

# **Native American Rights Fund, Inc.**

Independent Auditor's Report and Financial Statements

September 30, 2021 and 2020

**Native American Rights Fund, Inc.**  
**September 30, 2021 and 2020**

**Contents**

**Independent Auditor’s Report..... 1**

**Financial Statements**

Statements of Financial Position ..... 3  
Statement of Activities – Year Ended September 30, 2021 ..... 4  
Statement of Activities – Year Ended September 30, 2020 ..... 5  
Statement of Functional Expenses – Year Ended September 30, 2021 ..... 6  
Statement of Functional Expenses – Year Ended September 30, 2020 ..... 7  
Statements of Cash Flows ..... 8  
Notes to Financial Statements ..... 10

## Independent Auditor's Report

Board of Directors  
Native American Rights Fund, Inc.  
Boulder, Colorado

We have audited the accompanying financial statements of Native American Rights Fund, Inc. (NARF), which comprise the statements of financial position as of September 30, 2021 and 2020, and the related statements of activities, functional expenses and cash flows for the years then ended, and the related notes to the financial statements.

### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

### ***Auditor's Responsibility***

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Board of Directors  
Native American Rights Fund, Inc.

***Opinion***

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of NARF as of September 30, 2021 and 2020, and the changes in its net assets and its cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

*BKD, LLP*

Denver, Colorado  
February 7, 2022

**Native American Rights Fund, Inc.**  
**Statements of Financial Position**  
**September 30, 2021 and 2020**

**Assets**

	<b>2021</b>	<b>2020</b>
Cash	\$ 5,584,205	\$ 2,913,858
Prepaid expenses and other assets	245,288	316,988
Other receivables, net of allowance of \$0 and \$38,000 for 2021 and 2020	6,060,008	206,918
Employee travel advances	13,983	41,740
Grants and contributions receivable, net	5,132,632	3,035,519
Bequests receivable	-	24,000
Investments	46,965,174	43,421,438
Assets held for others	64,793	64,793
Property and equipment	8,745,223	1,198,549
Total assets	<b>\$ 72,811,306</b>	<b>\$ 51,223,803</b>

**Liabilities and Net Assets**

Accounts payable	\$ 586,343	\$ 288,567
Funds held on behalf of others	64,793	64,793
Accrued vacation payable	381,240	384,976
Refundable advance	-	808,120
Other accrued expenses	174,301	89,819
Deferred rent	12,288	7,719
Capital lease obligations	44,327	65,314
Employee retirement obligation	274,881	263,589
Total liabilities	1,538,173	1,972,897

**Net Assets**

Without donor restrictions		
Future Legal Advocacy Fund	25,000,000	25,000,000
Undesignated	36,157,766	17,183,910
	61,157,766	42,183,910
With donor restrictions		
Perpetual in nature	1,053,835	1,041,891
Purpose restrictions	9,061,532	6,025,105
	10,115,367	7,066,996
Total net assets	71,273,133	49,250,906
Total liabilities and net assets	<b>\$ 72,811,306</b>	<b>\$ 51,223,803</b>

**Native American Rights Fund, Inc.**  
**Statement of Activities**  
**Year Ended September 30, 2021**

	<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
<b>Revenues, Gains and Other Support</b>			
Foundation grants	\$ 1,336,500	\$ 6,751,101	\$ 8,087,601
Contributions	8,235,482	991,244	9,226,726
Legal fees	6,901,657	-	6,901,657
Other	309,018	-	309,018
Investment return, net	7,543,952	-	7,543,952
Gain on sale of property	3,791,063	-	3,791,063
Net assets released from restrictions	4,693,974	(4,693,974)	-
	<u>32,811,646</u>	<u>3,048,371</u>	<u>35,860,017</u>
<b>Expenses</b>			
Program services			
Litigation and client services	9,369,090	-	9,369,090
National Indian Law Library	254,924	-	254,924
	<u>9,624,014</u>	<u>-</u>	<u>9,624,014</u>
Supporting services			
Management and general	1,255,864	-	1,255,864
Fundraising expenses	2,957,912	-	2,957,912
	<u>4,213,776</u>	<u>-</u>	<u>4,213,776</u>
	<u>13,837,790</u>	<u>-</u>	<u>13,837,790</u>
<b>Change in Net Assets</b>	18,973,856	3,048,371	22,022,227
<b>Net Assets, Beginning of Year</b>	<u>42,183,910</u>	<u>7,066,996</u>	<u>49,250,906</u>
<b>Net Assets, End of Year</b>	<u>\$ 61,157,766</u>	<u>\$ 10,115,367</u>	<u>\$ 71,273,133</u>

**Native American Rights Fund, Inc.**  
**Statement of Activities**  
**Year Ended September 30, 2020**

	<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
<b>Revenues, Gains and Other Support</b>			
Governmental contracts	\$ 10,000	\$ -	\$ 10,000
Foundation grants	1,606,402	5,362,061	6,968,463
Contributions	4,699,153	1,223,417	5,922,570
Legal fees	583,904	-	583,904
Other	33,706	-	33,706
Investment return, net	2,552,705	-	2,552,705
Net assets released from restrictions	4,000,941	(4,000,941)	-
	<u>13,486,811</u>	<u>2,584,537</u>	<u>16,071,348</u>
Total revenues, gains and other support			
<b>Expenses</b>			
Program services			
Litigation and client services	7,359,178	-	7,359,178
National Indian Law Library	206,046	-	206,046
	<u>7,565,224</u>	<u>-</u>	<u>7,565,224</u>
Total program services			
Supporting services			
Management and general	1,033,813	-	1,033,813
Fundraising expenses	2,647,657	-	2,647,657
	<u>3,681,470</u>	<u>-</u>	<u>3,681,470</u>
Total supporting services			
Total expenses	<u>11,246,694</u>	<u>-</u>	<u>11,246,694</u>
<b>Change in Net Assets</b>	2,240,117	2,584,537	4,824,654
<b>Net Assets, Beginning of Year</b>	<u>39,943,793</u>	<u>4,482,459</u>	<u>44,426,252</u>
<b>Net Assets, End of Year</b>	<u>\$ 42,183,910</u>	<u>\$ 7,066,996</u>	<u>\$ 49,250,906</u>

