

# NARF

# Review

## Native American Rights Fund

### Federal Trust Responsibility at Issue in Oil and Gas Cases

In 1981, the Bureau of Indian Affairs (BIA) arbitrarily approved the extension of certain Cheyenne and Arapaho tribal oil and gas leases. The approval was made in spite of the Tribes' objections and at below market value. The loss in revenue to the Tribes is an estimated \$8 million dollars.

For over four years, beginning in 1983, three Indian allottees in Oklahoma received sporadic royalty payments from oil and gas production on their lands. The accrued interest, possibly in the millions of dollars, has never been paid.

The Tribes and allottees have since filed suit against the United States government for breach of its trust responsibility in managing their mineral resources. The parties, represented by the Native American Rights Fund, the Indian Law Support Center and the Oklahoma Indian Legal Services, claim the government is mandated by law to protect their resources in "the best interest of the Indians." The government claims that it has upheld its trust responsibility in managing those mineral resources.

Unfortunately, the oil and gas cases are only too familiar in Indian country. The federal government's management or rather mismanagement of Indian oil and gas resources is illustrated in the *Arizona Republic's* series titled "Fraud in Indian Country: A Billion Dollar Betrayal". The newspaper's investigation last year reported that the loss of revenue to tribes and individuals from their oil

and gas resources ran into billions of dollars. The articles also described individual struggles to recover lost money and the amount of red tape, resistance and frustration in recovering lost revenue from their mineral resources. The series has led to a special Senate investigation into the management of Indian programs and the government's handling of its trust responsibility to Indian tribes.

Like the stories featured in the *Republic*, NARF's two oil and gas cases are also long and complex. In the Tribes' case, *Cheyenne Arapaho Tribes of Oklahoma v. United States*, the appeal process, now in its seventh year, is complicated by the different interpretations of the statutes, laws and regulations by the parties involved -- the Tribes, the federal government and the oil company. The allottee case, *Kauley*



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v. *United States*, is also complicated by the different interpretations of laws and statutes by the parties and bogged down by the bureaucracy of getting needed information to verify oil and gas records. Following are descriptions of the two cases and the Special Subcommittee in the Senate set up to investigate BIA mismanagement.

#### **Cheyenne Arapaho Tribes of Oklahoma v. United States of America**

On a Friday afternoon May 8, 1981, the Acting Anadarko Area Director was presented with the demand of an oil company that he sign an extension of three expiring oil and gas leases with the Cheyenne-Arapaho Tribes, notwithstanding that the Tribes and the oil company were in the process of renegotiating the leases. Without the BIA official's signature and absent the Tribe's consent, the leases would expire Sunday, May 10, 1981. The BIA official, intimidated by threats of litigation, signed the lease extensions knowing the Tribes would object.

The disputed leases were originally negotiated in 1976 and thus did not reflect the higher market rates that were being paid for leases in 1981, the peak of the oil boom in Oklahoma. Even though the oil company had five years to drill wells on the tribal leases, it waited until May 6, 1981, four days before the lease expiration date to begin drilling a well.

The Tribes requested NARF's assistance in persuading the Secretary of the Interior to reverse the action of the Acting Area Director in extending the leases without attempting to

obtain increased compensation for the Tribes. NARF in August, 1981, filed an appeal with the Secretary arguing that the Acting Area Director's decision was ineffective absent the Tribe's consent to an extension and that, even if the Tribes had consented, the decision violated the BIA's duties under the Mineral Leasing Act of 1938 to maximize tribal lease revenues.

NARF also argued that the Acting Area Director had merely rubber stamped the extension document presented by the oil company and failed to independently determine the facts and law relevant to whether extension of the leases would maximize tribal revenues. The Secretary ultimately determined that the Acting Area Director had acted in the Tribes best interests.

In 1984, NARF, on behalf of the Tribes, filed a suit in federal district court asking that the Secretary's decision be reversed, that the leases be declared null and void and that the Tribes be duly compensated for the minerals taken from their land.

The Tribes' arguments have a dual focus: (1) to establish tribal authority to negotiate and lease tribal resources and (2) to enforce the trust responsibility of the BIA to insure that tribal oil and gas leases maximize tribal lease revenues. These two subjects are the essential objectives of the Indian Mineral Leasing Act of 1938 (MLA).

