

Annual Report 2007

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Photo: Ray Ramirez

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.

Introduction



The Native American Rights Fund (NARF) is the oldest and largest nonprofit national Indian rights organization in the country devoting all its efforts to defending and promoting the legal rights of Indian people on issues essential to their tribal sovereignty, their natural resources and their human rights. NARF believes in empowering individuals and communities whose rights, economic self-sufficiency and political participation have been systematically eroded or undermined.

At its inception in 1970, NARF believed that the best hope for Indian survival and development rests with the maintenance of the tribe as an institution. The inherent sovereign powers of a tribe to hold land, to govern tribal members and to command the respect of other units of government are essential to an Indian nation concept. Throughout the past 37 years, NARF has held fast to this hope and through its work has insured that this concept has become a reality.

NARF has represented over 200 Tribes in 31 states in such areas as tribal jurisdiction and recognition, land claims, hunting and fishing rights, the protection of Indian religious freedom and many others. In addition to the great strides NARF has made in achieving justice on behalf of Native American people, perhaps NARF's greatest distinguishing attribute has been its ability to bring excellent, highly ethical legal representation to dispossessed tribes. NARF has been successful in representing Indian tribes and individuals in cases that have encompassed every area and issue in the field of Indian law. The accomplishments and growth of NARF over the years confirmed the great need for Indian legal representation on a national basis. This legal advocacy on behalf of Native Americans continues to play a vital role in the survival of tribes and their way of life. NARF strives to protect the most important rights of Indian people within the limit of available resources.

NARF's efforts would not be possible without the contribution of the thousands of individuals who have offered their knowledge, courage, and vision to help guide NARF on its quest. Of equal importance, NARF's financial contributors have graciously provided the resources to make these efforts possible. Contributors such as the Ford Foundation have been with NARF since its inception. The Open Society Institute, the Bay and Paul Foundations, and the Unger Foundation have also made contributions the past several years. Federal funding from the Administration for Native Americans enables NARF to carry on its social development efforts in Indian country. Finally, the positive effects of NARF's work are reflected in the financial contributions by a growing number of tribal governments. United, these financial, moral, and intellectual gifts provide the framework for NARF to fulfill its goal of securing the right to self-determination to which all Native American peoples are entitled.

*Northern Arapaho dancer.
Photo: Ray Ramirez*



NARF's Priorities

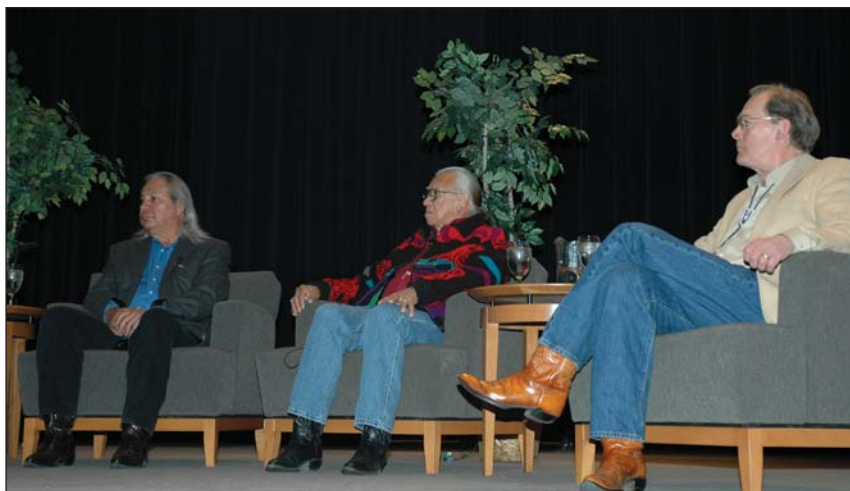
One of the initial responsibilities of NARF's first Board of Directors was to develop priorities that would guide the Native American Rights Fund in its mission to preserve and enforce the legal rights of Native Americans. The Committee developed five priorities that continue to lead NARF today:

- Preservation of tribal existence
- Protection of tribal natural resources
- Promotion of Native American human rights
- Accountability of governments to Native Americans
- Development of Indian law and educating the public about Indian rights, laws, and issues

Under the priority of the *preservation of tribal existence*, NARF works to construct the foundations that are necessary to empower tribes so that they can continue to live according to their Native traditions, to enforce their treaty rights, to insure their independence on reservations and to protect their sovereignty.

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

Although basic human rights are considered a universal and inalienable entitlement,



Native Americans face an ongoing threat of having their rights undermined by the United States government, states, and others who seek to limit these rights. Under the priority of the *promotion of human rights*, NARF strives to enforce and strengthen laws which are designed to protect the rights of Native Americans to practice their traditional religion, to use their own language, and to enjoy their culture.

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

The coordinated *development of Indian law and educating the public about Indian rights, laws, and issues* is essential for the continued protection of Indian rights. This primarily involves establishing favorable court precedents, distributing information and law materials, encouraging and fostering Indian legal education, and forming alliances with Indian law practitioners and other Indian organizations.

NARF Executive Director John Echobawk (left) and NARF Board member Billy Frank (center) receiving the Wallace Stegner Award from the Center of the American West at the University of Colorado. At right is former NARF attorney and noted author Charles Wilkinson.
Photo: Ray Ramirez

Executive Director's Report



2007 marked the 37th year that the Native American Rights Fund has provided legal advocacy to Native Americans on major issues throughout Indian country. Through the hard work of the Board and staff of the organization, several important victories and achievements on behalf of Native Americans occurred once again.

Several efforts to protect hunting and fishing rights for Alaska Natives were successful. In *State v. Demientieff*, an Alaska district court upheld the Federal Subsistence Board's customary and traditional use finding for subsistence uses of moose by members of the Chistochina Tribe represented by the Native American Rights Fund. Such a finding entitles Tribal members to the subsistence priority under the Alaska National Interest Lands Conservation Act.

In *Ahtna Tene Nene' Subsistence Committee v. Alaska Board of Game*, we won a preliminary injunction against state regulations that severely restrict or eliminate subsistence uses of moose and caribou by several Alaska Native tribes and communities in the Ahtna region that we represent..

On behalf of several Alaska Native subsistence users, we were victorious against the State of Alaska in upholding the final rule implementing the mandate in a major subsistence case that we had won earlier, *John v. United States*. The prior case had held that the United States must protect subsistence uses of fisheries in navigable waters where the United States possesses a reserved water right. A federal district court in Alaska upheld the federal government's process of identifying those navigable waters and rejected the State's argument that the reserved waters doctrine requires a quantification of waters necessary to fulfill specific purposes.

In other matters, the Native American Rights Fund continued its work in implementing the Native American Graves Protection and

Repatriation Act on behalf of the Pawnee Nation of Oklahoma. We assisted with the transfer of private lands in Nebraska to the Pawnee Nation for use as a reburial and cultural site since those lands are within the Pawnee Nation's aboriginal area. We also assisted the Pawnee Nation in obtaining a legal opinion from the Nebraska Attorney General clarifying the right of the Pawnee Nation to conduct reburials of 800 human remains on that land.

A federal district court in Nevada ruled in favor of the Fallon Paiute-Shoshone Tribe's efforts to repatriate the remains of their ancestor in *Fallon Paiute-Shoshone Tribe v. United States Bureau of Land Management*. As part of a legal team, we had filed an amicus curiae brief in the case on behalf of several interested Native American organizations in support of the Tribe. The court ruled that the Bureau of Land Management had failed to fully and fairly review the Tribe's scientific evidence or address the Native American Graves Protection and Repatriation Act Review Committee's findings that supported the Tribe.

In order to foster compliance with letter and spirit of the Indian Child Welfare Act (ICWA), we created and published A Practical Guide to the Indian Child Welfare Act. The Guide, available both in print format and online, is a new powerful tool for tribal, state and federal entities involved in child custody proceedings. ICWA was enacted in 1978 in order to address the problem of tribes losing their children from misguided and insensitive child welfare practices by state human service agencies resulting in the unwarranted removal of Indian children from their families and tribes and the placement of those children in non-Indian homes. Since that time, there has been misinterpretations and, in some cases, outright refusal to follow the intent of the law by state agencies and courts.

In *Curiung v. Alaska*, the Alaska Supreme Court upheld the right of Alaska tribes to

bring suit under federal civil rights law in state court on behalf of themselves and their tribal members to vindicate important statutory rights under the Indian Child Welfare Act and other federal and state laws. We had filed an *amicus curiae* brief in the case on behalf of a number of Alaska tribes because of the importance of the issue of tribes being able to act on behalf of their members.

In *Tanana v. State*, an Alaska superior court held that Alaska tribes possess inherent sovereign power to adjudicate child custody proceedings involving their member children in their tribal courts. The Alaska Attorney General had asserted a policy that state courts have exclusive jurisdiction over child custody proceedings involving Alaska Native children. The Native American Rights Fund is representing several Alaska Native villages and individuals in the case.

Three decades of worldwide effort by Indigenous Peoples resulted in an historic victory in the United Nations General Assembly when that body adopted the Declaration on the Rights of Indigenous Peoples by an overwhelming majority. The vote was 143 in favor, 4 opposed and 11 abstaining. The four countries who voted against the Declaration were the United States, Canada, New Zealand and Australia. The Declaration affirms the collective rights of Indigenous Peoples across a broad range of areas including self-determination, spirituality, land rights and rights to intellectual property. The Native American Rights Fund has worked with its client, the National Congress of American Indians, and indigenous peoples worldwide in the process of elaborating the Declaration since 1999.

In *Nez Perce v. Kempthorne*, a federal district court in Washington, D.C. rejected the federal government's argument that Nez Perce and 36 other tribal trust fund cases pending before it were not properly before



John E. Echobawk
Executive Director

the court and should be remanded to the Interior Department to allow the agency to prepare a plan to complete the required accountings of tribal funds held in trust by the federal government. The court held that nothing prevents the government from developing such a plan now and that the government has known about these concerns for at least twenty years. We filed the Nez Perce case in 2006 on behalf of twelve tribes and a potential class of 220 tribes who have their tribal funds held in trust by the federal government but have never received the required accounting of their funds.

These victories and achievements would have never been accomplished without the financial support of our many generous donors across the country who support our cause of justice for all Native Americans. We thank all of you for providing access to justice for all Native Americans and hope that you will continue to support the work of the Native American Rights Fund.

Achievements

Chairman's Message



With All Due Respect,

This past November I attended the 64th Annual National Congress of American Indians Convention in Denver, Colorado. Ironically, 64 years ago our grandfathers and grandmothers met in this very city to create this important national organization to stop the threat of the day back then – termination. A matter so critical to the survival of Indian people they reacted the only way they could and they won! Well come forward some 64 years later and the 2nd largest tribe in the Country is facing this same threat. Congresswoman Watson – D, California introduced legislation to terminate the federal trust responsibility with the Cherokee Nation.

*John Gonzales
Chairman*



A resolution of support for the Cherokee Nation was introduced and debated on the floor of the NCAI convention. Some of the Delegates were tiptoeing around the issue and were more concerned about being “diplomatic” in reference to the Congresswoman as contained within the resolution. This important resolution essentially supported the Cherokee Nation’s right to exercise their sovereignty and opposed the Congresswoman’s effort. At my urging and with the support of other tribal leaders the resolution was adopted with reference to the Congresswoman by name in tact.

The significance of this issue and debate reflects the important work that NARF, NCAI and tribal leaders must be ever vigilant to protect our rights to self government.