**Native American Rights Fund, Inc.**  
**Statement of Functional Expenses**  
**Year Ended September 30, 2021**

	<b>Litigation and Client Services</b>	<b>National Indian Law Library</b>	<b>Total Program Expenses</b>	<b>Management and General</b>	<b>Fund Raising</b>	<b>Total Supporting Expenses</b>	<b>Total Expenses</b>
Salaries and related costs							
Professional staff	\$ 3,368,999	\$ 122,779	\$ 3,491,778	\$ 520,364	\$ 590,594	\$ 1,110,958	\$ 4,602,736
Support staff	477,021	42,994	520,015	217,729	106,842	324,571	844,586
Fringe benefits	918,152	42,522	960,674	173,737	230,394	404,131	1,364,805
	<u>4,764,172</u>	<u>208,295</u>	<u>4,972,467</u>	<u>911,830</u>	<u>927,830</u>	<u>1,839,660</u>	<u>6,812,127</u>
Contract fees and consultants	3,055,253	-	3,055,253	36,080	33,000	69,080	3,124,333
Travel	97,190	276	97,466	3,408	21,769	25,177	122,643
Space costs	350,777	10,479	361,256	29,309	21,689	50,998	412,254
Office expenses	821,870	11,360	833,230	187,004	1,905,349	2,092,353	2,925,583
Equipment maintenance and rental	72,085	17,239	89,324	73,521	11,630	85,151	174,475
Litigation costs	31,794	-	31,794	-	-	-	31,794
Library costs	64,749	4,801	69,550	2,522	7,935	10,457	80,007
	<u>9,257,890</u>	<u>252,450</u>	<u>9,510,340</u>	<u>1,243,674</u>	<u>2,929,202</u>	<u>4,172,876</u>	<u>13,683,216</u>
Expenses before bad debt and depreciation	9,257,890	252,450	9,510,340	1,243,674	2,929,202	4,172,876	13,683,216
Bad debt expense	20,459	-	20,459	-	-	-	20,459
Depreciation	90,741	2,474	93,215	12,190	28,710	40,900	134,115
	<u>9,369,090</u>	<u>254,924</u>	<u>9,624,014</u>	<u>1,255,864</u>	<u>2,957,912</u>	<u>4,213,776</u>	<u>13,837,790</u>
Total expenses	<u>\$ 9,369,090</u>	<u>\$ 254,924</u>	<u>\$ 9,624,014</u>	<u>\$ 1,255,864</u>	<u>\$ 2,957,912</u>	<u>\$ 4,213,776</u>	<u>\$ 13,837,790</u>

**Native American Rights Fund, Inc.**  
**Statement of Functional Expenses**  
**Year Ended September 30, 2020**

	<b>Litigation and Client Services</b>	<b>National Indian Law Library</b>	<b>Total Program Expenses</b>	<b>Management and General</b>	<b>Fund Raising</b>	<b>Total Supporting Expenses</b>	<b>Total Expenses</b>
Salaries and related costs							
Professional staff	\$ 2,972,179	\$ 111,772	\$ 3,083,951	\$ 448,369	\$ 467,944	\$ 916,313	\$ 4,000,264
Support staff	496,004	28,956	524,960	162,565	93,219	255,784	780,744
Fringe benefits	<u>791,528</u>	<u>37,479</u>	<u>829,007</u>	<u>180,704</u>	<u>192,314</u>	<u>373,018</u>	<u>1,202,025</u>
Total salaries and related costs	4,259,711	178,207	4,437,918	791,638	753,477	1,545,115	5,983,033
Contract fees and consultants	1,482,045	-	1,482,045	33,590	33,000	66,590	1,548,635
Travel	199,506	460	199,966	22,572	63,912	86,484	286,450
Space costs	338,567	6,670	345,237	29,672	8,998	38,670	383,907
Office expenses	884,191	6,861	891,052	91,152	1,756,474	1,847,626	2,738,678
Equipment maintenance and rental	79,882	11,509	91,391	57,688	8,747	66,435	157,826
Litigation costs	8,082	-	8,082	-	-	-	8,082
Library costs	<u>54,924</u>	<u>1,194</u>	<u>56,118</u>	<u>1,755</u>	<u>8,333</u>	<u>10,088</u>	<u>66,206</u>
Expenses before bad debt and depreciation	7,306,908	204,901	7,511,809	1,028,067	2,632,941	3,661,008	11,172,817
Bad debt expense	11,431	-	11,431	-	-	-	11,431
Depreciation	<u>40,839</u>	<u>1,145</u>	<u>41,984</u>	<u>5,746</u>	<u>14,716</u>	<u>20,462</u>	<u>62,446</u>
Total expenses	<u>\$ 7,359,178</u>	<u>\$ 206,046</u>	<u>\$ 7,565,224</u>	<u>\$ 1,033,813</u>	<u>\$ 2,647,657</u>	<u>\$ 3,681,470</u>	<u>\$ 11,246,694</u>