The MLA was enacted by Congress to give tribes greater control and authority over the leasing of tribal lands for mineral development. The Act provides that the Secretary of the Interior may approve tribal oil and gas leases, but only with tribal consent. Section 1 of the MLA states:

*"On and after May 11, 1938, unallotted lands within any Indian reservation or lands owned by any tribes...may, with the approval of the Secretary of the Interior, be leased for mining purposes, by authority of the tribal council or other authorized spokesman for such Indians."*

The MLA also defines a prescribed set of conditions for lease approval of Indian lands. One of the conditions is that mineral production be achieved at the end of the lease's

primary term, usually set within a 10 year time period. Another condition sets forth the tribal right to obtain the maximum benefit from their oil and gas resources by requiring the Secretary to investigate and consider factors such as the current market rate of leases.

In approving the disputed leases, the Secretary undermined the Tribes' authority to negotiate their own leases under the conditions defined by MLA. Court records show that the leases were signed without tribal authorization and that oil production was not achieved at the end of the lease period. In fact, the Secretary admits that the BIA had made no effort to obtain an assessment of the fair market value of the leases in question. Based on the evidence presented thus far, the Tribes contend that the Secretary's actions are inconsistent with the congressional mandate of the MLA and the leases are void.

On the other hand, the Secretary argues that the standard lease form used by the BIA has a drilling clause that provides for the Tribes' consent. According to the Secretary, the clause extends the leases beyond their five year primary term so long as drilling is started within that same term. In effect, the Secretary's interpretation allows approval of Indian leases based on drilling and not production, as required by the MLA. The Secretary further argues that the current market factors were irrelevant because the Acting Area Director believed that if the leases were allowed to expire that several events could occur that would jeopardize the Tribes' revenue and ability to lease the units.

Understandably, the Tribes have rejected the Secretary's arguments and are now waiting for the Court to decide if the government's actions are legal and binding.

### **Kauley v. United States**

On December 14, 1984, three Oklahoma allottees, all of whom are individual Indian royalty owners filed a complaint charging that the United States, represented by the Secretary of the Interior, the BIA, and the Minerals Management Service (MMS), has consistently

failed to fulfill its obligation to Indian allottees in the management of their oil and gas royalty interests. More specifically, the lawsuit charged that the government breached its trust responsibility to the allottees by mismanaging royalty payments, and that the government agencies failed to comply with the statutory requirements of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA).

Royalty payments due these Indian allottees ceased in 1981. Payments were later received sporadically through 1985, and were then received more or less on a monthly basis, but were at least one month late.

Section 111 of FOGRMA, requires that interest be paid by the Secretary of the Interior on late payments to Indian mineral interest owners. To date, no interest has been paid to Indian allottees.

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### **Tribal Assistance Needed for Code Project**

Work on the National Indian Law Library's tribal code collection project has begun. Joanna Wilkerson, the project's coordinator, will be contacting each tribe to request copies of constitutions and codes. The availability of current codes is essential to the development of Indian law. They are useful to those practicing within a particular tribal jurisdiction and help others to locate the codes they need.

Tribal assistance is much needed and will be greatly appreciated in this important project. A letter providing details will be forthcoming to tribes to help in the code collection.

If you have questions or comments, you may contact Ed Bristow or Joanna Wilkerson at the National Indian Law Library, 1522 Broadway, Boulder, Colorado 80302, (303) 447-8760

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The reason interest has not been paid on these late payments is that the Secretary and the agencies refuse to believe the payments were late. Section 104 of FOGRMA, states:

*Deposits of any royalty funds derived from the production of oil or gas from, or allocated to, Indian lands shall be made by the Secretary to the appropriate Indian account at the earliest practicable date after such funds are received by the Secretary but in no case later than the last business day of the month in which such funds are received.*

The Secretary interprets "appropriate Indian account" to mean an aggregated account created by the BIA. The result is payment to the individual allottees at least one month late. Even though it has been determined in court that the agencies' interpretation was wrong (*Shii Shi Keyah v. Hodel*) they have refused to accept any interpretation but their own. For this reason, they have refused to pay interest due to the Indian royalty owners.

Section 105 of FOGRMA requires that, together with payment or deposits to Indian mineral interest owners' Individual Indian Money (IIM) account, the Secretary must provide a report explaining the nature of the payment, including the source, production amount, royalty rate, unit value, and such other information as may be agreed upon by the Secretary and the recipient state, Indian tribe, or Indian allottee. Through 1986, these Indian allottees had not received, contemporaneous with payment, an explanation of payment report. In addition, the Secretary never consulted with any allottees to determine

specifically what information should be provided on such a report.