As I wind down my term as a NARF Board member I can’t help but wonder how 6 years went by so fast. I suppose grandfather time creates certain illusions of how fast or slow time goes by depending upon the situation. For those in the justice system, there probably can never be enough time to finish voluminous materials required in important cases. I remember visiting the NARF Washington, D.C. offices several years ago. In my tour of the offices I was introduced to a room where boatloads of paper were stacked everywhere. It was all Cobell stuff. I couldn’t help but think of Keith Harper and the amount of time it took him to work on briefs and reading important laws, etc. relating to the case.

I enjoyed my entire six years serving this great organization. We had our heated debates over partisan politics, and we have come together to support important initiatives to protect the rights of our People and our Environment. The bottom line is we must all come together to strengthen our resolve to battle for our survival. Our issues cut across party lines. I leave NARF with the knowledge that if there is anyone we can count on who will be doing battle on our behalf to the very end it is the staff and Board of NARF – the true Modern Day Warriors. Be strong and never give up! I urge the leaders of tomorrow to continue to support this vital organization with both financial contributions and individual involvement by lending your help to this great organization. May the Great Spirit bless you and your love ones with long and healthy lives.

Your Friend Always,

John Gonzales

Board of Directors



The Native American Rights Fund has a governing board composed of Native American leaders from across the country – wise and distinguished people who are respected by Native Americans nationwide. Individual Board members are chosen based on their involvement and knowledge of Indian issues and affairs, as well as their tribal affiliation, to

ensure a comprehensive geographical representation. The NARF Board of Directors, whose members serve a maximum of six years, provide NARF with leadership and credibility, and the vision of its members is essential to NARF's effectiveness in representing its Native American clients.

National Support Committee

The National Support Committee (NSC) assists NARF with its fund raising and public relations efforts nationwide. Some of the individuals on the Committee are prominent in the field of business, entertainment and the arts. Others are

known advocates for the rights of the underserved. All of the 32 volunteers on the Committee are committed to upholding the rights of Native Americans.

Randy Bardwell, *Pechanga Band of Luiseno Indians*
 Katrina McCormick Barnes
 Jaime Barrientoz, *Grand Traverse Band of Ottawa and Chippewa Indians*
 John Bevan
 Wallace Coffey, *Comanche*
 Ada Deer, *Menominee*
 Harvey A. Dennenberg
 Lucille A. Echohawk, *Pawnee*

Jane Fonda
 James Garner
 Eric Ginsburg
 Jeff Ginsburg
 Rodney Grant, *Omaha*
 Chris E. McNeil, Jr., *Tlingit-Nisga'a*
 Billy Mills, *Oglala Lakota*
 Amado Peña, Jr., *Yaqui/Chicano*
 Nancy Starling Ross

Wayne Ross
 Marc Rudick
 Pam Rudick
 Ernie Stevens, Jr., *Wisconsin Onieida*
 Andrew Teller, *Isleta Pueblo*
 Verna Teller, *Isleta Pueblo*
 Richard Trudell, *Santee Sioux*
 Rebecca Tsosie, *Pasqua Yaqui*

Tzo-Nah, *Shoshone Bannock*
 Aine Ungar
 Rt. Rev. William C. Wantland, *Seminole*
 W. Richard West, *Southern Cheyenne*
 Randy Willis, *Oglala Lakota*
 Teresa Willis, *Umatilla*
 Mary Wynne, *Rosebud Sioux*

NARF's Board of Directors: (left to right) – **Fred Cantu, Jr.** (*Saginaw Chippewa*); **John Gonzales, Chairman** (*San Ildefonso Pueblo - New Mexico*); **Paul Ninbam, Vice-Chairman** (*Oneida Nation of Wisconsin*); **Delia Carlyle** (*Ak Chin Indian Community - Arizona*); **Andrew Bowers** (*Seminole Tribe of Florida*); **Lydia Olympic** (*Yupik/Aleut - Alaska*); **Kunani Nibipali** (*Native Hawaiian - Hawaii*); **Billy Frank** (*Nisqually Tribe - Washington*); and, **Anthony Pico** (*Viejas Band of Kumeyaay Indians - California*).

(Not Pictured) – **Keith Anderson** (*Shakopee Mdewakanton*); **Elbridge Coochise** (*Hopi - Arizona*); **Jim Gray** (*Osage Nation - Oklahoma*); **Woody Widmark** (*Sitka Tribe - Alaska*).

The Preservation of Tribal Existence



NARF works to construct the foundations that are necessary to empower tribes so that they can continue to live according to their Native traditions, to enforce their treaty rights, to insure their independence on reservations and to protect their sovereignty. Specifically, NARF's legal representation centers on sovereignty and jurisdiction issues, federal recognition and restoration of tribal status, and economic development. Thus, the focus of NARF's work involves issues relating to the preservation and enforcement of the status of tribes as sovereign governments. Tribal governments possess the power to regulate the internal affairs of their members as well as other activities within their reservations. Jurisdictional conflicts often arise with states, the federal government, and others over tribal sovereignty.

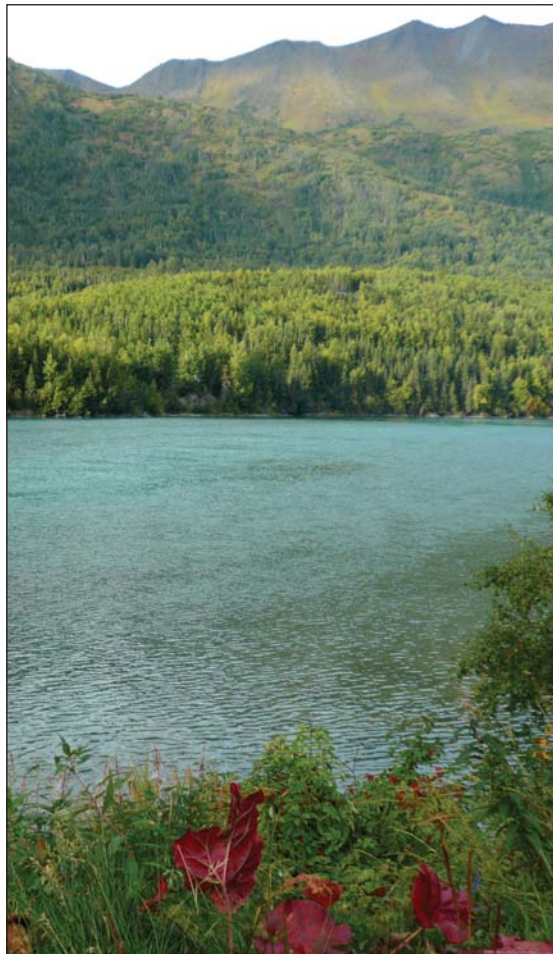
Tribal Sovereignty

The focus of NARF's work under this priority is the protection of the status of tribes as sovereign, self-governing entities. The United States Constitution recognizes that Indian tribes are independent governmental entities with inherent authority over their territory. In treaties with the United States, Indian tribes ceded millions of acres of land in exchange for the guarantee that the federal government would protect the tribes' right to self-government. From the early 1800s on, the Supreme Court has repeatedly affirmed the fundamental principle that tribes retain inherent sovereignty over their territory. However, in the past two decades, the Supreme Court has steadily chipped away at this fundamental principle, both by restricting tribal jurisdiction and by extending state jurisdiction.

These decisions by the Supreme Court have made this priority more relevant than ever, and have led to a Tribal Sovereignty Protection Initiative in partnership with the National Congress of American Indians (NCAI) and tribes nationwide to restore the traditional principles of inherent tribal sovereignty where those have been undermined and to safeguard the core of sovereignty that remains.

This Initiative consists of three components. The first component is the Tribal Supreme Court Project, the focus of which is to monitor cases potentially headed to the United States Supreme Court and those which actually are accepted for review. An effort is made to promote the cases with the most likely success before the Court. When cases are accepted, the Project helps ensure that the attorneys representing the Indian interests have all the support they need, and to coordinate the filing of a limited number of strategic amicus briefs. A second component of the Initiative is to participate in the judicial nominations and confirmations at the lower court and the

*Kenai Peninsula, Southern
Alaska by David Hocs*



Supreme Court levels. Finally, there is a Congressional component to fight legislative measures that are against tribal interests and to affirmatively push legislation to correct anti-tribal Supreme Court precedent.

NARF launched the Tribal Supreme Court Project in conjunction with NCAI in 2001. Since 2001, the Project has been involved with nine cases – four wins, four losses, and one draw. This is an impressive track record, given that before the inception of the Project tribes lost 80% or more of these cases before the Rehnquist Court. In addition, the Project worked to ensure that tribal victories in Courts of Appeals were denied review by the U.S. Supreme Court. The Tribal Supreme Court Project is housed at NARF's office in Washington, D.C., and is staffed by one NARF attorney and by support staff. In an effort to foster greater coordination in advocacy before the Supreme Court, an Advisory Board of tribal leaders, comprised of NCAI Executive Committee members and other tribal leaders willing to volunteer their time, also assists the Project. The Board's role is to provide necessary political and tribal perspective to the legal and academic expertise. The Project has also established a Working Group – a group of more than 200 noted attorneys and academics from around the nation who participate in the Project as their interest, time and resources allow.

To achieve the goals of the Project, NARF monitors cases which appear to be headed for the Supreme Court, and organizes, coordinates and contributes to a nation-wide Indian amicus brief writing network. Amicus briefs allow those not directly involved in litigation, but potentially impacted by the outcome, to provide information and arguments directly to the Court. By bringing together experienced Indian law practitioners and scholars to discuss and agree upon a coordinated amicus brief writing strategy in each case, and by assisting the parties, NARF ensures that the



most effective and focused arguments are made before the Court on behalf of Indian Country.

In May 2007, in a surprising development, the petition for review in *Doe v. Kamehameha Schools* was withdrawn by agreement of the parties. Although the terms of the settlement agreement will not be disclosed, the agreement does leave in place the 8-to-7 decision of an en banc panel of the Ninth Circuit which held that the admissions policy of the Kamehameha Schools (which gives preference to Native Hawaiians) does not constitute unlawful race discrimination under 42 U.S.C. §1981. In September 2007, the Court conducted its opening conference for the October Term 2007 and denied review in all three Indian law cases considered.

The Project remains very busy developing strategy and coordinating resources in a number of Indian law cases recently decided by, or currently pending in, the various U.S. Courts of Appeal where review by the U.S.

*Native children in Kivalina, Alaska.
by Jenni Monet*



Preservation

Supreme Court may be contemplated. One example is *State of Texas v. U.S.* in which the U.S. Court of Appeals for the Fifth Circuit issued a fragmented opinion which held that the Secretarial procedures regulation is invalid. The Secretarial procedures regulation, promulgated pursuant to the Indian Gaming Regulatory Act, provided an alternative process for approval of a tribe's Class III gaming compact by the Secretary of the Interior when a state refuses to negotiate with a tribe in good faith.

Federal Recognition of Tribal Status

Achieving legal status as an Indian tribe is very important to preserving tribal existence and self-government. Some tribal groups do not have this status because they have never been formally recognized as tribes by the federal government. NARF provides representation to those tribal groups who have a right to become federally recognized tribes.

NARF currently represents Indian communities who have survived intact as identifiable Indian tribes but who are not federally recognized. These Indian tribes, for differing reasons, do not currently have a government-to-government relationship between themselves and the

federal government. Traditionally, federal recognition was accorded to a tribe through treaty, land set aside administratively for a tribe, or by legislative means. The majority of these NARF clients are seeking an administrative determination by the Bureau of Indian Affairs (BIA) that they, in fact, have continued to exist as Indian tribes from the time of significant white contact to the present day and have continued to govern themselves and their members. NARF, therefore, prepares the necessary historical, legal, and anthropological documentation to support a petition for acknowledgment. For more than 100 years, these Indian communities have been denied the benefits of a formal relationship with the federal government. Through the process of administrative acknowledgment, NARF is now trying to bridge that gap.