**Native American Rights Fund, Inc.**  
**Statements of Cash Flows**  
**Years Ended September 30, 2021 and 2020**

	<u>2021</u>	<u>2020</u>
<b>Operating Activities</b>		
Change in net assets	\$ 22,022,227	\$ 4,824,654
Items not requiring (providing) cash		
Depreciation expense	134,115	62,446
Net realized and unrealized gain on investments	(6,482,444)	(1,353,124)
Gain on sale of property	(3,791,063)	-
Contributions received for long-term investment	(11,944)	-
Changes in		
Other receivables	(5,853,090)	62,678
Government contract receivable	-	254,395
Grants and contributions receivable	(2,097,113)	(1,175,839)
Bequests receivable	24,000	165,000
Prepaid expenses and other assets	99,457	(124,801)
Accounts payable and accrued expenses	378,522	(274,279)
Funds held on behalf of others	-	30,791
Retirement recognition program	11,292	23,245
Refundable advance	(808,120)	808,120
Deferred rent	4,569	(5,636)
	<u>3,630,408</u>	<u>3,297,650</u>
Net cash provided by operating activities		
	<u>3,630,408</u>	<u>3,297,650</u>
<b>Investing Activities</b>		
Proceeds from sales of investments	4,312,277	1,342,515
Purchases of investments	(1,373,569)	(3,030,327)
Proceeds from sales of property	3,842,429	-
Purchase of property and equipment	(3,732,155)	(86,747)
	<u>3,048,982</u>	<u>(1,774,559)</u>
Net cash provided by (used in) investing activities		
	<u>3,048,982</u>	<u>(1,774,559)</u>
<b>Financing Activities</b>		
Contributions received for long-term investment	11,944	-
Principal payments on note payable	(4,000,000)	-
Principal payments under capital lease obligation	(20,987)	(19,010)
	<u>(4,009,043)</u>	<u>(19,010)</u>
Net cash used in financing activities		
	<u>(4,009,043)</u>	<u>(19,010)</u>
<b>Increase in Cash</b>	2,670,347	1,504,081
<b>Cash, Beginning of Year</b>	<u>2,978,651</u>	<u>1,474,570</u>
<b>Cash, End of Year</b>	<u>\$ 5,648,998</u>	<u>\$ 2,978,651</u>

**Native American Rights Fund, Inc.**  
**Statements of Cash Flows (continued)**  
**Years Ended September 30, 2021 and 2020**

	<b>2021</b>	<b>2020</b>
<b>Supplemental Disclosure of Cash Flow Information</b>		
Interest paid	\$ 2,512	\$ 3,439
Purchase of property on note payable, paid in full by year-end	\$ 4,000,000	\$ -
<b>Reconciliation of Cash to the Statements of Financial Position</b>		
Cash	\$ 5,584,205	\$ 2,913,858
Assets held for others	64,793	64,793
Total cash in the statements of cash flows	\$ 5,648,998	\$ 2,978,651

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

**Note 1: Nature of Operations and Summary of Significant Accounting Policies**

***Nature of Operations***

Native American Rights Fund, Inc. (NARF) is a not-for-profit organization whose mission and principal activities are to provide legal representation, assistance and education to Native American people. NARF's revenues and other support are derived principally from support from private foundations, the United States government, public contributions and a limited fee policy, with the majority of its funding derived from grant and contribution support and legal fees.

The activities of NARF include the following programs:

**Litigation and Client Services**

NARF provides legal representation, assistance and education to Native American people. The major areas of concentration include tribal restoration and recognition, land claims settlements, hunting and fishing rights, the protection of Indian religious freedom and education rights.

**National Indian Law Library (NILL)**

NILL is the national repository of, and clearinghouse for, materials in Indian law. NILL collects and distributes catalogues and other materials used for legal and educational purposes. NILL also provides reference and research assistance.

**Fiscal Sponsorship**

NARF is also the fiscal sponsor to an organization formed to manage land associated with efforts to preserve the culture and education of the Native American people which have a unique and particular interest in the lands of south Texas. This group operates under the umbrella of NARF's 501(c)(3) status and receives administrative support, including accounting services and guidance regarding non-profit management best practices. As fiscal sponsor, NARF assumes all fiscal and administrative responsibility for the group. Amounts received and expended on behalf of the group constitute NARF activities and are recognized in the statement of activities.

***Use of Estimates***

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues, expenses, gains, losses and other changes in net assets during the reporting period. Actual results could differ from those estimates.

***Cash***

At September 30, 2021, NARF's cash accounts exceeded federally insured limits by approximately \$5.4 million. Uninvested cash and cash equivalents included in investment accounts are not considered to be cash for financial reporting purposes.

# **Native American Rights Fund, Inc.**

## **Notes to Financial Statements**

**September 30, 2021 and 2020**

### ***Other Receivables***

Other receivables are stated at the amount of consideration from customers of which the NARF has an unconditional right to receive. NARF provides an allowance for doubtful accounts, which is based upon a review of outstanding receivables, historical collection information and existing economic conditions. Delinquent receivables are written off based on individual account evaluation and specific circumstances of the client.

At September 30, 2021, other receivables included receivables from legal settlements of approximately \$5.9 million whose collectability is reasonably assured.

### ***Investments and Net Investment Return***

Investments in equity securities having a readily determinable fair value and all debt securities are carried at fair value. Other investments are valued at the lower of cost (or fair value at time of donation, if acquired by contribution) or fair value. Investment return includes dividend, interest and other investment income; realized and unrealized gains and losses on investments carried at fair value; and realized gains and losses on other investments, less external and direct internal investment expenses.

Investments in private equity funds are recorded at net asset value (NAV), as a practical expedient.

Investment returns that are initially restricted by donor stipulation and for which the restriction will be satisfied in the same year are recorded as with donor restrictions and then released from restriction. Other investment returns are reflected in the statement of activities as with or without donor restriction based upon the existence and nature of any donor or legally imposed restrictions.

