiations was published in *The Indigenous World 2019* (https://www.iwgia.org/images/documents/indigenous-world/IndigenousWorld2019_UK.pdf).

The theme of the 18th Session of the UN Permanent Forum on Indigenous Issues in April 2019 was "traditional knowledge." NARF delivered a statement on behalf of NCAI requesting recommendations from the Forum to the WIPO IGC. Subsequently, in its official report of the session the Forum made multiple recommendations to WIPO.

Also in May 2019, in preparation for the IGC 40 session, a conversation was held in Montreux, Switzerland. NARF, on behalf of NCAI, was the only indigenous organization represented at the meeting. The meeting addressed two issues: the status of the negotiations on genetic resources and associated traditional knowledge; and the mandate and work program for the 2020-2021 IGC biennium.

IGC 40 took place in June 2019. The text focus was the TK and TCE texts. Because IGC 40 was the last session of the current biennium, the session also included negotiations on the work program for the 2020/2021 biennium. The Indigenous Caucus was able to obtain recommendations from the Committee to the WIPO General Assembly for updating a 2016 technical review and convening an Indigenous expert workshop. Progress also was made funding indigenous participation, although further work remains to be done. The WIPO General Assembly approved the proposed 2020-2021 mandate and work program during its annual meeting in fall 2019.

Hold Governments Accountable



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 laws and regulations applicable to Native peoples. NARF is committed to *hold governments accountable* to Native Americans.

TRUST FUND MATTERS

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. Starting in August 2007, the parties engaged in alternative dispute resolution proceedings in 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. In March 2018, the parties reached agreement on the non-monetary components of a potential settlement. The parties now seek their formal approvals of the settlement.

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 then gave notice that they would no longer make payments. The lawsuit seeks to hold the United States liable for the remaining payments into the AITF. After failed negotiation efforts, ITCA filed its Second Amendment Complaint in April 2018, which the United States

moved to dismiss. The court granted virtually the entire motion, dismissing all but a portion of one of ITCA's claims. In March 2019, the court granted ITCA's motion for entry of final judgment on the dismissed claims, allowing ITCA to appeal those claims to the US Court of Appeals for the Federal Circuit. Briefing has been completed, and the oral argument is scheduled for February 2020.

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 the Distribution of Judgment Funds Act for all Tribes. Senators Merkley and Wyden introduced S.46 to repeal the act. S.46 was adopted by the Senate and forwarded to the House. The House Subcommittee on Indigenous Peoples of the United States held a hearing; NARF provided testimony in support of adoption and responded to follow-up questions. S.46 now goes to the full Interior Committee for mark-up; then to the full House for consideration.

Center for Biological Diversity, et al. v. US 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; 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. 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. NARF is now counsel to Santa Ynez to implement the terms of the settlement agreement, including renegotiating the programmatic agreement that had previously excluded them.

Blackfeet Tribe et al. v. Federal Communications Commission, et al.

In 2018, the FCC exempted 5G wireless cellular infrastructure from the Section 106 process and tribal consultation requirements of the National Historic Preservation Act (NHPA). (Section 106 requires federal agencies to account for the effects of undertakings on historic properties and consult with any tribe that may attach significance to those properties.) The NHPA give the Advisory Council on Historic Preservation authority to administer the Section 106 process.

In June 2018, NARF and co-counsel, on behalf of the Blackfeet Tribe, the Coshatta Tribe of Louisiana, the Fort Belknap Indian Community, the Rosebud Sioux Tribe, the Ute Mountain Ute Tribe, and United South and Eastern Tribes, Inc, sued the FCC in the United States Court of Appeals for the DC Circuit. Briefing was completed, and oral argument was held in March 2019.

In August 2019, the court issued its opinion largely holding the FCC's rulemaking as unlawful. In particular, the court held that the FCC had failed to provide a reasoned explanation for why it was within the public interest to exempt the deployment of 5G infrastructure from review. In October 2019, the FCC issued a new order reinstating review for 5G infrastructure. NARF will continue to work with its clients and partners to ensure that places of traditional religious and cultural significance are protected from 5G infrastructure deployment.