Federal recognition is an arduous process that takes many years to complete. Petitioning tribes must prove that they have been identified by reliable external sources on a substantially continuous basis as an Indian entity; they must prove that they have maintained a continuous community from historical times to the present day; they must show that they have maintained political authority

or influence on a substantially continuous basis from historical times until the present day; they must prove that current tribal members, as a whole, descend from a historic tribe or tribes which amalgamated; they must prove that their members are not mostly members of an already recognized tribe; and, their members cannot be from groups which were terminated by legislation. This process requires the testimony of many experts and thorough documentation of each requirement. Tribal existence does not depend on federal recognition, but recognition is necessary for a government-to-government relationship and the receipt of many federal services.

After many delays, the Assistant Secretary of Interior for Indian Affairs in 2000, published a preliminary finding in favor of recognition of the Little Shell Tribe of Chippewa Indians of Montana. Substantial work was done to strengthen the Tribe's petition and the final submissions were made in 2005. In addition, Patton and Boggs, a large D.C. firm, is representing the Tribe *pro bono* in seeking legislative recognition. In March 2007, Montana Congressman Danny Rehberg, and Senator Max Baucus and Senator Jon Tester introduced legislation to grant the Little Shell Tribe the recognition they have long been denied. The Office of Federal Acknowledgment (OFA) began active consideration of the Tribe's new material in August 2007, and started a three week site visit in October 2007. OFA previously indicated it will reach a final determination on the Tribe's petition by the end of calendar 2007. This deadline was not met.

The Shinnecock Indian Nation, located on the Shinnecock Indian Reservation, adjacent to Southampton, New York, with NARF's assistance, filed a petition for Federal acknowledgment in 1998. The BIA eventually placed the Nation's petition on the "Ready, Waiting for Active Consideration" list in 2003. The placement on the list is a milestone for



Patty Limerick, Faculty Director and Chair of the Board of the Center of the American West at the University of Colorado, and noted Historian, presenting the Wallace Stegner Award to John Echobawk and Billy Frank.
Photo: Ray Ramirez

the Nation after years of hard work to fully document the petition. The Nation is well on its way to federal recognition. NARF continues to represent the Nation in its efforts to gain federal recognition. NARF has been working with the Pamunkey Tribe in Virginia to prepare the necessary historical, legal and anthropological documentation to support a petition for federal acknowledgment. The petition is nearing completion and is expected to be filed in 2008 with the Office of Federal Acknowledgment.

At the U.S. Congressional level, on behalf of its federal recognition clients, NARF monitors and responds when appropriate to proposed federal legislation affecting the federal acknowledgment regulatory process.

Economic Development

NARF continues to do economic development work for the Hualapai Indian Tribe of Arizona. The Tribe is located on the south rim of the Grand Canyon in Arizona, and claims a boundary that runs to the center of the Colorado River. The Tribe asked that NARF provide an interpretation of key provisions of their Constitution concerning the management and development of the Tribe's natural

resources. In addition, the Tribe owns the Cholla Canyon Ranch near Wikiup, Arizona. The Ranch was gifted to the Tribe by its owners and is presently being operated as a palm tree plantation. NARF reviewed the proposed agricultural lease on the Ranch lands and is presently conducting negotiations with the attorney for the tree grower to reach an acceptable lease agreement. Tribe has also requested that we review and provide legal analysis of other issues related to agreements with Coconino County, mineral development of tribal land acquired from fee owners, and a proposed easement on a tribal road for the hauling of flagstone.

Environmental Law and Policy Initiative

NARF has played a key role in the implementation of federal environmental law and policy that recognizes tribal governments as

the primary regulators and enforcers of the federal environmental laws on Indian lands. NARF continued to work with tribes, the National Tribal Environmental Council and other Indian organizations to maintain the progress that has been made with the Environmental Protection Agency (EPA) and other federal agencies. Through involvement with the Green Group, the National Resources Defense Council and the Wilderness Society, NARF continues to coordinate with and educate the environmental community on the role of tribal governments in environmental law and policy.

Global warming is wreaking havoc in Alaska. In recent years scientists have documented melting ocean ice, rising oceans, rising river temperatures, thawing permafrost, increased insect infestations, animals at risk and dying forests. Alaska Natives are the peoples who rely most on Alaska's ice, seas, marine mammals, fish and game for nutrition and customary and traditional subsistence uses; they are thus experiencing the adverse impacts of global warming most acutely.

In 2006, during the Alaska Forum on the Environment, Alaska Native participants described increased forest fires, more dangerous hunting, fishing and traveling conditions, visible changes in animals and plants, infrastructure damage from melting permafrost and coastal erosion, fiercer winter storms, and pervasive unpredictability. Virtually every aspect of traditional Alaska Native life is impacted. As noted in the Arctic Climate Impact Assessment 2004, indigenous peoples are reporting that sea ice is declining, and its quality and timing are changing, with important negative repercussions for marine hunters. Others are reporting that salmon are diseased and cannot be dried for winter food. There is widespread concern about caribou habitat diminishing as larger vegetation moves northward. Because of these and other dramatic changes, traditional knowledge is



*Native elder in Kotzebue,
Alaska. by David Hocs*



NARF attorneys meeting with tribal clients on the Nez Perce v. Kemptborne tribal trust funds case.
Photo: Ray Ramirez

jeopardized, as are cultural structures and the nutritional needs of Alaska's indigenous peoples.

NARF successfully gathered 162 Alaska Native Tribal and Corporate Resolutions calling on Congress and the Executive Office to adopt legislation reducing carbon emissions. The resolutions were carried to Washington, D.C. by tribal leaders and presented to the Alaska Delegation on Climate Change Crisis Day, March 2007. A successful meeting with Congressman Markey followed and resulted in interest to convene hearings on climate change impacts on indigenous peoples. The Alaska Climate Impact Assessment Commission, which is charged with assessing the effects and costs of global warming on Alaskans, held its final hearing on climate change impacts in Anchorage, Alaska in October 2007. NARF has facilitated the participation of Alaska Native witnesses in all of the Commission's hearings.

NARF continues its work with the Oglala Sioux Tribe (OST) Department of Water Maintenance and Conservation on the

revision of the Tribe's Ordinance for the Protection of the Oglala Sioux Rural Water Supply System and Other Public Water Systems Within the Pine Ridge Indian Reservation ["Tap-in" ordinance]. NARF has also been working on the OST Solid Waste Management Code, and development of a tribal Safe Drinking Water Act. The "Tap-in" ordinance, which was adopted by the Tribal Council in 2006, will provide for the protection of the integrity of the pipeline which delivers drinking water to the public water systems on the reservation. NARF assisted the Tribe in the formulation and regulations for implementation of the Code, and has developed draft forms for application and permit for connections "in-lieu" of the usual process, and for delegation of authority to provide connections to the pipeline. NARF may conduct training for the staff of the Water Maintenance and Conservation Department concerning the implementation of these important codes.

Preservation

The Protection of Tribal Natural Resources



Over time, Indian tribes have experienced a steady diminishment of their land base to a mere two percent of its original size. An adequate land base and control over natural resources are central components of economic self-sufficiency and self-determination, and as such, are vital to the very existence of tribes. Therefore, protection of tribal natural resources is a high priority at NARF.

Protection of Indian Lands

Without a sufficient land base, tribal existence is difficult to maintain. Thus NARF helps tribes establish ownership and control over lands which are rightfully theirs.

NARF has been retained by the Eastern Shoshone Tribe of the Wind River Indian Reservation to analyze the legal implications of the Surplus Land Act of March 3, 1905 for the Shoshone or Wind River Indian Reservation as they may have effected the boundaries of that reservation. We prepared a memorandum which was presented to the Tribal Business Council and to the Tribal General Council. NARF is also monitoring cases that may have an impact on the issue of whether the boundaries were diminished by the 1905

Act. NARF recently provided a moot court for an attorney arguing a case, *State of Wyoming v. Yellowbear*, before the Supreme Court of Wyoming which squarely presented the boundary issue. In addition, we continue to monitor cases in the United States District Court for Wyoming and in the 10th Circuit Court of Appeals – an appeal brought by Mr. Yellowbear on a petition for *habeas corpus*.

In the meantime the Eastern Shoshone Tribe, along with the Northern Arapaho Tribe, have been invited by the Mayor of the City of Riverton to sit down and discuss the important issues related to jurisdiction and boundary to see if an agreement can be reached. The Mayor's invitation has been accepted the Chairman of the Eastern Shoshone Tribe, and an invitation has been extended to the Chairman of the Northern Arapaho Tribe to join the meeting. In September 2007, NARF provided the General Council with a complete briefing on the issues related to diminishment and talks with the City.

NARF represents the Pottawatomi Nation of Canada, a band of descendants from the Historic Pottawatomi Nation, which from

Treeline near Kivalina, Alaska. by Jenni Monet



1795 to 1833 signed a series of treaties with the United States. While the American Pottawatomi bands recovered the payment of annuities in the Indian Claims Commission (ICC), the Canadian Pottawatomi members could not bring a claim in the ICC. In 1993, NARF brought suit on behalf of the Canadian Pottawatomi in the Court of Federal Claims, and the parties reached a \$1.8 million agreement which was approved by the Court in 2000 and recommended to Congress in 2001. NARF continues to work with the Senate Committee on Indian Affairs, the Senate Judiciary Committee and the House Resources Committee to see this matter through to Congressional approval.

Since 1981, NARF has represented the Alabama-Coushatta Tribe of Texas in their quest to secure compensation for the loss of use of millions of acres of fertile forest land they once occupied in southeast Texas. In 2002, the United States Court of Federal Claims ruled in favor of the Alabama-Coushatta Tribe of Eastern Texas in their breach-of-trust claim against the United States, holding the Government liable for the Tribe's loss of use of over 2.85 million acres of land between 1845 and 1954. The Court also ruled that 5.5 million acres of aboriginal title has never been extinguished. Negotiators for the U.S. and Tribe reached an agreement on the amount of damages for the loss of land - \$270 million- and the Court recommended the agreement to Congress in 2002. NARF, private counsel, and the Tribe are now working to garner Congressional approval for the payment of this amount under the Congressional reference procedure.

Chalkitsik et al v. United States seeks judicial review of the federal regulation which governs the procedures used by Indian tribes and individuals when requesting the Secretary of the Interior to acquire title to land in trust on their behalf. The regulation bars the acquisition of land in trust in Alaska other than for



the Metlakatla Indian Community or its members. The exclusion of all other Alaska tribes from the scope of the regulation, including plaintiffs Akiachak Native Community, the Chalkyitsik Village, the Chilkoot Indian Association and the Tuluksak Native Community, bars the acquisition of trust title to land in Alaska and is arbitrary, capricious, an abuse of discretion, unconstitutional and otherwise contrary to law. Plaintiff tribes seek declaratory and injunctive relief preventing the Department of the Interior from excluding federally recognized Alaska tribes from land-into-trust petition process; further seek a declaration that the Secretary of the Interior has the authority to acquire lands in trust in Alaska on behalf of Alaska Tribes and their members; that plaintiff tribes are entitled to petition the Secretary to have land in Alaska taken into trust; and, that the Secretary must give the same consideration to land in trust petitions in Alaska as would be given to other federally recognized tribes. The federal defendants have moved to transfer venue to the District of Alaska. In August 2007, the court denied the motion to transfer venue to Alaska.