### ***Property and Equipment***

Property and equipment are depreciated on a straight-line basis over the estimated useful life of each asset. Assets under capital lease obligations are depreciated over the shorter of the lease term or their respective estimated useful lives. The estimated useful lives for each major depreciable classification of property and equipment are as follows:

Buildings and improvements	30-50 years
Leasehold improvements	7-10 years
Furniture and equipment	5-10 years

### ***Long-lived Asset Impairment***

NARF evaluates the recoverability of the carrying value of long-lived assets whenever events or circumstances indicate the carrying amount may not be recoverable. If a long-lived asset is tested for recoverability and the undiscounted estimated future cash flows expected to result from the use and eventual disposition of the asset are less than the carrying amount of the asset, the asset cost is adjusted to fair value and an impairment loss is recognized as the amount by which the carrying amount of a long-lived asset exceeds its fair value. No asset impairment was recognized during the years ended September 30, 2021 and 2020.

# **Native American Rights Fund, Inc.**

## **Notes to Financial Statements**

**September 30, 2021 and 2020**

### ***Collections***

Collections of works of art, historical treasures and similar assets are not capitalized in as much as the items are preserved and cared for continuously. Purchases of collection items are reported in the year of acquisition as decreases in net assets without donor restriction, or in net assets with donor restriction if the assets used to purchase the items were restricted to that use by donor stipulation. Contributions of collection items are not reported in the financial statements. Proceeds from disposal of and insurance recoveries related to collection items are reported as increases in the appropriate net asset classes.

NARF's collections consist of rare books and maps. These collections are held for educational and research purposes. They are subject to a policy that requires proceeds from the disposition of collection items to be used to acquire other collection items.

No collection items were sold or removed in 2021 and 2020.

### ***Funds Held on Behalf of Others***

Funds held on behalf of others represent assets collected from external donors for the benefit of other groups. NARF and the groups' mission statements align and NARF has not been granted variance power over how the funds received are spent. The unspent balance of the funds collected is accounted for as a liability by NARF.

### ***Refundable Advance***

During 2020, NARF received a Paycheck Protection Program (PPP) loan established by the *Coronavirus Aid, Relief, and Economic Security Act* (CARES Act) and elected to account for the funding as a conditional contribution by applying ASC Topic 958-605, *Revenue Recognition*. Revenue is recognized when conditions are met, which include meeting FTE and salary reduction requirements and incurring eligible expenditures. PPP loans are subject to audit and acceptance by the U.S. Department of Treasury, Small Business Administration, or lender; as a result of such audit, adjustments could be required to the recognition of revenue. If conditions are met, the amount of the refundable advance will be forgiven. During 2021, NARF received confirmation of forgiveness of the loan of \$808,120 and recognized the resulting contribution on the statement of activities.

### ***Net Assets***

Net assets, revenues, gains and losses are classified based on the existence or absence of donor or grantor restrictions.

Net assets without donor restrictions are available for use in general operations and not subject to donor or certain grantor restrictions. The governing board has designated, from net assets without donor or certain grantor restrictions, net assets for a board-designated endowment, the Future Legal Advocacy Fund.

# Native American Rights Fund, Inc.

## Notes to Financial Statements

September 30, 2021 and 2020

Net assets with donor restrictions are subject to donor or certain grantor restrictions. Some restrictions are temporary in nature, such as those that will be met by the passage of time or other events specified by the donor. Other restrictions are perpetual in nature, where the donor or grantor stipulates that resources be maintained in perpetuity.

### **Future Legal Advocacy Fund**

The Fund consists of amounts designated by the Board of Directors for future costs associated with representation of tribes and native organizations who do not have the resources to pay for the costs of preparing for protracted litigation. As the amounts are designated by the board and not donors, the amounts are considered without donor restriction as the board can change the designation.

### **Contributions**

Contributions are provided to NARF either with or without restrictions placed on the gift by the donor. Revenues and net assets are separately reported to reflect the nature of those gifts – with or without donor restrictions. The value recorded for each contribution is recognized as follows:

<b>Nature of the Gift</b>	<b>Value Recognized</b>
<i>Conditional gifts, with or without restriction</i>	
Gifts that depend on NARF overcoming a donor-imposed barrier to be entitled to the funds	Not recognized until the gift becomes unconditional, <i>i.e.</i> , the donor-imposed barrier is met
<i>Unconditional gifts, with or without restriction</i>	
Received at date of gift – cash and other assets	Fair value
Received at date of gift – property, equipment and long-lived assets	Estimated fair value
Expected to be collected within one year	Net realizable value
Collected in future years	Initially reported at fair value determined using the discounted present value of estimated future cash flows technique

In addition to the amount initially recognized, revenue for unconditional gifts to be collected in future years is also recognized each year as the present-value discount is amortized using the level-yield method.

When a donor stipulated time restriction ends or purpose restriction is accomplished, net assets with donor restrictions are reclassified to net assets without donor restrictions and reported in the statement of activities as net assets released from restrictions. Absent explicit donor stipulations for the period of time that long-lived assets must be held, expirations of restrictions for gifts of land, buildings, equipment and other long-lived assets are reported when those assets are placed in service.

# **Native American Rights Fund, Inc.**

## **Notes to Financial Statements**

**September 30, 2021 and 2020**

Gifts and investment income that are originally restricted by the donor and for which the restriction is met in the same time period the gift is received are recorded as revenue with donor restrictions and then released from restriction.

Conditional contributions and investment income having donor stipulations which are satisfied in the period the gift is received and the investment income is earned are recorded as revenue with donor restrictions and then released from restriction.

### ***Government Grants***

Support funded by grants is recognized as NARF performs the contracted services or incurs outlays eligible for reimbursement under the grant agreements. Grant activities and outlays are subject to audit and acceptance by the granting agency and, as a result of such audit, adjustments could be required.

### ***Income Taxes***

NARF is exempt from income taxes under Section 501(c)(3) of the Internal Revenue Code and a similar provision of state law. However, NARF is subject to federal income tax on any unrelated business taxable income.