While this case has been pending, the agencies have undergone great changes. The reactions from the Secretary, the BIA and the MMS have been prolific and varied.

The agencies initially indicated that computer error was to blame for the payment and reporting problems. There was an immense computer system being designed which was going to cure everyone's woes. The 1983 target completion date of the system, however, was consistently delayed through 1986. When the system was finally installed for trial usage in the Albuquerque and Anadarko Area offices, there was a realization that installation of computer system alone does not solve problems. Checks were still late, reports were still late, and the reports proved very little in the way of information useful to allottees. One step in the right direction, however, was a series of meetings and hearings to determine what information on the report would be useful to the individual Indian mineral owners. The current reports being provided are far from perfect, but they are a vast improvement over the reports of five years ago.

The agencies' most recent response to the time delay in payment and the interest payment problems has been to seek amendment of FOGRMA and promulgation of new regulations in order to give them more time and to bring everything into agreement with their own interpretation of the correct account for deposits of payments. To date, the applicable sections of FOGRMA have not been amended, and the MMS regulations promulgated have had no effect the meaning of "appropriate account" for payment purposes.

Today, both cases are currently pending in the Federal District Court of Western Oklahoma. In the past, courts have upheld the authority of tribal governments to approve leases and lease conditions subject to the approval of the Secretary of the Interior. (*Crow Tribe of Indians v. State of Montana*) Another court held that the BIA must consider current market factors in renewing tribal leases. (*Kenai Oil and Gas Inc. v. Department of the Interior of*

U.S.) If the Court's decision is favorable to the Tribes it will uphold their argument that they have the authority to negotiate and approve their mineral leases. In the allottee case, a favorable decision would have the agencies be in compliance with FOGRMA and the Secretary's trust responsibility to these individual allottees will have been fulfilled.



Western History Collections  
University of Oklahoma

### Special Subcommittee on Investigations

In December, 1987, the U.S. Senate authorized the establishment of the Special Committee on Investigations of the Senate Select Committee on Indian Affairs. The three-member investigative committee is co-chaired by Senator Dennis DeConcini, Arizona; Senator John McCain, Arizona; and Senator Thomas Daschle of South Dakota.

The Special Committee is authorized to "*study or investigate any and all matter pertaining to problems and opportunities of Indians and Federal administration of mineral resources, including but not limited to resource management and trust responsibilities of the United States Government, Indian education, health, special services, and other Federal programs and related matters.*"

The Special Committee's powers include those of subpoena, deposition, examination of records, public hearing, and immunity. The staff is headed by Kenneth M. Ballen, formerly an Assistant U.S. Attorney in New Jersey and a senior attorney for the House Iran/Contra investigation. Additional staff consists of experienced Indian and non-Indian litigators and investigators.

The investigation has a two-fold approach: (1) to examine the Department of the Interior's exercise of its trust responsibilities over natural resources on Indian lands, and (2) to examine allegations of mismanagement at the BIA and other Federal agencies administering Federal Indian programs.

The Special Committee has solicited the cooperation of tribes and has already requested and received extensive documents from numerous federal departments and agencies.

The final stage of the investigation will be the public hearings. By that time, the staff will have reviewed hundreds of thousands of documents and interviewed and deposed hundreds, if not thousands, of individuals. At this point, there is no schedule of such hearings given the enormous scope of the undertaking.

*(Article prepared by Susan Arkeketa and Ed Bristow, NILL Research Associate)*

## Case Updates

### NARF to File Briefs in Four Supreme Court Cases

NARF is filing *amicus curiae* briefs in the four Indian law cases before the United States Supreme Court. The court will review the cases in its 1988-89 term.

*Cotton Petroleum v. New Mexico* is a case from the New Mexico courts. The case involves state severance taxes on Cotton's oil and gas production on the Jicarilla Apache Reservation. The issue is whether the existence of tribal severance taxes precludes state taxation on the reservation. NARF represents the Council of Energy Resource Tribes (CERT) and the Shoshone-Bannock Tribes.