NARF attorneys Don Wharton (left) and David Gover (right) presenting to tribal clients in the tribal trust funds case.
Photo: Ray Ramirez

Water Rights

Establishing tribal rights to the use of water in the arid west continues to be a major NARF priority. The goal of NARF's Indian water rights work is to secure allocations of water for present and future needs for four Indian tribes represented by NARF and other western tribes generally. Under the precedent established by the United States Supreme Court in 1908 in *Winters v. United States* and confirmed in 1963 in *Arizona v. California*, Indian tribes are entitled under federal law to sufficient water for present and future needs, with a priority date at least as early as the establishment of their reservations. These tribal reserved water rights are superior to all state-recognized water rights created after the tribal priority date. Such a date will in most cases give tribes valuable senior water rights in the water-short west. Unfortunately, many tribes

have not utilized their reserved water rights and most of these rights are unadjudicated or unquantified. The major need in each case is to define or quantify the amount of water to which each tribe is entitled through litigation or out-of-court settlement negotiations. Tribes are generally able to claim water for any purpose which enables the tribes' reservations to serve as a permanent homeland.

NARF has represented the Nez Perce Tribe in Idaho in the Snake River Basin Adjudication (SRBA) – both litigation and settlement phases – since 1987. Congress enacted and President Bush signed into law the Snake River Settlement Act of 2004. The Idaho Legislature approved the agreement and Idaho Governor Dirk Kempthorne signed the approval legislation in 2005. The subsequent approval by the Nez Perce Tribe represented the final sign-off by the three sovereigns.

In January 2007, the SRBA Court heard the Joint Motion for Entry of Consent Decree filed by the Tribe, the United States, and the State of Idaho, and entered a written order approving the Consent Decree. No appeals were filed with the Idaho Supreme Court challenging the final consent decree. In April 2007, the State and the Nez Perce Tribe certified that all of the Term Sheet conditions had been met. Now that the three sovereigns have entered their final findings, the settlement provisions relating to the transfer of the 11,000 acres of federal land, shared management of the Dworshak National Fish Hatchery, and management of the Kooskia National Fish Hatchery will be finally carried out.

This is a major accomplishment for the Nez Perce Tribe and its members. This settlement represents the merging of traditional Indian water rights settlement elements with other major environmental issues confronting all of the people of Idaho. It could well be looked at by other states and tribes and federal land management agencies in the west seeking to

*Indian law student
presenting his case before
a NARF moot court.
Photo: Ray Ramirez*



sort out Indian water claims and other challenges presented by the federal Endangered Species Act and the Clean Water Act.

The culture and way of life of many indigenous peoples are inextricably tied to their aboriginal habitat. For those tribes that still maintain traditional ties to the natural world, suitable habitat is required in order to exercise their treaty-protected hunting, fishing, gathering, and trapping rights and to sustain their relationships with the animals, plants, and fish that comprise their aboriginal habitats. The Oregon water rights adjudication brings these factors into play, factors which are critical to the cultural survival of tribal peoples in the United States. In this struggle, NARF represents the Klamath Tribes of Oregon. They hold reserved Indian water rights in the Klamath River Basin to support their treaty hunting, fishing and gathering rights with a time immemorial priority date, as well as water rights needed to satisfy the agricultural purposes of the Klamath Reservation. As hunters and fishers, the Klamath Tribes have continuously exercised their hunting, fishing, trapping and gathering rights within the treaty-protected area for thousands of years. This traditional way of life depends upon sufficient water and habitat to support the natural resources which have been supplied to these Indians by Mother Earth since time immemorial. Their reserved water rights for these purposes are currently being quantified in a state-wide water adjudication in Oregon. NARF represents the Klamath Tribes in asserting and defending their treaty-based water rights in the adjudication and in prosecuting contests against many junior water rights claims filed by non-Indian water users.

In Case 003, one of the largest, most complex contests in the adjudication, a four-week trial was held in 2004 and followed by post-trial briefs over the ensuing year. In 2006, the Administrative Law Judge (ALJ) entered a rul-



ing on the merits upholding NARF's position that the United States, not private water users or irrigation districts, owns the water rights for the enormous Klamath Irrigation Project. Accordingly, the ALJ denied the claims of the water users and irrigation districts. The holding ensures that the Klamath Project will continue to be operated pursuant to the United States' Endangered Species Act and tribal trust obligations. Exceptions to this order were briefed in the summer 2007, with NARF filing three briefs and related papers in July 2007, on behalf of the Tribes.

In 2005 and 2006, adjudication of the Tribes' water rights claims began in earnest. Sixty-four briefs were filed in eight tribal cases by the parties on legal issues defining the nature of the tribal water right claims and various defenses against those water rights. Oral argument was held and the ALJ entered Orders in all eight cases in 2006 that held the Tribes' legal position in a sweeping set of victories. The ALJ held that the Tribes are entitled to a sufficient amount of water for a healthy habitat and productive fishery. The parties recently agreed to a vigorous discovery and trial schedule to adjudicate remaining issues regarding the Tribes' water right claims in the eight tribal cases which will extend well

*(left to right) NARF attorneys Don Wharton, Kim Gottschalk, and Steve Moore judging a moot court case for Indian law students.
Photo: Ray Ramirez*

into 2008. In the summer of 2007, the tribal cases were stayed pending Basin water settlement discussions with all stake-holders.

NARF represents the Tule River Indian Tribe of California in negotiations to settle the Tribe's claims to reserved water rights on its reservation. The Tule River reservation is located in a mountainous region and is crossed by the South Fork of the Tule River. Flow from the river is abundant in the early spring, dropping off precipitously in the summer. With no reservoir and delivery facilities on the reservation, water supply for the Tribe's growing domestic needs is severely limited and water supply for significant irrigation is nonexistent. Without legal confirmation of its reserved water rights, the Tribe will not be able to provide for its future water needs. After legal and technical analyses of its water rights claims, the Tribe decided to pursue a

negotiated settlement of its water rights claims before engaging in litigation. Competing downstream users include a ditch company, riparians, and an association of irrigation companies. The Department of the Interior appointed a federal negotiation team to assist the Tribe in settling its water rights claims. The Tribe's goal is to negotiate a settlement that will provide the Tribe with sufficient water to create a permanent sustainable homeland for its people with no or minimal adverse impact on other water users. Settlement negotiations among the Tribe, the United States, and non-tribal downstream users (the Settling Parties) have been in progress for several years. In 2007, the Settling Parties have made significant progress toward reaching a water rights settlement agreement. The Tribe is hopeful that a final settlement agreement can be submitted to Congress for ratification in 2008.

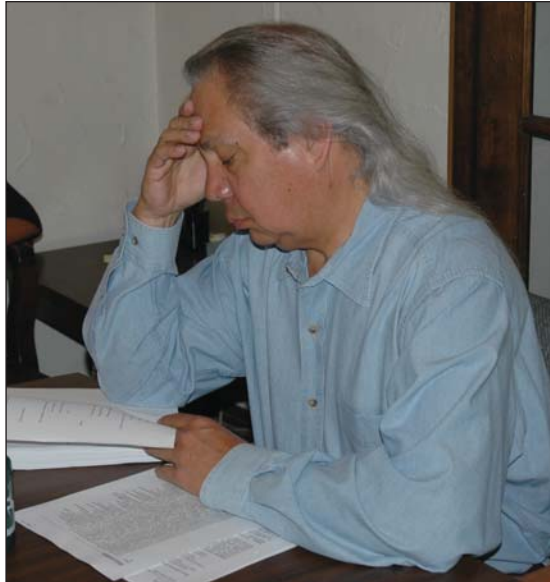
Local native child in Kivalina, Alaska. by Jenni Monet



In August 2007 the Tribe hosted a meeting of the federal negotiating team and local water stakeholders. A near final text of the settlement agreement was discussed and a few changes made. The local California member of Congress, Rep. Nunes, introduced last spring HR 2535, a bill to authorize the Bureau of Reclamation to conduct a feasibility study to site the water storage project, which is the cornerstone of the Tribe's water agreement, and also to authorize appropriations in the amount of \$3 million for the study. A very favorable hearing was held in September 2007 before the Water and Power Subcommittee of the House Natural Resources Committee. Plans are to attempt to move the bill through the House and Senate this Congress.

In 2006, the Kickapoo Tribe in Kansas filed a federal lawsuit in U.S. District Court in an effort to enforce express promises made to the Tribe to build the Plum Creek Reservoir Project in the Upper Delaware and tributaries watershed. The Nemaha-Brown Watershed Joint Board # 7, the Natural Resources Conservation Service of the United States Department of Agriculture, and the State of Kansas made these promises to the Tribe over a decade ago. In the intervening years these parties have been actively developing the water resources of the watershed, resulting in the near depletion of the Tribe's senior federal water rights in the drainage.

The water quality on the reservation is so poor it is harmful to human health and unsuitable for human consumption according to the Environmental Protection Agency. The water supply is in violation of the Safe Drinking Water Act of 1974. As a result the Kickapoo people are unable to safely drink, bathe or cook with tap water. The Plum Creek Reservoir Project is the most cost-effective and reliable means by which the Tribe can free its members from the dire living conditions forced upon them by their unreliable and dangerous water supply.



*NARF Executive Director
John Echobawk meeting
with tribal clients.
Photo: Ray Ramirez*

A thirty-year era of unreliable water supplies on the Kickapoo Reservation located in Brown County, Kansas has disabled the Kickapoo Tribe from providing basic municipal services necessary to protect its residents from illness, fire, and unsanitary living conditions. There is not enough water on the reservation to provide basic municipal services to the community: The Tribe is unable to provide local schools with a reliable, safe running water and the fire department cannot provide adequate fire protection due to the water shortage.

The Tribe and the defendants are engaged in the litigation of the case and some exploratory settlement talks have taken place. In August 2007, the parties expressed an interest in taking a break from the litigation track to explore mutual benefits from settlement. The U.S., the State and the local watershed district all concede the existence of the Tribe's senior Winters water rights. The real issue ultimately will be the amount of water to satisfy the Tribe's needs and the source or sources of those rights. Overall, progress has been slow but steady and it is anticipated that continued negotiations will extend into 2008.

Protection

Street scene in Kotzebue,
Alaska. by Jenni Monet



Protection of Hunting and Fishing Rights in Alaska

The subsistence way of life is essential for the physical and cultural survival of Alaska Natives. As important as Native hunting and fishing rights are to Alaska Natives' physical, economic, traditional, and cultural existence, the State of Alaska has been and continues to be reluctant to recognize the importance of the subsistence way of life.

In *State v. Demientieff*, the State of Alaska brought suit challenging the Federal Subsistence Board's customary and traditional use finding for subsistence uses of moose by members of the Chistochina Tribe. A positive customary and traditional finding entitles residents for a specific community to the subsistence priority under Title VIII of the Alaska National Interest Lands Conservation Act. Chistochina was granted intervention in this action to protect its customary and traditional status for moose. In June 2007 the district court entered an order in favor of defendant United States and Chistochina against the State and upholding the Federal

Subsistence Board's customary and traditional use finding for subsistence uses of moose by members of the Chistochina Tribe. The State has appealed.