### ***Functional Allocation of Expenses***

The costs of supporting the various programs and other activities have been summarized on a functional basis in the statement of activities. The statements of functional expenses present the natural classification detail of expenses by function. Certain costs have been allocated among the program, management and general and fundraising categories based on the estimated time expended by professional staff to that function and other methods.

### ***Subsequent Events***

Subsequent events have been evaluated through February 7, 2022, which is the date the financial statements were available to be issued.

## **Note 2: Revenue from Contracts with Customers**

### ***Change in Accounting Principle***

On October 1, 2020, NARF adopted the Financial Accounting Standards Board Accounting Standards Update 2014-09, *Revenue from Contracts with Customers (Topic 606)* (ASU 2014-09) using a modified retrospective method of adoption to all contracts with customers at October 1, 2020.

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

The core guidance in ASU 2014-09 is to recognize revenue to depict the transfer of promised goods or services to members in amounts that reflect the consideration to which the NARF expects to be entitled in exchange for those goods or services.

The amount to which NARF expects to be entitled is calculated as the transaction price and recorded as revenue in exchange for providing goods or services.

Adoption of ASU 2014-09 resulted in changes to disclosures in the notes to the financial statements.

***Legal Fees***

NARF provides a variety of legal services to customers, which are considered a single, bundled performance obligation. The related legal fees are recognized by NARF upon receiving a favorable judgement. Until a final decision by the respective court has been reached, NARF is unable to make a reasonable determination as to the outcome or to any resulting financial awards. However, once a final decision has been reached, collectability of the legal fees is reasonably assured, given that the funds would be collected from the escrow agent handling the case. The legal fee amount is derived from the related time and expenses incurred by NARF. Revenue is reported at the estimated transaction price or amount that reflects the consideration to which NARF expects to be entitled in exchange for providing the legal services.

***Recognition***

For the years ended September 30, 2021 and 2020, NARF recognized revenue of \$6,901,657 and \$583,904, respectively, from services that transfer to customers over time.

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

**Note 3: Liquidity and Availability**

Financial assets available for general expenditure, that is, without donor or other restrictions limiting their use, within one year of September 30, 2021 and 2020, comprise the following:

	<u>2021</u>	<u>2020</u>
Total financial assets	\$ 63,806,812	\$ 49,666,526
Less: Amounts due in more than one year		
Contributions receivable, net	1,950,085	915,057
Less: Amounts not available to be used		
within one year as they have lock-up		
periods extending past one year	5,802,040	2,256,477
Less: Donor-imposed restrictions		
Funds held on behalf of others	64,793	64,793
Endowments	<u>1,053,835</u>	<u>1,041,891</u>
	1,118,628	1,106,684
Less: Internal designations		
Board-designated endowment	<u>25,000,000</u>	<u>25,000,000</u>
Financial assets available to meet cash needs		
for general expenditures within one year	<u>\$ 29,936,059</u>	<u>\$ 20,388,308</u>

NARF receives significant contributions restricted by donors and considers contributions restricted for programs which are ongoing, major and central to its annual operations to be available to meet cash needs for general expenditures. For the years ended September 30, 2021 and 2020, restricted contributions of \$7,742,345 and \$6,585,478, respectively, were included in financial assets available to meet cash needs for general expenditures within one year.

NARF's endowment funds consist of donor-restricted endowments and funds designated by the board as an endowment. Income from donor-restricted endowments is available for general expenditure. Donor-restricted endowment funds are not available for general expenditure.

The board-designated endowment of \$25,000,000 is described in Note 1. Although NARF does not intend to spend from this board-designated endowment, these amounts could be made available, if necessary.

NARF manages its liquidity and reserves following three guiding principles: operating within a prudent range of financial soundness and stability, maintaining adequate liquid assets to fund near-term operating needs and maintaining sufficient reserves to provide reasonable assurance that long-term obligations will be discharged.

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

**Note 4: Disclosures about Fair Value of Assets and Liabilities**

Fair value is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value measurements must maximize the use of observable inputs and minimize the use of unobservable inputs. There is a hierarchy of three levels of inputs that may be used to measure fair value:

**Level 1** Quoted prices in active markets for identical assets or liabilities

**Level 2** Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities; quoted prices in markets that are not active; or other inputs that are observable or can be corroborated by observable market data for substantially the full term of the assets or liabilities

**Level 3** Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets or liabilities

Following is a description of the inputs and valuation methodologies used for assets and liabilities measured at fair value on a recurring basis and recognized in the accompanying statements of financial position, as well as the general classification of such assets and liabilities pursuant to the valuation hierarchy. There have been no significant changes in the valuation techniques during the year ended September 30, 2021.

***Investments***

Where quoted market prices are available in an active market, securities are classified within Level 1 of the valuation hierarchy. Level 1 securities include fixed income securities, equities and mutual funds. If quoted market prices are not available, then fair values are estimated by using pricing models, quoted prices of securities with similar characteristics or discounted cash flows. Invested funds as reported by the investment manager and no further adjustments have been made. There were no Level 2 securities for fiscal year 2021 or 2020. In certain cases where Level 1 or Level 2 inputs are not available, securities are classified within Level 3 of the hierarchy. NARF does not have any Level 2 or Level 3 investments.