Develop Indian Law



NARF's maintains several projects to *develop Indian law and educate the public about Indian rights, laws, and issues*. NARF also participates in numerous conferences and events to share its knowledge and expertise in Indian law. NARF is firmly committed to sharing 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 IPI team continues to be very busy. Trainings and technical assistance for tribes are a primary focal point for the project. In November 2019, we completed a two-day advanced level peacemaking training for the Pueblo of Isleta Tribal Courts. The Oglala Lakota Children's Resource Center continues to coordinate with IPI as they seek a peacemaking option for children-at-risk cases. Other recent presentations include Naropa University Peace Studies, Assembly of Manitoba Chiefs, Winnipeg, Boulder Quaker Indigenous Peoples Concerns Committee, law schools, bar associations, and indigenous communities. We also recently produced a paper on the support for peacemaking found in the United Nations Declaration of the Rights of Indigenous Peoples.

THE NATIONAL INDIAN LAW LIBRARY

The National Indian Law Library (NILL) is the only publicly available law library in the United States devoted to Indian law. In addition to the service that it provides to NARF's attorneys, the library is an invaluable resource supporting Indian Law and educating the public on Indian Law issues. For example, the library's website (www.narf.org/nill/) recorded 266,000 users and 349,000 sessions in 2019. Additionally, each week, NILL provides free updates through the Indian Law Bulletins (www.narf.org/nill/bulletins/). Almost 8,000 subscribers receive the bulletin updates by email. In August 2019, Library Director Anne Lucke was one of three speakers for an American Bar Association, Native American Resources Committee, webinar on Researching Federal Indian Law and Tribal Law. She also will present a webinar on NILL resources for 6th Circuit court librarians in early 2020.

FY 2019 Financial Report

Based on our audited financial statements for the fiscal year ending September 30, 2019, NARF reports total revenue and net assets of \$13,044,003 and \$44,426,252, 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 \$19,934 to NARF's reserve fund.

When compared to fiscal year 2018: The increase in public contributions is mostly due to receiving almost \$1.2 million more in bequests (this area can vary widely from one year to

the next). The increase in tribal contributions is mostly due to a generous \$1 million donation from a tribe that we've had a long-time relationship with. 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. The decrease in foundation grants is due to receiving additional new grants in the prior year restricted to our important projects and cases (many of these grants are multi-year and continued on into fiscal year 2019 and beyond). The decrease in legal fees is mostly related to the reduced needs for two of our largest clients/cases.

SUPPORT AND REVENUE COMPARISON

	2019		2018	
	dollars	percent	dollars	percent
Public Contributions	\$ 5,182,877	39.7%	\$ 3,583,370	25.1%
Tribal Contributions	2,117,300	16.2%	927,200	6.5%
Federal Awards	660,317	5.1%	1,139,640	8.0%
Foundation Grants	2,712,004	20.8%	4,580,491	32.1%
Legal Fees	479,327	3.7%	1,340,072	9.4%
Return on Investments	1,858,413	14.2%	2,663,742	18.6%
Other	33,765	0.3%	38,859	0.3%
TOTALS	\$13,044,003	100.0%	\$14,273,374	100.0%

EXPENSE COMPARISON

	2019		2018	
	dollars	percent	dollars	percent
Litigation and Client Services	\$ 8,311,609	66.5%	\$ 8,782,554	69.5%
National Indian Law Library	299,671	2.4%	332,551	2.6%
Total Program Services	8,611,280	68.9%	9,115,105	72.1%
Management and General	1,072,494	8.6%	856,857	6.8%
Fund Raising	2,812,050	22.5%	2,668,574	21.1%
Total Support Services	3,884,544	31.1%	3,525,431	27.9%
TOTALS	\$12,495,824	100.0%	\$12,640,536	100.0%

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.

NARF Acknowledgment of Contributions: Fiscal Year 2019

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 at 303-447-8760.

We gratefully acknowledge these donors for fiscal year 2019 (October 1, 2018 through September 30, 2019).

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Circle of Life—*The circle is an important symbol throughout Native American cultures, representing unity, strength, and the eternal continuity of life. NARF's Circle of Life donors provide a lasting legacy to the Native American Rights Fund by including NARF in estate planning or deferred gifts.*

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