In *Ahtna Tene Nene' Subsistence Committee v. Alaska Board of Game*, suit was brought on behalf of tribal organizations and communities who live a subsistence way of life to overturn a series of regulations adopted by the Alaska Board of Game in March of 2007. The regulations severely restrict, and in some cases, eliminate plaintiffs' subsistence uses of moose and caribou. Plaintiffs sought a preliminary injunction in state court requesting that the court enjoin the State from implementing these regulations for the fall hunt. The court found that plaintiffs had shown that they satisfied the "balance of hardships" standard for granting preliminary injunction by raising serious and substantial questions going to the merits of the case and by demonstrating that the balance of hardships tip sharply in their favor. The State of Alaska has decided not to seek review of the court's grant of preliminary relief. Briefing on the merits will now proceed.

In *Native Villages of Eyak, Tatitlek, Chenega, Nanwalek, and Port Graham v. Evans*, five Chugach tribes are suing the Secretary of Commerce seeking to establish aboriginal rights to their traditional-use areas on the Outer Continental Shelf of Alaska, in Cook Inlet and the Gulf of Alaska. A decision was rendered by the federal district court in 2002 against the Chugach tribes. NARF brought an appeal to the Ninth Circuit and oral argument was heard in 2003. The Ninth Circuit *en banc* panel vacated the decision of the district court and remanded for determination of whether the tribes can establish aboriginal rights to the areas. Oral argument on the tribes' motion for summary judgment was held in 2006 and was denied shortly thereafter. The tribes are continuing discovery and trial has been scheduled for the second half

of August 2008.

NARF is representing the Native Village of Venetie Tribal Government, the Ninilchik Tribal Government and individuals as proposed interveners in a case that was initially brought by the Safari Club, a sporting club, to challenge regulations promulgated by the Secretaries of the Interior and Agriculture implementing the subsistence preference established by the 1980 Alaska National Interest Lands Conservation Act (ANILCA). ANILCA establishes a preference for customary and traditional uses of fish and wildlife by according a priority for the taking of fish and wildlife on federal public lands in Alaska for non-wasteful subsistence uses by rural Alaska residents, most of whom are Alaska Natives. The Safari Club challenged the validity of all 180 customary and traditional use determinations under ANILCA and challenged the composition of Regional Area Council (RAC) as not adequately representing sport, recreational and commercial interests. NARF intervened in the case on behalf of its clients in order to defend the Federal Subsistence Board's (FSB) subsistence use-determinations for their respective Alaska Native communities and to protect their entitlement to take fish and wildlife on federal public lands in Alaska. The court issued a decision in 2006, holding that the FSB had not followed the Administrative Procedures Act in promulgating the regulation allowing 30% of the RAC seats to be held by non-subsistence users. The action has again been remanded to the agency with instructions to initiate rule-making.

In 2005, the State of Alaska filed a lawsuit in the District of Columbia challenging the final rule implementing the mandate in the prior subsistence case, *John v. United States*. The prior case established that the United States must protect subsistence uses of fisheries in navigable waters where the United States possesses a reserved water right. The State challenged the Secretaries' imple-



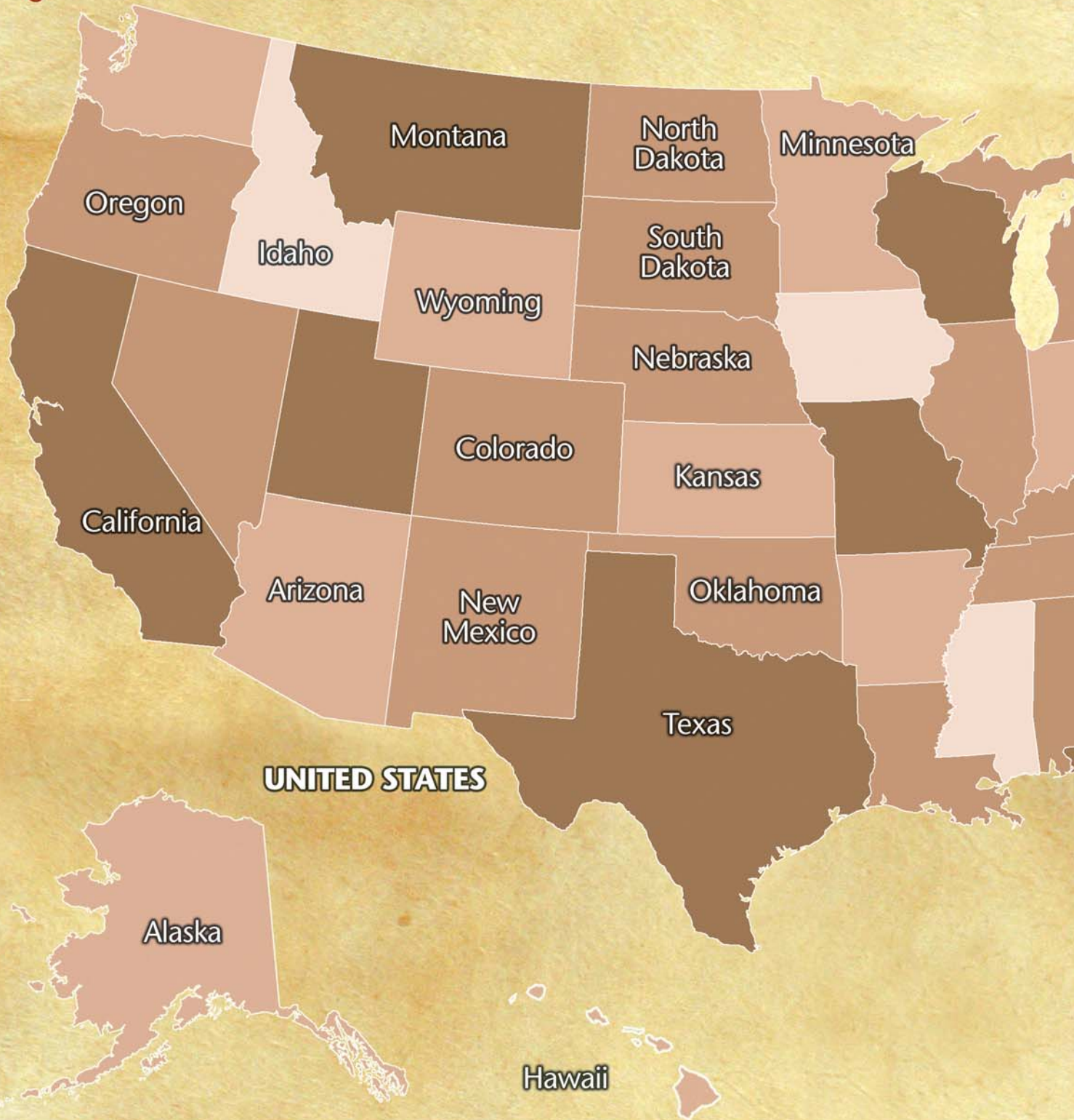
mentation of the mandate by arguing that the reserved waters doctrine requires a quantification of waters necessary to fulfill specific purposes. In May 2007, the district court entered an order upholding the agency's rule-making process identifying navigable waters in Alaska that fall within federal jurisdiction for purposes of ANILCA's subsistence priority.

In 2005, Katie John also filed a law suit in the District of Alaska challenging the Secretaries's final rule implementing the prior Katie John mandate as being too restrictive in its scope. Katie John's complaint alleges that the Secretaries should have included Alaska Native allotments as public lands and further that the federal government's interest in water extends upstream and downstream from the Conservation Units established under ANILCA. The two cases have been consolidated.

Meeting at NARF regarding Native American Church issues. (Clockwise) James Botsford - NAC attorney; Suzan Shown Harjo - President, The Morning Star Institute; Walter Echo-Hawk, NARF attorney; Steve Moore, NARF attorney. Photo: Ray Ramirez



MAJOR ACTIVITIES 2007 - NARF CASE MAP





**ALASKA
NARF ANCHORAGE OFFICE**

- Chistochina Tribe – Subsistence
- *Curing v. Alaska* - ICWA
- Kaltag Tribe – ICWA
- *Katie John v. Norton* - Subsistence
- English Only Initiative
- Global Warming Project
- Native Villages of Eyak, Tatitlek, Chenega, Nanwalek, and Port Graham - Subsistence & Aboriginal Title
- Gwich'in Steering Committee - Environmental/Subsistence
- Native Village of Kiana - Education
- Native Village of Nulato - Education and ICWA
- Niniilchick Tribe - Subsistence
- Native Village of Tuluksak - Trust Lands
- Native Village of Venetie - Subsistence
- Tlingit and Haida Indian Tribes - Tribal Trust Funds
- Voting Rights Act Suit

ARIZONA

- Hualapai Tribe – Boundary Issue

CALIFORNIA

- Tule River Tribe – Water, Tribal Trust Funds
- Yurok Tribe – Tribal Trust Funds

**COLORADO
NARF HEADQUARTERS
BOULDER, COLORADO**

- ICWA Site
- TEDNA Headquarters
- Valmont Butte – Sacred Site Issue

HAWAII

- Pele Defense Fund - Aboriginal Rights

IDAHO

- Nez Perce Tribe - Water Rights, Tribal Trust Funds

KANSAS

- Kickapoo Tribe – Water Rights

MINNESOTA

- White Earth Band of Chippewa Indians - Tribal Trust Fund

MONTANA

- Chippewa-Cree Tribe of the Rocky Boys Reservation - Tribal Trust Fund
- Little Shell Tribe - Recognition & Tribal Trust Fund

NEBRASKA

- Santee Sioux Tribe – Tribal Trust Fund

NEW MEXICO

- Mescalero Apache Tribe – Tribal Trust Fund

NEW YORK

- Shinnecock Indian Nation - Recognition

NORTH DAKOTA

- Fort Berthold Reservation - Education & Water
- Turtle Mountain Reservation - Tribal Trust Fund

OKLAHOMA

- Cheyenne-Arapaho Tribes – Tribal Trust Fund
- Pawnee Nation – Education, NAGPRA & Tribal Trust Fund
- Sac & Fox Nations – Tribal Trust Fund

OREGON

- Klamath Tribes - Water Rights & Tribal Trust Fund
- *Bonnichsen v. United States* (“Kennewick Man case”) - Repatriation

SOUTH DAKOTA

- Lower Brule Sioux Tribe - Trust Lands
- Rosebud Sioux Tribe - Education & Tribal Administration
- Oglala Sioux Tribe - Environmental

TEXAS

- Alabama-Coushatta Tribe - Land Claim

VIRGINIA

- Pamunkey Tribe – Recognition

WASHINGTON

- Yakama Nation – Tribal Trust Funds

**WASHINGTON, D.C.
NARF WASHINGTON, D.C. OFFICE**

- *Cobell v. Norton & Tribal Supreme Court Project*
- *Harjo et al v. Washington Redskin Football* - Cultural Rights

WYOMING

- Eastern Shoshone Tribe - Land Issue

CANADA

- Northern Lakes Pottawatomi Nation - Land Claim

INTERNATIONAL

- Draft Declaration on the Rights of Indigenous Peoples – United Nations & Organization of American States

The Promotion of Human Rights



Although basic human rights are considered a universal and inalienable entitlement, Native Americans face an ongoing threat of having their rights undermined by the United States government, states, and others who seek to limit these rights. NARF strives to enforce and strengthen laws which are designed to protect the rights of Native Americans to practice their traditional religion, to use their own language, and to enjoy their culture. NARF also works with Tribes to improve education for and ensure the welfare of their children. In the international arena, NARF is active in efforts to negotiate declarations on the rights of indigenous peoples.