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

The following tables present the fair value measurements of assets and liabilities recognized in the accompanying statements of financial position measured at fair value on a recurring basis and the level within the fair value hierarchy in which the fair value measurements fall at September 30, 2021 and 2020:

	<b>2021</b>			
	<b>Fair Value Measurements Using</b>			
	<b>Total</b>	<b>Quoted Prices</b>		
		<b>in Active Markets for Identical Assets (Level 1)</b>	<b>Significant Other Observable Inputs (Level 2)</b>	<b>Significant Unobservable Inputs (Level 3)</b>
Investments				
Fixed income securities	\$ 1,743,848	\$ 1,743,848	\$ -	\$ -
Equities				
Domestic	15,913,052	15,913,052	-	-
International	1,400,490	1,400,490	-	-
Mutual funds				
Fixed income	33,040	33,040	-	-
Equities	2,058,771	2,058,771	-	-
Exchange traded funds	5,385,877	5,385,877	-	-
Equity long/short fund	9,581,010	9,581,010	-	-
Alternative investments (A)				
REIT	1,642,746	-	-	-
Private equity	3,302,436	-	-	-
Private equity	1,966,042	-	-	-
Private equity	533,562	-	-	-
	<u>43,560,874</u>	<u>\$ 36,116,088</u>	<u>\$ -</u>	<u>\$ -</u>
Cash equivalents	<u>3,404,300</u>			
	<u>\$ 46,965,174</u>			

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

	2020			
	Fair Value Measurements Using			
	Total	Quoted Prices		
		in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Investments				
Fixed income securities	\$ 1,437,856	\$ 1,437,856	\$ -	\$ -
Equities				
Domestic	13,884,779	13,884,779	-	-
International	1,112,738	1,112,738	-	-
Mutual funds				
Fixed income	17,250	17,250	-	-
Equities	5,166,805	5,166,805	-	-
Exchange traded funds	6,000,623	6,000,623	-	-
Equity long/short fund	9,421,460	9,421,460	-	-
Alternative investments				
REIT (A)	1,642,746	-	-	-
Private equity (A)	1,252,607	-	-	-
Private equity (A)	1,003,870	-	-	-
	40,940,734	<u>\$ 37,041,511</u>	<u>\$ -</u>	<u>\$ -</u>
Cash equivalents	2,480,704			
	<u>\$ 43,421,438</u>			

(A) Certain investments that are measured at fair value using the net asset value per share (or its equivalent) practical expedient have not been classified in the fair value hierarchy. The fair value amounts included above are intended to permit reconciliation of the fair value hierarchy to the amounts presented in the statements of financial position.

**Alternative Investments**

Investments in certain entities measured at fair value using the net asset value per share as a practical expedient consist of the following:

	2021	2020	Unfunded Commitments	Redemption Frequency	Redemption Notice Period
Alternative investments					
REIT (A)	\$ 1,642,746	\$ 1,642,746	\$ -	Quarterly	30 days
Private equity (B)	533,562	-	\$ 1,466,000	N/A	N/A
Private equity (B)	3,302,436	1,252,607	\$ -	N/A	N/A
Private equity (C)	1,966,042	1,003,870	\$ -	N/A	N/A
Total investments	<u>\$ 7,444,786</u>	<u>\$ 3,899,223</u>			

# Native American Rights Fund, Inc.

## Notes to Financial Statements

**September 30, 2021 and 2020**

- (A) This category consists of an investment in the Watermark Lodging Trust, Inc. (the Fund) which is a non-traded real estate investment trust (REIT) formed for the purpose of acquiring, owning, disposing of, and managing and seeking to enhance the value of interests in lodging and lodging-related properties. Liquidity varies based on the amount the owners collectively wish to redeem and executed sales by the investment managers of the underlying real estate properties. Fund liquidation is planned in five to seven years depending on market conditions. After one year of investment, upon written request with one month notice, funds can be redeemed on a quarterly basis. All valuations are based on annual appraisals of underlying properties conducted by independent appraisers. NARF's position in the fund is valued using net asset value per share.
- (B) This fund consists of an investment in Alkeon Innovation Offshore Fund (the Fund). The Fund will follow similar strategies as the ACAP Registered Mutual Fund and will invest 40% – 60% of the Fund into private equity as opportunities are identified. NARF's investment in the Fund are illiquid. After four years, the Fund will allow liquidation of the public investment portion of the Fund, which can be liquidated 25% after four years up to full liquidation after year seven.
- (C) This category consists of an investment in the Owl Rock Technology Finance Corporation, which was organized to originate and make debt and equity investments in technology-related companies based primarily in the United States. NARF's investment in the corporation is illiquid. The fund is planning on listing as a mutual fund with daily liquidity in approximately three to five years.

### Note 5: Grants and Contributions Receivable

Grants and contributions receivable at September 30 consist of the following:

	<b>September 30, 2021</b>		
	<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
Due within one year	\$ 40,000	\$ 3,142,547	\$ 3,182,547
Due in one to five years	-	1,979,000	1,979,000
Discount for time value of money	-	(28,915)	(28,915)
	\$ 40,000	\$ 5,092,632	\$ 5,132,632

# Native American Rights Fund, Inc.

## Notes to Financial Statements

September 30, 2021 and 2020

	September 30, 2020		
	Without Donor Restrictions	With Donor Restrictions	Total
Due within one year	\$ -	\$ 2,120,462	\$ 2,120,462
Due in one to five years	-	925,000	925,000
Discount for time value of money	-	(9,943)	(9,943)
	\$ -	\$ 3,035,519	\$ 3,035,519

### Note 6: Property and Equipment

Property and equipment at September 30 consist of the following:

	2021	2020
Land	\$ 4,452,131	\$ 991,066
Building and leasehold improvements	4,189,069	111,139
Equipment and furniture	603,758	551,777
	9,244,958	1,653,982
Less accumulated depreciation and amortization	(499,735)	(455,433)
	\$ 8,745,223	\$ 1,198,549

### Note 7: Capital Lease Obligations

Capital leases include leases covering office equipment such as copiers and postage. The capital leases expire in various years through 2024. Remaining payments on capital lease obligations, excluding interest, at September 30, 2021, are as follows:

Year Ended September 30,	
2022	\$ 18,475
2023	19,055
2024	6,797
	\$ 44,327

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

Property and equipment include the following equipment under capital leases at September 30:

	<u>2021</u>	<u>2020</u>
Equipment	\$ 88,981	\$ 98,794
Less accumulated depreciation	<u>50,918</u>	<u>39,991</u>
	<u>\$ 38,063</u>	<u>\$ 58,803</u>

**Note 8: Net Assets**

***Net Assets with Donor Restrictions***

Net assets with donor restrictions at September 30 are available for the following purposes or periods:

	<u>2021</u>	<u>2020</u>
Subject to expenditure for specified purpose		
50th Anniversary Events	\$ 142,944	\$ 145,499
Alaska Native Global Warming	14,357	15,448
Bears Ears National Monument	15,169	67,461
Bering Sea Protection	498,246	426,802
Boarding School Healing Coalition	500,000	-
Client Representation against Keystone XL Pipeline	45,518	161,911
Communications Capacity	21,000	30,000
Indian Child Welfare Act Web Log	48,305	50,000
Indigenous Peyote Conservation Initiative	85,491	-
Institutional Strengthening	570,699	741,960
Peacemaking Project	204,075	253,833
Representation of Alaskan Villages	682,419	864,365
Supreme Court Project	75,000	413,790
Census Outreach	-	17,842
Voting Rights	1,963,705	1,911,044
Law Fellowships	450,000	-
Digital Needs	33,107	-
Water Rights	6,448	-
UN Declaration-Rights of Indigenous Peoples	372,606	-
Sacred Places	467,931	-
Subject to the passage of time		
Grants and contributions receivable, not included in other purpose restrictions above	2,864,512	925,150
Endowments - perpetual in nature		
21st Century Endowment	<u>1,053,835</u>	<u>1,041,891</u>
	<u>\$ 10,115,367</u>	<u>\$ 7,066,996</u>

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

**Net Assets Released from Restrictions**

Net assets were released from donor restrictions by incurring expenses satisfying the restricted purposes or by occurrence of other events specified by donors.

	<u>2021</u>	<u>2020</u>
Purpose restrictions accomplished		
50th Anniversary Events	\$ 2,555	\$ 48,001
Alaska Native Global Warming	1,091	501
Bears Ears National Monument	52,292	79,662
Bering Sea Protection	142,714	261,438
Boarding School Healing Coalition	-	4,222
Client Representation against Keystone XL Pipeline	216,393	28,250
Communications Capacity	9,000	43,622
Indian Child Welfare Act Trainings	-	14,000
Indian Child Welfare Act Web Log	1,695	3,716
Indigenous Peyote Conservation Initiative	295,513	425,096
Institutional Strengthening	173,747	54,459
Law Clerk Program	28,700	63,500
Peacemaking Project	104,758	39,065
Protecting Tribal Natural Resources	-	271,575
Representation of Alaskan Villages	646,724	382,157
Supreme Court Project	338,790	186,210
Census Outreach	17,842	82,158
Voting Rights	2,035,850	1,513,309
Water Symposium	25,000	-
Law Fellowships	40,000	-
Digital Needs	16,893	-
Water Rights	8,552	-
UN Declaration-Rights of Indigenous Peoples	27,394	-
Sacred Places	32,069	-
Time restrictions expired	<u>476,402</u>	<u>500,000</u>
	<u>\$ 4,693,974</u>	<u>\$ 4,000,941</u>

**Note 9: Endowments**

NARF's endowment consists of two funds established for a variety of purposes. The endowment includes both donor-restricted endowment funds (21<sup>st</sup> Century Endowment) and funds designated by the governing body to function as endowments (board-designated endowment funds titled Future Legal Advocacy Fund). As required by accounting principles generally accepted in the United States of America (GAAP), net assets associated with endowment funds are classified and reported based on the existence or absence of donor-imposed restrictions.

# Native American Rights Fund, Inc.

## Notes to Financial Statements

**September 30, 2021 and 2020**

NARF has interpreted the state of Colorado’s Prudent Management of Institutional Funds Act (UPMIFA) as requiring preservation of the fair value of the original gift as of the gift date of the donor-restricted endowment funds absent explicit donor stipulations to the contrary. Although NARF is incorporated in Washington, D.C., its headquarters are located in Boulder, Colorado. Management has compared the acts from the two jurisdictions and does not believe differences between the two jurisdictions to be significant. As a result of this interpretation, NARF classifies as net assets with donor restrictions – perpetual in nature (a) the original value of gifts donated to the perpetual endowment, (b) the original value of subsequent gifts to the perpetual endowment and (c) accumulations to the perpetual endowment made in accordance with the direction of the applicable donor gift instrument at the time the accumulation is added to the fund. The remaining portion of donor-restricted endowment funds is classified as net assets with donor restrictions until those amounts are appropriated for expenditure by NARF in a manner consistent with the standard of prudence prescribed by UPMIFA.

The composition of net assets by type of endowment fund at September 30, 2021 and 2020:

		<b>2021</b>		
		<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
	Board-designated endowment funds	\$ 25,000,000	\$ -	\$ 25,000,000
	Donor-restricted endowment funds	-	1,053,835	1,053,835
		<u>\$ 25,000,000</u>	<u>\$ 1,053,835</u>	<u>\$ 26,053,835</u>
		<b>2020</b>		
		<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
	Board-designated endowment funds	\$ 25,000,000	\$ -	\$ 25,000,000
	Donor-restricted endowment funds	-	1,041,891	1,041,891
		<u>\$ 25,000,000</u>	<u>\$ 1,041,891</u>	<u>\$ 26,041,891</u>

Changes in endowment net assets for the years ended September 30, 2021 and 2020:

		<b>2021</b>		
		<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
	Endowment net assets, beginning of year	\$ 25,000,000	\$ 1,041,891	\$ 26,041,891
	Contributions	-	11,944	11,944
		<u>\$ 25,000,000</u>	<u>\$ 1,053,835</u>	<u>\$ 26,053,835</u>
	Endowment net assets, end of year	<u>\$ 25,000,000</u>	<u>\$ 1,053,835</u>	<u>\$ 26,053,835</u>

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

	<b>2020</b>		
	<b>Without Donor Restrictions</b>	<b>With Donor Restrictions</b>	<b>Total</b>
Endowment net assets, beginning of year	\$ 25,000,000	\$ 1,034,947	\$ 26,034,947
Contributions	-	6,944	6,944
Endowment net assets, end of year	\$ 25,000,000	\$ 1,041,891	\$ 26,041,891

NARF has adopted investment and spending policies for endowment assets that attempt to invest all available endowment fund assets in a manner that will provide the highest total return while seeking to provide for the long- and short-term financial needs of NARF and maintain the original donated value of the endowment. Endowment assets include donor-restricted endowment funds NARF must hold in perpetuity or for donor-specified periods, as well as those of board-designated endowment funds.

Under NARF’s policies, endowment assets are invested in a manner that is intended to produce results that are comparable to or exceed the appropriate benchmarks for the asset categories.

To satisfy its long-term rate of return objectives, NARF relies on a total return strategy in which investment returns are achieved through both current yield (investment income such as dividends and interest) and capital appreciation (both realized and unrealized). NARF targets a diversified asset allocation that places a greater emphasis on equity-based investments to achieve its long-term return objectives within prudent risk constraints.

NARF has a spending policy of appropriating for expenditure each year the amounts needed and available for spending. NARF has interpreted that investment return generated by the endowment assets are without donor restriction in accordance with donor stipulations. Under NARF’s spending policy, any anticipated investment return from the endowment is included in NARF’s internal budgeting process and fully appropriated for spending upon adoption of the budget.

As the proceeds from endowment earnings are without donor restriction, management has not allocated the earnings between those earned by endowment funds and other investments. As such, management has not included investment return in the tables above.

***Underwater Endowments***

The governing body of NARF has interpreted UPMIFA as not requiring the maintenance of purchasing power of the original gift amount contribution to an endowment fund, unless a donor stipulates the contrary. As a result of this interpretation, when reviewing its donor-restricted endowment funds, NARF considers a fund to be underwater if the fair value of the fund is less than the sum of:

- a) the original value of initial and subsequent gift amounts donated to the fund, and
- b) any accumulations to the fund that are required to be maintained in perpetuity in accordance with the direction of the applicable donor gift instrument.

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

NARF has interpreted UPMIFA to permit spending from underwater funds in accordance with the prudent measures required under the law.

**Note 10: Operating Leases**

Noncancelable operating leases for office space and equipment expire in various years through 2026. Total rent expense for the years ended September 30, 2021 and 2020 was \$170,440 and \$179,739, respectively. Deferred rent (to account for escalating leases) totals \$12,288 and \$7,719 at September 30, 2021 and 2020, respectively, and will be recognized over the term of the related leases.

Future minimum lease payments at September 30, 2021:

2022		\$	172,382	
2023			100,811	
2024			103,835	
2025			79,615	
			79,615	
		\$	456,643	

During 2021, NARF sold their headquarters building to an unrelated party and entered into a sale-leaseback agreement with the buyer, with a lease commencement date of July 2021. An 8-month cancellable agreement, with two six-month extensions, was executed to lease the entire property. The agreement required monthly rental payments of \$12,833 (\$154,000 annually) starting in November 2021. As NARF’s leaseback is considered to be “minor” (as defined by accounting standards), NARF recognized the full amount of the gain on the transaction of \$3,791,063 during 2021.

**Note 11: Retirement Benefits**

On August 6, 1994, NARF’s Board of Directors authorized the adoption of a noncontributory defined contribution plan for its employees. Effective March 18, 2005, this plan was amended to a Safe Harbor 401(k). Benefits payable under the plan include a 3% minimum safe harbor contribution plus an additional election of 3%, at the yearly discretion of the corporate officers, for those employees who have achieved a minimum of one year of employment and attainment of age 21. Pension expense was \$273,155 and \$261,275 for 2021 and 2020, respectively.

On August 17, 2007, NARF’s executive committee authorized the adoption of the NARF Retirement Program. This program provides a one-time cash award payable at the date of retirement for eligible employees. The amount of this award is determined by incorporating years of service, age and average three-year salary. As of September 30, 2021 and 2020, NARF recognized a liability of \$274,881 and \$263,589, respectively, relating to this program.

**Native American Rights Fund, Inc.**  
**Notes to Financial Statements**  
**September 30, 2021 and 2020**

**Note 12: Allocation of Joint Costs**

It is NARF’s policy to allocate costs of activities that include requests for contributions, as well as program and management and general components to applicable functions. Activities include distribution of informational materials that included fundraising appeals. In 2021 and 2020, such activities included program communications included with requests for contributions. As a result, the cost of these activities were allocated between fundraising and programmatic as noted below.

	<b>2021</b>	<b>2020</b>
Program expenses	\$ 456,490	\$ 409,927
Fundraising expenses	847,767	761,292
	\$ 1,304,257	\$ 1,171,219

**Note 13: Significant Estimates and Concentrations**

Accounting principles generally accepted in the United States of America require disclosure of certain significant estimates and current vulnerabilities due to certain concentrations. Those matters include the following:

***Concentrations***

During 2021, two donors contributed 11% of total contribution revenue and during 2020 one donor contributed approximately 12% of total contribution revenue.

***COVID-19***

As a result of the spread of the SARS-CoV-2 virus and the incidence of COVID-19, economic uncertainties have arisen which may negatively affect the financial position, results of operations and cash flows of NARF. The duration of these uncertainties and the ultimate financial effects cannot be reasonably estimated at this time.