NARF and Native American Programs-Oregon Legal Services (NAPOLS) will be doing a joint brief in the case *Mississippi Band of Choctaw Indians v. Holyfield*. The issue in this case is whether the Mississippi Choctaw Tribal Court has exclusive jurisdiction of the adoption of Indian children who were born and have lived off the Choctaw Reservation

In *California v. United States*, the question is whether the filing of a water rights suit on behalf of a tribe waives the federal government's immunity from suits to quiet title to Indian lands. The Quiet Title Act is a waiver of the United States' immunity for quiet title suits but specifically exempts the waiver for Indian lands. NARF is doing an *amicus* brief on behalf of the Klamath and Swinomish Tribes.

In *Yakima Nation v. Whiteside*, the Court will review an appeals court decision that held the Tribe had exclusive zoning jurisdiction on the Yakima Reservation. The case raises a number of issues: the effect of P.L. 280 on the Tribe's jurisdiction; whether tribal zoning of non-Indians violates due process or equal protection; and whether tribal zoning results in a compensable taking.

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### Hayward Selected as Board Member

Richard (Skip) A. Hayward, Chairman of the Mashantucket Pequot Tribal Council, has agreed to serve on NARF's Board of Directors.

Hayward is from Ledyard, Connecticut and has ample experience in working with tribal, state and federal governments. He has served in many capacities on the following boards and commissions: State of Connecticut's Legislative Task Force on Indian Affairs; Advisory Council, Office of Indian Programs, U.S. Department of Housing and Urban Development; Tribal Representative, United South and Eastern Tribes; Member, Southeastern Connecticut Chamber of Commerce, Connecticut Indian Affairs Council, and has served as chairman of the Mashantucket Pequot Tribal Council for thirteen years. Hayward replaces Wayne Newell, a member of the Passamaquoddy Tribe, who had served on the Board of Directors for six years.

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# NARF RESOURCES AND PUBLICATIONS

## THE NATIONAL INDIAN LAW LIBRARY

The National Indian Law Library (NILL) has developed a rich and unique collection of legal materials relating to Federal Indian law and the Native American. Since its founding in 1972, NILL continues to meet the needs of NARF attorneys and other practitioners of Indian law. The NILL collection consists of standard law library materials, such as law review materials, court opinions, legal treatises, that are available in well-stocked law libraries. The uniqueness and irreplaceable core of the NILL collection is comprised of trial holdings and appellate materials of important cases relating to the development of Indian law. Those materials in the public domain, that is non-copyrighted, are available from NILL on a per-page-cost plus postage. Through NILL's dissemination of information to its patrons, NARF continues to meet its commitment to the development of Indian law.

## AVAILABLE FROM NILL

### The NILL Catalogue

One of NILL's major contributions to the field of Indian law is the creation of the National Indian Law Library Catalogue: An Index to Indian Legal Materials and Resources. The NILL Catalog lists all of NILL's holdings and includes a subject index, an author-title table, a plaintiff-defendant table and a numerical listing. This reference tool is probably the best current reference tool in this subject area. It is supplemented periodically and is designed for those who want to know what

is available in any particular area of Indian law. (1,000 + pgs. Price: \$75).

### Bibliography on Indian Economic Development

Designed to provide aid on the development of essential legal tools for the protection and regulation of commercial activities on Indian reservations. This bibliography provides a listing of articles, books, memoranda, tribal codes, and other materials on Indian economic development. 2nd edition (60 pgs. Price: \$30.00). (NILL NO. 005166)

### Indian Claims Commission Decisions

This 43-volume set reports all of the Indian Claims Commission decisions. An index through volume 38 is also available, with an update through volume 43 in progress. The index contains subject, tribal, and docket number listing. (43 volumes. Price \$820). (Index price: \$25.00). (Available from the Indian Law Support Center).

*Prices subject to change*

# Otu'han



*Otu'han — Lakota word literally translated as "give-away." The Otu'han is a custom of giving in honor of a friend or loved one.*

An Otu'han gift is a unique way to share the spirit of the Indian "give-away" with family, friends and loved ones. At the same time it helps NARF in its efforts to help Native Americans.