Religious Freedom

Because religion is the foundation that holds Native communities and cultures together, religious freedom is a NARF priority

issue. Legal work continues on the implementation of the Native American Graves Protection and Repatriation Act (NAGPRA) which NARF helped secure in 1990. NARF offered testimony in 2004 and 2005 before the Senate Committee on Indian Affairs at oversight hearings regarding NAGPRA issues. NARF supports legislation to amend NAGPRA to correct problems created by the Ninth Circuit decision in the *Bonnichsen* case which effectively reversed the presumption that all ancient remains are Native. In addition, NARF provided comments on various proposed regulations and policies implementing NAGPRA.

In April 2007, over a 100 tribal members from the Pawnee Nation of Oklahoma and their Nasharo Band Chiefs gathered at the Pawnee Nation to honor writer Roger Welsch and his wife, Linda, for their gift of approximately 60 acres of land in Nebraska. The deed to the land, located near the Loup River and Dannebrog, Nebraska, was given to the Pawnee Nation of Oklahoma in a ceremony followed by a feast, an honor dance, and Mr. Welsch and his wife being made honorary members of the Pawnee Nation. NARF currently represents the Pawnee Nation in the reburial efforts of 800 human remains in Nebraska. NARF worked with the Pawnee Nation and its Repatriation Committee to assist in the facilitation of the transfer of Mr. Welsch's land to the Pawnee Nation for use as a reburial and cultural site. NARF also assisted the tribe in attaining an opinion from the Nebraska Attorney General last year that clarified the tribe's right to conduct reburials on private land.

In 2006, NARF as part of a legal team filed an *amici curiae* brief in the Spirit Cave repatriation litigation captioned *Fallon Paiute-Shoshone Tribe v. United States Bureau of Land Management* in the United States District Court of Nevada. NARF is representing the National Congress of American Indians, Morning Star Institute, Association of



*Local native children in
Kivalina, Alaska.
by David Hocs*

American Indian Affairs and the Medicine Wheel Coalition of Sacred Sites in North America in this important NAGPRA repatriation litigation. The brief supports the Fallon Paiute-Shoshone Tribe's efforts to repatriate the remains of their ancestor from the United States Bureau of Land Management (BLM).

In 2006, the Court granted the Tribe's motion for summary judgment and remanded the matter to the BLM for reconsideration. The Court determined that the BLM failed to fully and fairly review the Tribe's scientific evidence or address the NAGPRA Review Committee's findings that opposed the BLM's initial determination in violation of NAGPRA and the Administrative Procedures Act. The United States appealed the Judge's decision to the Ninth Circuit Court of Appeals. In April 2007, the United States opted to dismiss their appeal to the Ninth Circuit. In turn the Tribe also dismissed their cross-appeal and intend on obtaining a positive resolution to the matter through the remand process.

NARF and the Colorado Commission of Indian Affairs ("CCIA") were first asked in 2003 to become involved in the City of Boulder's process to decide whether to site two facilities – a biosolids composting facility and a fire training center – at Valmont Butte, located just east of the City. In the midst of these legal processes, curious phenomena began to unfold. Given a voice and means of expression by NARF and CCIA's involvement, the Native American community came forward with powerful evidence that (1) the Butte is a place of significant prehistoric connections to Native peoples who inhabited Boulder Valley long before Euro American settlers came into the area in the 19th Century; and (2) the Butte is a place of contemporary religious importance to many Indian people in the metropolitan Denver area, as well as to Indian people of Ute, Arapaho and Cheyenne descent who reside on reservations in Oklahoma, Wyoming and southwest



Colorado. Important spirit voices are believed to reside in and around the Butte itself and it is the locus of an active sweat lodge being utilized by several Indian religious leaders. In 2005, the City Council heard and respected the wishes of the Indian Community by rejecting the planning staff recommendations to locate the composting and fire training facilities on the Butte property. NARF is working with the CCIA, the local Indian community in the Denver metropolitan area, the interested tribes and the residents of the Valmont Butte area to identify a means of acquiring the property from the City.

Cultural Rights

In *Nick v. Bethel and the State of Alaska*, in partnership with the American Civil Liberties Union, NARF filed a lawsuit in federal court alleging that Alaska (through its agents the Lieutenant Governor and the Division of Elections, among others) have violated the Voting Rights Act by failing to provide language assistance to the thousands of Yup'ik speaking voters in the Bethel Census Area. The first claim is under Section 203 of the VRA, which requires that jurisdictions covered by the Act provide oral and written assistance sufficient to enable the voter to

Tribal advocates meeting at NARF on the development of a practical guide to the Indian Child Welfare Act.
Photo: Ray Ramiez

Promotion

*NARF Board member and
Chairman of the Northwest
Indian Fisheries
Commission Billy Frank
lecturing on indigenous
environmental issues at
the University of
Colorado.
Photo: Ray Ramirez*



Promotion

cast a meaningful ballot. While the languages covered (meaning those for which the State has to provide assistance) varies statewide to correspond to the number of people who speak that language, in the Bethel Census Area, the covered language is Yup`ik. However, as the complaint alleges, there is little to no oral language assistance provided and absolutely no written assistance provided to the Yup`ik voter. The second claim is under Section 208 of the VRA which provides that a voter who needs help reading and writing may bring anyone they like into the voting booth to help them cast a ballot. The complaint was filed in June 2007, but shortly thereafter the District Court denied a motion to convene a three-judge court. Currently both sides are conducting discovery and depositions have been scheduled. Plaintiffs plan to file for a preliminary injunction in time to allow the Defendants ample time to make

election changes for the November 2008 election, should the Plaintiffs win any relief.

From the embryonic days of our Nation, Indian tribes have long struggled against the assimilationist policies instituted by the United States which sought to destroy tribal cultures by removing Native American children from their tribes and families. As an example, the federal government failed to protect Indian children from misguided and insensitive child welfare practices by state human service agencies, which resulted in the unwarranted removal of Indian children from their families and tribes and placed those children in non-Indian homes. Statistical and anecdotal information show that Indian children who grow up in non-Indian settings become spiritual and cultural orphans. They do not entirely fit into the culture in which they are raised and yearn throughout their life for the family and tribal culture denied them as children. Many Native children raised in non-Native homes experience identity problems, drug addiction, alcoholism, incarceration and, most disturbing, suicide.

In order to address these problems facing tribes as a result of the loss of their children, the Indian Child Welfare Act (ICWA) was enacted in 1978. It established minimum federal jurisdictional, procedural and substantive standards aimed to achieve the dual purposes of protecting the right of an Indian child to live with an Indian family and to stabilize and foster continued tribal existence. Since that time, there has been misinterpretations and in some cases, outright refusal to follow the intent of the law by state agencies and courts. To gain a basic understanding of the ICWA and to access information to expand that understanding, NARF has created *A Practical Guide to the Indian Child Welfare Act*. The *Guide*, available both in print format and on-line, is a new powerful resource tool for tribal, state, and federal entities involved in Indian child custody proceedings. The

Guide consists of an Introduction, Frequently Asked Questions with responses categorized under 22 topics, with a wealth of ICWA resources. The on-line version contains more than 1,000 full-text resources. *A Practical Guide to the Indian Child Welfare Act* is intended to foster compliance with the letter and spirit of the ICWA. Funding for this project was provided by the Administration for Native Americans, the Morongo Band of Mission Indians, and the Bureau of Indian Affairs.

NARF filed an amicus brief on behalf of a number of Alaska tribes in the Alaska Supreme Court in *Curiung v. Alaska*. The question presented in *Curiung* is whether federally recognized tribes can bring suit under federal civil rights law in state court on behalf of themselves and their members to vindicate important statutory rights under the ICWA and other federal and state laws after the United States Supreme Court ruling in *Inyo County v. Paiute-Shoshone Indians (2003)*. *Inyo County* involved the core issue of whether the Paiute-Shoshone Indian Community was immune from execution of a state search warrant of tribal employment records issued in connection with the investigation of potential off-reservation welfare fraud by certain unnamed tribal employees. The Tribe sought declaratory and injunctive relief against the County and its officers on the ground that they had exceeded their jurisdiction because the warrant interfered with the Tribe's sovereign immunity and its right to self-government. The Tribe also sought compensatory damages under federal civil rights law for violation of the Tribe's rights. The Supreme Court held that Tribes are not persons for purposes of bringing federal civil rights claims against a state for damages for infringement of sovereign interests. In *Curiung*, however, the amici tribes argue that *Inyo County* does not preclude their federal civil rights claims because the rights asserted are private rights that are grounded in statute. In December 2006 we



received a unanimous decision in our favor by the Alaska Supreme Court upholding a Tribes right to bring a federal civil rights action on behalf of its members under a *parens patriae* theory. The case was remanded to the superior court for a trial on the merits. NARF is now discussing potential settlement remedies.

In *Tanana v. State*, the Villages of Tanana, Nulato, Akiak, Kalskag, Lower Kalskag and Kenaitze along with Theresa and Dan Schwiertert filed a complaint against the State of Alaska, Attorney General and various state agencies challenging the policy adopted by the Attorney General of Alaska that state courts have exclusive jurisdiction over child custody proceedings involving Alaska Native children and that tribes in Alaska do not have concurrent jurisdiction to hear children's cases unless (1) the child's tribe has successfully petitioned the Department of Interior to re-assume exclusive or concurrent jurisdiction under the Indian Child Welfare Act (ICWA), or (2) a state superior court has transferred jurisdiction of the child's case to a tribal court in accordance with ICWA. In May 2007, the court issued an opinion in the tribe's favor rejecting all of the State's arguments. The court held that Alaska tribes possess inherent power to adjudicate proceedings involving

*Northern Arapaho Tribe
color guard.
Photo: Ray Ramirez*

Promotion

member children. The plaintiff tribes have now moved for injunctive relief to prohibit the state and its agency's from denying full faith and credit to tribal court decrees pending the State's appeal to the Alaska Supreme Court.

In *Kaltag v. State of Alaska*, an action to enforce the full faith and credit clause of the Indian Child Welfare Act, the Kaltag Tribe had completed an adoption in tribal court and had applied for a new birth certificate, but the State refused to issue one on the grounds that the Tribe had not petitioned for re-assumption of jurisdiction under ICWA. This argument assumes that a Tribe does not have inherent jurisdiction to adjudicate adoptions of its own tribal members. The Tribe and the parents (two individual Kaltag tribal members) brought suit against the State of Alaska Department of Health and Social Services and the Alaska Bureau of Vital Statistics for denying full faith and credit to a tribal adoption decree in violation of the Indian Child Welfare Act. The parents also have raised a federal civil rights claim. Cross motions for summary

judgment were filed in May 2007.

NARF is participating in the birth and founding of a new national Native arts and culture foundation that will establish and manage a multi-million dollar permanent endowment from which monetary awards can be made to Native American artists and those local and regional organizations which currently support Native art and culture. With assistance and leadership from the Ford Foundation, a feasibility study demonstrated the need and interest in such a national endowment in 2006. Significant initial funding has been committed by the Ford Foundation and a founding board of directors was formed to finalize the articles of incorporation and other corporate documents this summer. Fundraising and organizational development for the new foundation are underway with hope that the new foundation will be operational in twelve months. The development of the new foundation holds enormous potential for assisting in the nation-wide tribal effort to preserve, sustain, and pass on our Native American art and cultures—including endan-

*Local native children in
Kivalina, Alaska.
by David Hocs*



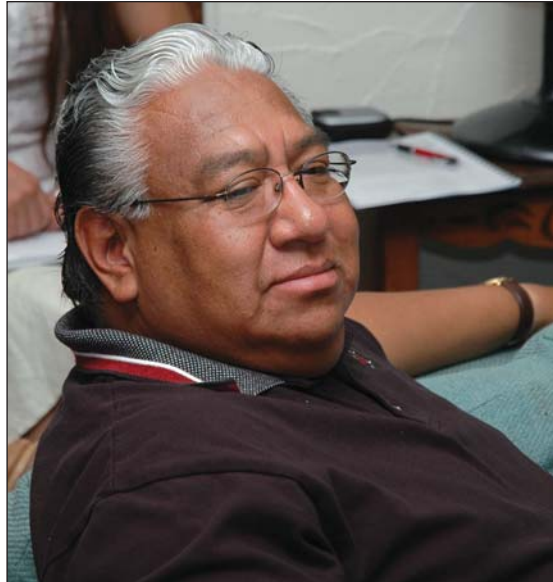
gered traditional art forms (and associated practices), as well as all forms of contemporary art such as painting, sculpture, theater, dance, literature, film, and music. It is hoped that the foundation will become a powerful funding engine for the Native American cultural renaissance which is sweeping America and help fund this historic movement.

Also in the area of cultural rights, NARF filed an amicus brief in the case of *Harjo et al v. Washington Redskin Football* in the U.S. Court of Appeals for the District of Columbia on behalf of the National Congress of American Indians, National Indian Educational Association, National Indian Youth Council, and the Tulsa Indian Coalition Against Racism in Sports in support of the Indian appellants. The brief argued that the federal trademark for the football team should be cancelled because the use of the "Redskin" mark is racially disparaging in violation of federal trademark law. A decision was rendered in 2005 holding that the case may have been prematurely dismissed as to the youngest Indian petitioner. The case was remanded to the district court to consider whether the youngest Indian plaintiff, who was a year old when the Redskins trademarks were first registered, should be barred from bringing his claim because of delay in bringing the claim. NARF will continue to monitor this important case on remand.

Education

From the founding of this country, federal policy effectively stripped Indian tribes of control over the education of their children. The disempowerment of tribes over education has been devastating. In most tribal communities, formal schooling is resented and rejected.

NARF helped to establish the Tribal Education Departments National Assembly (TEDNA) under contracts from the U.S.



Ivan Posey, Chairman of the Eastern Shoshone Tribe meeting with NARF attorneys.
Photo: Ray Ramirez

Department of Education's Office of Indian Education three and one half years ago. Now dozens of federally-recognized Tribal Education Departments (TEDS) have joined TEDNA. TEDNA's current advocacy activities include: 1) seeking federal appropriations for TEDS; 2) seeking an amendment to the Federal Education Rights and Privacy Act of 1974 to allow TEDS to receive data and information kept by state public schools on tribal students without advance parental or student consent; and 3) substantive amendments to the reauthorization of the Elementary and Secondary Education Act of 1965 (also known as the No Child Left Behind Act of 2001) to increase tribal governance over education. TEDNA also co-sponsors four National Tribal Education Departments Forums per year, typically in conjunction with meetings of the National Indian Education Association and the National Congress of American Indians.

NARF is participating in the historic birth of a tribal college. A NARF representative is serving on the Board of Trustees of the Pawnee Nation College. During its second year of operation, in which numerous courses were offered to the student body, NARF assisted the College in developing a fund-raising strategy, securing *pro bono*

*Northern Arapaho
mother and son.
Photo: Ray Ramirez*



Promotion

counsel to obtain 501(c)(3) non-profit status for the new college, and other policy guidance from the Board of Trustees. As the third year commences, the college is focusing on completing work necessary to obtain accreditation and it continues fund-raising efforts for that purpose. In the Fall Semester of 2007, 44 students were enrolled in 15 classes being taught by a faculty of seven professors. The college has completed 10 of 12 criteria necessary to receive accreditation. In September 2007, the college was notified that it received a Department of Education grant of 2.5 million dollars over the next five years. This critical funding will assure successful completion of the accreditation process. NARF is proud to assist in this historic Indian education undertaking that is so vital to the human resources of Indian tribes in rural north central Oklahoma.

International Recognition of Indigenous Rights

The development of international laws and standards to protect the rights of indigenous peoples can be beneficial to Native American people as well as other indigenous peoples around the world. Native American tribes therefore need to be involved in these efforts and enlist the support of the United States since it is so influential in international circles.

Three decades of worldwide effort by Indigenous Peoples resulted in an historic victory in the United Nations General Assembly in September 2007 when that body adopted the Declaration on the Rights of Indigenous Peoples (Declaration) by an overwhelming majority. The vote was 143 in favor, 4 opposed, and 11 abstaining. The four countries who voted against the

Declaration were the United States, Canada, New Zealand, and Australia. The Declaration affirms the collective human rights of Indigenous Peoples across a broad range of areas including self-determination, spirituality, land rights and rights to intellectual property, thereby providing some balance to an international rights framework based largely on individual rights. The Native American Rights Fund has worked with its client, the National Congress of American Indians (NCAI), and indigenous peoples worldwide, in the process of elaborating the Declaration since 1999.

The Declaration on the Rights of Indigenous Peoples is an historic milestone in the long struggle by indigenous peoples for due recognition in the world. Being the product of a highly political process, the Declaration is not a perfect document and does not include everything Indigenous Peoples had hoped and worked for over the past thirty years. The Declaration details important "minimum standards for the survival, dignity and well-being of the indigenous peoples of the world." (Article 43) It also makes clear that nothing in the Declaration "may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future." (Article 45) The vast majority of the world, including those countries with the vast majority of indigenous peoples, recognizes that not only can the world live with the Declaration, but it will be a better place for doing so. The United States, Canada, Australia, and New Zealand are out of step with the march of history.

In the Organization of American States, the tenth meeting in the search for consensus on the American Declaration on the Rights of Indigenous Peoples took place in La Paz, Bolivia in April 2007. Once again, the atmosphere proved to be more positive than sessions held in Washington, D.C. President Evo Morales, an indigenous person himself, invited



indigenous representatives to the Presidential Palace on two occasions. In the actual drafting sessions, agreement was reached on paragraphs concerning education, spirituality and indigenous health. At the beginning of the session, the United States made a statement that it would take a general reservation to all text discussed at the session and would not be bound by anything which was agreed to. They later explained that the reason for this statement was so the United States would not obstruct the flow of discussion with objection. They indicated that any agreed upon text would be taken back to Washington and a decision made within two weeks on whether the United States would concur. More than eight months later, we still have not heard from the United States. The United States also floated a statement of Principle on the Rights of Indigenous Peoples which it hoped would be considered alongside the text of the declaration and presented for approval at the June 2008 General Assembly in Panama. There was no discussion of those principles at the session.

*Selena Chico and former Mescalero Apache Tribal Chairman Mark Chino meeting with NARF attorneys on the tribal trust funds case.
Photo: Ray Ramirez*

The Accountability of Governments



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

The *Cobell v. Kempthorne* case was filed in 1996. It is brought on behalf of approximately 500,000 past and present individual Indian trust beneficiaries. The individual Indian money account holders (plaintiffs) seek a full accounting of their trust assets for the entire period that such assets have been held in trust – since 1887. Trustees, without exception, have a duty to provide accurate and complete

statement of accounts to each beneficiary at regular intervals and a complete and accurate accounting upon demand. Yet, the United States has never provided an accounting to individual Indian trust beneficiaries. It has never provided beneficiaries accurate and complete statement of accounts. In addition, plaintiffs ask that the account balances be restated in accordance with the accounting. Finally, plaintiffs seek reform of the trust management and accounting system.

NARF continued in its new role as Of Counsel in this case working primarily on settlement issues with the private attorneys involved in this case. NARF filed this case with them in to force the federal government to provide accountings to the 500,000 past and current individual Indian money account holders who have their funds held in trust by the federal government. A trial to review the

*Native elder in Kivalina,
Alaska. by Jenni Monet*



methodology and results of the government's accounting thus far as ordered by the federal courts in this case was held in October 2007 and a decision is pending.

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, since the inception of the fund in 1964. Since the Court denied the United States' motion in 2006 to have the case dismissed, and in December 2006 ordered the case to be at least partially settled or brought to trial in calendar year 2007, the parties have resumed negotiated settlement discussions. In August 2007, the Court, with the agreement of the parties, ordered the first two temporal phases of the investment claims to be resolved through alternative dispute resolution proceedings.

In *Nez Perce v. Kempthorne*, NARF represents twelve named plaintiffs – the Nez Perce Tribe; the Mescalero Apache Tribe; the Tule River Indian Tribe; the Hualapai Tribe; the Yakama Nation; the Klamath Tribes; the Yurok Tribe; the Cheyenne-Arapaho Tribe; the Pawnee Nation of Oklahoma; the Sac and Fox Nation; the Santee Sioux Tribe of Nebraska; and, the Tlingit and Haida Indian Tribes of Alaska in a new action filed in December 2006 in the federal district court for the District of Columbia. The action seeks full and complete accountings of tribal trust funds, which never have been provided by the federal government which is the trustee for the funds. The action also seeks a court order declaring that the Arthur Andersen reports prepared under a reconciliation project contract with the Bureau of Indian Affairs and provided to tribes in the 1990s are not full and complete trust fund accountings. The action was filed as a class action to protect the rights of all tribes that do not file their



own such actions and that choose to remain in the class. About seventy (70) tribes filed their own actions, but as many as two hundred and twenty (220) may be in the class if certification is granted. The action had to be filed by December 2006 under an act of Congress that gave tribes that date as a deadline by which to challenge the accounting adequacy of the Arthur Andersen reports.

In July 2007, the Court stayed this action and the thirty-six (36) other tribal trust cases before it pending resolution of an argument by the government that these cases are not properly before the Court because they should be remanded to the U.S. Department of the Interior under the Administrative Procedure Act (APA) to allow the agency an opportunity to prepare a plan to complete the required accountings. In December 2007, the Court denied the government's request for remand saying that nothing prevents the government from developing such a plan now and that the government has known about these concerns for at least twenty years.

NARF attorney David Gover (far right) giving pointers to Indian law students after their moot court presentation.
Photo: Ray Ramirez

The Development of Indian Law



The systematic development of Indian law is essential for the continued protection of Indian rights. This process involves distributing Indian law materials to and communicating with those groups and individuals working on behalf of Indian people. NARF has two ongoing projects which are aimed at achieving this goal, the National Indian Law Library and the Indian Law Support Center.

The National Indian Law Library

The National Indian Law Library (NILL) located at the Native American Rights Fund in Boulder, Colorado is a national public library serving people across the United States. Since it began in 1972, NILL has collected nearly 9,000 resource materials that relate to federal Indian and tribal law. The Library's holdings include the largest collection of tribal codes, ordinances and constitutions in the United

States; legal pleadings from major American Indian cases; law review articles on Indian law topics; handbooks; conference materials; and government documents.

Library users can access the searchable catalog which includes bibliographic descriptions of the library holdings by going directly to: <http://www.narf.org/nill/index.htm> or by accessing the catalog through the National Indian Law Library/Catalog link on the Native American Rights Fund website at www.narf.org. Once relevant materials are identified, library patrons can then choose to request copies or borrow materials through interlibrary loan for a nominal fee. In addition to making its catalog and extensive collection available to the public, the National Indian Law Library provides reference and research assistance relating to Indian law and tribal law. The library offers free assistance as well as customized research for a nominal fee.