## April-July Memorials

**Imund A. Magrane** by Nancy Rourke  
**John W. Davis** by Joan C. Davis  
**Margaret Lecky** by Stella Patri  
**Mrs. Sybil Hargrove** by Sarah Davidson  
**The Thiesen Family** by Veronica Herzman  
**James & Dorothy Lobell** by Dorris L. Weigand  
**Fred W. Berke** by Eleanor Berke  
**Hansen** by Alfred Pinnaro  
**E. E. Torgerson** by Ruth Torgerson  
**Alexis Kellogg Smith** by Winona B. Van Meter  
**John Whitney Wilcox** by Peri Coleen Warren  
**Gail Iyall** by Debora & Sandra Iyall  
**Mary Ciolli** by Antoinette Ciolli  
**Billy C. Martin** by Theresa G. Martin  
**Edgar Pippenger** by Barney Pippenger  
**Oliver Grove** by Barney Pippenger  
**Jenny Grove** by Barney Pippenger  
**Ernest P. Brigham, Jr.** by Bernice C. Brigham  
**Galloway Selby** by William Apt  
**David Moyer** by Ann Moyer  
**Frank M. Phifer, M.D.** by Florence M. Phifer  
**Cecil Friedman** by Herbert A. Friedman, M.D.  
**Maureen O'Neil Farley** by George O'Neil  
**Angela M. Gill** by Mrs. Michael J. O'Brien  
**Lone Wolf Taylor** by Mara Vella Picar-Chen  
**Francis L. Pell, Jr.** by Lewis Pell  
**Theodore Sturgeon** by Emanuel M. Staub  
**Oscar Usher** by Mrs. Margaret Usher  
**Frank Hicks** by Steven Hicks  
**Bernard Kasgnoc** by Faye A. Harasack  
**Clara Marie Henault Hawk** by L. E. & Mary Lou Swanby  
**Sheila J. Ralston** by R. James Ralston  
**Ethel Finkelstein** by Dani Ben-Ari  
**Farley Carl Rutledge** by Virginia Rutledge  
**Stanley W. Evaskus** by David Evaskus  
**Ben Stucki** by Del Eberhardt  
**Mary Carol Burk** by Samuel & Ruth Panella  
**Anne E. Barron** by James J. Barron  
**Marietta De Laye** by Dolores Rodriguez  
**Janey O'Neil** by Ruth Sheridan  
**Maureen & Joe Theriault** by R. Joe Theriault  
**Jennie C. Phelps** by Maritha Pottenger  
**Brandi Ann Romain** by Lynn Romain  
**Franklin Brown** by Norman R. Gayford  
**John G. Lamonakis** by Katherine Batsis  
**Mr. S. P. Claud** by Robert P. Claud

**Lola J. Borja** by R. Christopher Borja-Feldman  
**Nora K. Chang** by George A. Fox  
**Carroll E. Huls** by Carole Ramos Spencer  
**Mark Ulmer** by Gail M. Zabowski  
**David J. Birmingham** by David J. Birmingham, Jr.  
**Heather Ann Tranter** by Mrs. Anna F. Kubik  
**Virginia Clement** by Peter Ingle  
**Henry Ketigan** by Edward Garcia  
**Charles P. Tuthill, II** by C. Sterling Tuthill  
**John Leone, Sr.** by Lynn Manning  
**Otto F. Wiedemann** by Martha Wiedemann  
**Maxine Hall** by Dr. Donald L. Smith  
**Joy La Barre** by Dulanie Ellis  
**Norman Heestand** by Marceline (Heestand) Yanok  
**Geoffrey A. Dyer** by Yolanda P. Dyer  
**Joe Capaglia** by Barney Pippenger  
**Cy Oliver** by Florence Wallach  
**Hattie Loeffler Deibler** by Lorraine Deibler Newby  
**Ernest J. Miller, Sr.** by Ernest J. Miller, Jr.  
**Leo J. Endres** by Dorothy Endres  
**Almy Armstrong** by George A. Boulvier  
**Ann Andrews** by Kathleen, Jeffrey & Rhiannon Marino-Sweeney  
**Eric Brown** by Diane Brown  
**Magda Shelton** by Mary Becker  
**Dominick Pisano** by Edward & Maura Garcia & Family  
**Peter Ellana** by Faye A. Harasack  
**Mattie Allen** by Dorothy Graham  
**Magda Shelton** by Althea Ockerman  
**John J. & Sophia M. Rewolinski** by Thomas G. Rewolinski  
**Ira Hayes** by Veronica Townsend  
**Magda Shelton** by Jutta C. Zapf

**Thomas Emerson** by Ann Moyer  
**Dorothy Wong** by Jo Ann Victor  
**Mr. and Mrs. C. E. Kemp** by Wendy E. Rose  
**Zelma R. Gordon** by Regina R. Salomon  
**Robert T. Mitchem** by Nia-Sue Mitchum  
**Dan and Kate Sweeney** by Kathleen, Jeffrey and Rhiannon Marino-Sweeney  
**Peg and Paul Hill** by Kimberly Hill  
**Terry Powless** by John and Vera Jezek  
**Ban Wang** by Helena Solodky  
**Steve P. Chadwick** by Frank Chadwick  
**Wally Wantuck** by Barney Pippenger  
**Bobby Miles, R.N.** by Gary Rainey, D.O.  
**Helen E. Read** by Mr. Robert N. Read  
**Benjamin Seaman** by Ann Moyer  
**Brian Arden Burke** by James M. Burke  
**Valeria Coates** by Rosemary E. Jacques  
**Amos Owen** by Mr. Jaime G. Longhi  
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**Joan N. Houghton** by Mrs. Roy G. Noble  
**Alice Schill** by Phyllis S. Ward  
**Breeana Munkelt** by Alice L. Mayhugh  
**Thomas Bearpaw** by Anders K. Arnbal  
**Anne Aleshire** by Joan Aleshire  
**Soozie Tyrell** by Jonathan E. Cappel  
**Col. Louis W. Heondon** by Elizabeth Heondon Fleming  
**All Native American People** by Richard J. Daily  
**Michael Ryan** by Caroline L. Harrington  
**Gay T. Wheeler** by Charles J. Wheeler, Jr.  
**Fay Hochstadt** by Ted Hochstadt  
**Andrew R. Nehrbas** by Mrs. Henry Couley  
**Amy Skenandore** by Jeanne W. Capulli  
**Steve Bagaason** by Marian Bagaason  
**Joseph Aaron Hefta** by Sara M. Ewing Hefta  
**LaVern Anderson** by Sheryl Hruska  
**Emery Sedlak** by Jack Knake  
**Patricia Hnatuk** by Neil Rohr  
**John P. Rolston** by Frances M. Rolston  
**Kate McQuilkin** by Jerald Baranoff

## January-July Honoring Gifts

NARF also received numerous gifts in honor of friends and relatives on birthdays and special anniversaries. We are again fast approaching the holiday season, a time when giving has traditionally played a major role. For many, the holiday season is a time for not only selecting the right gifts for friends and loved ones, but also for making special gifts to nonprofit causes, such as the Native American Rights Fund.

**Kathryn Jacobi and Richard Dysart** by Susan Dey and Bernie Sofronski  
**Upton and Elizabeth Ethelbah** by June and Taylor McConnell  
**Rod Skenandore** by Chris Robbins  
**Bonnie D. Kamen** by Donna K. Weingarden  
**Ernest Custalow** by Esther Huston  
**Janna Sheriff** by Randall A. Lake

To make your Otu'han gift, fill out this form and return it to the Native American Rights Fund. We're glad we can help you honor friends and relatives in this manner.

Am't Enclosed \$ \_\_\_\_\_

**Otu'han**

\_\_\_\_\_

Donor's Name

\_\_\_\_\_

Address

\_\_\_\_\_

City State Zip Code

Name: \_\_\_\_\_ For: \_\_\_\_\_

Given in honor of (living) \_\_\_\_\_ (occasion)

Name: \_\_\_\_\_

Given in Memory of (deceased)

Please Send Acknowledgement Card to:

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Name

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Address City State Zip Code

Please send more Otu'han forms

# NARF

Native American Rights Fund

# Dollars & Sense

A Publication Especially Prepared for NARF Donors/ Summer 1988

## Making Estate Planning Easy

For many people the most difficult part of estate planning is getting started. This article will guide you through a simple step-by-step approach to help you get your long-range plans in order and insure an orderly distribution of your assets to your loved ones and favorite charitable organizations.

### Step Number One — Who Are the Beneficiaries?

Start by making a list of all those you want to benefit from your property, both during and after your lifetime. First on your list, of course, will be those who are directly dependent on you for support. Then consider those who might become dependent in the future, such as parents. Finally, you list your favorite charitable organizations. You may wish to consider Native American Rights Fund in your estate plans. Remember that these organizations will miss your contributions after you are gone. You may also want to include relatives or friends who don't necessarily need your financial help but would appreciate being remembered with a personal gift. Giving the right thing to the right person will prevent your treasures from ending up in the attic of someone who does not appreciate their special value.