*Young Northern Arapaho
Tribe dancer.
Photo: Ray Ramirez*



NARF's Indian Law Bulletins are published by NILL in an effort keep NARF and the public informed about Indian law developments. NILL publishes timely bulletins covering new Indian law cases, U.S. regulatory action, law review articles, and news on its web site. (See: <http://www.narf.org/nill/bulletins/ilb.htm>) New bulletins are published on a regular basis, usually every week and older information is moved to the bulletin archive pages. When new information is published, NILL sends out brief announcements and a link to the newly revised bulletin page via e-mail.

Indian Law Support Center

Since 1972, NARF's Indian Law Support Center (ILSC) has served as a national support center on Indian law and policy for the national Indian legal services community and the 32 basic field programs serving Native American clients. NARF continues to perform ILSC duties by sending out regular mailouts to Indian Legal Services programs, handling



NARF attorneys meeting with representatives of the Shoshone and Northern Arapaho Tribes of the Wind River Reservation. Photo: Ray Ramirez

requests for assistance, and working with Indian legal services programs to secure a more stable funding base from the Congress. Congress enacted the Indian Tribal Justice and Legal Assistance Act of 2000 which President Clinton signed into law. The Act authorizes the Department of Justice to provide supplemental funding to Indian legal services programs for their representation of Indian people and tribes which fall below federal poverty guidelines. Congress appropriated \$2 million in FY 2003 under the Act, and NARF and Indian legal services programs worked with the Department of Justice to devise an allocation methodology. The Department of Justice awarded a grant of \$1,987,000 to NARF in 2004, with the majority of the grant funds being contracted out to the Indian legal services programs with a small portion used to cover NARF administrative costs. Funding in the amount of \$1,726,626 for calendar year 2006 was appropriated by Congress for the project. NARF continues to be actively involved with local ILS programs in the administration of the grant and in developing training events to meet local program needs.

Funding via 2007 Congressional Appropriations was unsuccessful but NARF is working on funding within the FY 2008 budget.

Other Activities

In addition to its major projects, NARF continued its participation in numerous conferences and meetings of Indian and non-Indian organizations in order to share its knowledge and expertise in Indian law. During the past fiscal year, NARF attorneys and staff served in formal or informal speaking and leadership capacities at numerous Indian and Indian-related conferences and meetings such as the National Congress of American Indians Executive Council, Midyear and Annual Conventions and the Federal Bar Association's Indian Law Conference. NARF remains firmly committed to continuing its effort to share the legal expertise which it possesses with these groups and individuals working in support of Indian rights and to foster the recognition of Indian rights in mainstream society.

2007 Financial Report



Based on our *audited* financial statements for the fiscal year ending September 30, 2007, the Native American Rights Fund reports total unrestricted revenues of \$7,377,721 against total expenditures of \$6,535,189. Total net assets at the end of the year came to \$8,820,509. Due to presentation requirements of the audited financial statements in terms of recognizing the *timing* of certain revenues, they do not reflect the fact that, based on NARF's internal reporting, revenue exceeded operating expenses and other cash outlays by \$953,495, resulting in an increase to NARF's reserve fund. We had a significant increase in

Public Contributions due to a bequest that we received for almost \$2,000,000. Tribal contributions have increased in 2007 due to increased fund raising efforts in this area. The decrease in Federal Awards is mostly due to a major contract winding down. Legal Fees has decreased because 2006 includes a substantial court award for attorney fees for the *Cobell* case.

Revenue and Expense comparisons between fiscal year 2007 and fiscal year 2006 are shown below.

Unrestricted Support and Revenue Comparison

	2007		2006	
	dollars	percents	dollars	percents
Public Contributions	\$ 3,723,064	50.5%	\$ 1,795,069	20.5%
Tribal Contributions	1,059,100	14.4%	796,167	9.1%
Federal Awards	85,150	1.2%	2,001,980	22.8%
Foundation Grants	530,652	7.2%	736,900	8.4%
Legal Fees	1,331,288	18.0%	2,811,484	32.1%
Return on Investments	615,566	8.3%	556,866	6.3%
Other	32,901	0.4%	68,005	0.8%
TOTALS	\$ 7,377,721	100%	\$ 8,766,471	100%

Expense Comparison

	2007		2006	
	dollars	percents	dollars	percents
Litigation and Client Services	\$ 4,049,693	61.9%	\$ 5,374,689	68.7%
National Indian Law Library	271,543	4.2%	228,709	2.9%
Total Program Services	4,321,226	66.1%	5,603,398	71.6%
Management and General	791,330	12.1%	714,505	9.1%
Fund Raising	1,422,633	21.8%	1,506,185	19.3%
Total Support Services	2,213,963	33.9%	2,220,690	28.4%
TOTALS	\$ 6,535,189	100%	\$ 7,824,088	100%

Note: This summary of financial information has been extracted from NARF's audited financial statements which received an unqualified opinion by the accounting firm of JDS Professional Group. Complete audited financials are available, upon request, through our Boulder office or at www.narf.org

NARF Acknowledgment of Contributions: Fiscal Year 2007

We thank each and every one of our supporters for their commitment to the goals of NARF. NARF's success could not have been achieved without the generosity of our many donors throughout the nation. We gratefully acknowledge these gifts received for fiscal year 2007 (October 1, 2006 through September 30, 2007).



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NARF gratefully honors our many friends and partners who sponsored and supported our special events in 2007. Thank you for your support and for caring so deeply about Indian rights, laws and issues. NARF would like to give special acknowledgment and thanks to our major event sponsors in the last fiscal year:

First Annual Visions for the Future

Boulder Art Show – *Turquoise Sponsors:* Belgarde Enterprises, Inez C. Moss Family of Pechanga Band of Luiseño Mission Indians; *Granite Sponsors:* The Ungar Foundation, John Bevan, Republic of Boulder; *Flint Sponsors:* Eugene & Emily Grant Family Foundation, Brickmill Marketing Services.

Honoring Our Leaders & Building Partnerships for the Future of Indian Country Dinner, Santa Fe, NM – Merrill Lynch, Barona Band of Mission Indians, Cabinet Secretary Benny Shendo, New Mexico Department of Indian Affairs.

NARF Acknowledgment of Contributions: Fiscal Year 2007



6th Annual Visions for the Future Benefit Art Auction, Santa Fe, NM –

Turquoise Sponsors: Cow Creek Band of Umpqua Tribe of Indians, Barona Band of Mission Indians; *Juniper Sponsors:* Miccosukee Resort & Gaming, Fort McDowell Yavapai Tribe, Millberg Weiss LLP; *Sage Sponsors:* Merrill Lynch, John Bevan, Quadriga Art, Inc., Americans for Indian Opportunity; *Saguaro Sponsors:* Gary Farmer Gallery, KUNM Radio; *Piñon Sponsors:* Kogovsek & Associates, Colusa Casino Resort, Jeff Bosch, Richard Jong Kim; *Santa Fe Donating Artists (in-kind):* Fernando Benally, David Bischoff, Vince Bomberry, Quanah Parker Burgess, Sheena Cain, Martin Casillas, Gloria Cunningham, Kathy Daniels, Duane Dudley, Bunky Echo-Hawk, Sam English, Fabian Fontenelle, Jeana Francis of Taste Twist Media, Melanie Fredericks, Happy Frejo, Eric Ginsberg, John Gonzales, Natani Gourneau, Bernie Granados, Suen Haakenson Jr., Joy Harjo, Andrea Hill, Rance Hood, Michael Horse, Jesse "Sonny" Howell, Jim Jackson, Stephanie Jerome, Daniel Jim, Janice Black Elk Jim, Brenda Kennedy, Kim Knife Chief, Heidi Kumpli, Alyssa Macy, Daniel McCoy, Cara McDonald, Shirley Miolla, Shelley Morningsong, Nidichi, Na Na Ping, Liz Nicholas, Eric Bacon Otter, Jerry Pardilla, Marilyn Paul, Quese Imc, Jaune Quick-To-See-Smith, Ryan Red Corn, J.D. Rines, Andrew Rodriguez, Eddie Running Wolf, Harry Sandoval, Ely Secody and Estun-Bah, Trina Secody, Neal Ambrose Smith, Abby Stewart, Richard Tsosie, Billy Soza Warsoldier, Zola.

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Federated Workplace Campaigns

Thank you to the thousands of federal, state, municipal and private sector employees throughout the country who through their payroll deduction plans contributed \$40,331 in fiscal year 2007.

Federal Programs – Administration for Native Americans, Bureau of Indian Affairs, Department of Education, Department of Justice.

Show Your Support in NARF's programs

NARF receives contributions from foundations, corporations, religious organizations, tribes and Native organizations, bequests and trusts, benefactors, private donations, and in-kind contributions. Below are descriptions of NARF's donor programs and additional ways you can get involved.

Peta Uha Membership – Peta Uha in the Lakota (Sioux) language means firekeeper. One that honors tribal members who made a solemn commitment to ensure that the sacred flame, source of light, heat and energy for his people, always be kept burning. Like the firekeepers of old, members of the Peta Uha Council can demonstrate constancy and vigilance by helping to ensure that the critical work of the Native American Rights Fund continues to move ever forward. For benefits associated with each level of Peta Uha membership, please contact Donald Ragona, 303.447.8760 or e-mail him at petauha@narf.org.

Tsanáhwit Circle – Tsanáhwit is a Nez Perce word meaning equal justice. Tsanáhwit Circle members provide a regular source of income to NARF by pledging and making monthly contributions at any level of your choice. You may sign up to receive monthly pledge reminders in the mail or your credit card may be billed automatically.

Otu'han Gift Membership – Otu'han is the Lakota Sioux word translated as giveaway. Otu'han is a memorial and honoring gift program modeled after the tradition of the Indian giveaway in which items of value are gathered over a long period of time to be given away in honor of birthdays, marriages, anniversaries, and in memory of a departed loved one.

Circle of Life – NARF's Circle of Life are donors who provide a lasting legacy to the Native American Rights Fund by including NARF in estate planning or deferred gifts. The circle is an important symbol to Native Americans representing unity, strength and the eternal continuity of life. These lasting gifts help ensure the future of NARF and our Indian clients nationwide.

Endowments – NARF has two established endowments, the 21st Century Endowment and the Living Waters Endowment. The 21st Century Endowment is a permanent fund in which the principal is invested and interest income is used for NARF's programs. This endowment is designed to provide a permanent, steady income that can support the ever-increasing costs of providing legal representation to our tribal clients.

The Living Waters Endowment directly funds the 21st Century Endowment. It allows donors to honor friends and loved ones by making an endowment gift of \$10,000 or more. By designating a gift to either endowment, you can be sure that your contribution will continue to generate annual funds in perpetuity. Endowment supporters are recognized on a special wall plaque displayed at NARF. Supporters will also receive a memorial piece for their home and be acknowledged in NARF's annual report.

Workplace Campaigns – NARF is a member of America's Charities, a national workplace giving federation. Giving through your workplace is as easy as checking off NARF's box on the Combined Federal Campaign (CFC) pledge form authorizing automatic payroll deduction. NARF is also a member of Community Shares of Colorado (CSC), member #5037.

Matching Gifts – Currently, more than 25 foundations and corporations nationwide make matching gifts to NARF on a regular basis. Employers match their employees' contributions sometimes doubling or even tripling their donation. Please check with your human resources office and request a matching gift form.

E-Action – Sign up for our e-action network by providing NARF with your email address. This is a great way to get periodic case updates, calls-to-action, special events information, invitations and other activities. Your e-mail address is confidential and we will not share it with any outside sources. For further information about any of the programs or services, please contact NARF's Development Department at 303-447-8760. *Thank you.*



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