### Step Number Two — What Do You Own?

People who did not even think they had an estate often change their minds when they start writing down everything they own. This list should include anything of value, real or sentimental. You spend your lifetime earning, investing and saving for what you have. Your property list should include real estate, savings accounts, stocks and bonds, business interests, retirement funds, life insurance policies, equipment, automobiles, artworks, antiques, jewelry, coin and stamp collections, heirlooms and others. Seeing this on paper will give you a clearer picture of your

overall financial status and what you will be able to do for individuals and charitable organizations, such as the Native American Rights Fund.

### Step Number Three — Understanding Your Options

There are several ways to distribute property. One way is through lifetime gifts. You are free to give away, during your lifetime, anything that you own. At the same time, you want to be sure of your own security and economic freedom for as long as you live.

You can also transfer property at death through joint ownership. There are different kinds of joint ownership:

- *Joint Owners with Rights of Survivorship* — This is property you own jointly with someone else, which, at the death of either, will cause an immediate transfer of that asset to the joint surviving owner.
- *Joint Owners as Tenants In Common* — With this type of ownership you have a divisible interest in the property and, at your death, your interest in the property will not pass to the joint owner but according to the terms of your will.

You can give property, either now or later, through trust agreements. Trusts can be set up to provide you with income during your life, or a loved one who might survive you. You can arrange for the principal of the trust to be passed to children or, if you wish, to a charitable organization, such as the Native American Rights Fund. These types of trusts have very attractive income and estate tax benefits. You can even set up a trust that you can revoke in future years. You can tell your attorney what you want to accomplish and he or she can advise you as to which kind of trust you need.

Other kinds of contractual arrangements also result in automatic disposition of property at death, such as life insurance.

### Step Number Four — Exercising Your Options

Your first option is to do nothing and let your property pass according to the laws of descent and distribution in your state of residence. Many times property that has not been distributed through a will or some contractual arrangement goes to distant relatives or in disproportionate shares to those who did not need or expect the legacy. Sometimes families suffer because property has to be sold to pay immediate debts. Planning can avoid these kinds of problems, along with unnecessary taxes and legal expenses.

Your second option is to take steps one and two and follow up with step three, choosing the right option. Call an attorney and make an appointment — then something will happen. Collecting the necessary information ahead of time, as suggested in step one, will save time and expense and give you an opportunity to think about what you want to do and discuss it with anyone you want to consult.

If you don't know an attorney, call the trust department of your bank. They can recommend several attorneys who specialize in estate planning. If you intend to include the Native American Rights Fund in your plans, we will be happy to assist you in any way at no cost or obligation.

Even those who have already planned their estates and written their wills need to review their plans in light of changing tax legislation and other changes in life. This is often the case with the death of a named beneficiary, the birth of a child, an inheritance, etc.

Write or call the Native American Rights Fund Planned Giving Office (303 /447-8760) if you have specific questions. We appreciate your support, because bequests play an important part in assisting us with the continuation of our work on behalf of this country's Native Americans.

## NATIVE AMERICAN RIGHTS FUND

The Native American Rights Fund is a nonprofit organization specializing in the protection of Indian Rights. The priorities of NARF are: (1) the preservation of tribal existence; (2) the protection of tribal natural resources; (3) the promotion of human rights; (4) the accountability of governments of Native Americans; and (5) the development of Indian law.

Our work on behalf of thousands of America's Indians throughout the country is supported in large part by your generous contributions. Your participation makes a big difference in our ability to continue to meet ever-increasing needs of impoverished Indian tribes, groups and individuals. The support needed to sustain our nationwide program requires your continued assistance.

Requests for legal assistance, contributions, or other inquiries regarding NARF's services may be addressed to NARF's main office: 1506 Broadway, Boulder, Colorado 80302. Telephone (303) 447-8760.

### Board of Directors

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George Kalama, Vice-Chairman.....Nisqually  
Kenneth Custalow.....Mattaponi  
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Richard A. Hayward.....Mashuntucket Pequot  
Mahealani Ing.....Native Hawaiian  
Danny LittleAxe.....Absentee Shawnee  
Calvin Peters.....Squaxin Island  
Caleb Pungowiyi.....Siberian Yupik  
Anthony L. Strong.....Tlingit  
William Thorne.....Pomo  
Verna Williamson.....Isleta Pueblo  
Executive Director: John E. Echohawk (Pawnee)  
Deputy Director: Rick Dauphinais  
(Turtle Mountain Chippewa)



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