

PRESERVATION  
PROTECTION

PROMOTION  
DEVELOPMENT

ACCOUNTABILITY

# Honoring Our Mothers

NATIVE AMERICAN RIGHTS FUND  
ANNUAL REPORT 2006







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On the cover of the NARF 2006 Annual Report, and throughout, we capture the “grandness” of our Indigenous “way of life” outlooks... through the skies and Indigenous star knowledge and symbolisms in the form of the morning star, where each day begins... our first prayer, to the feminine energies asking for balance in our lives, to the true warriors of the people... the women, our mothers... protected by the messengers, the eagle, the hawk, all the winged ones... looking towards a better future for all nations, all my relations, walking in beauty... together, down to the simplest of life forms.

This is the grand idea that NARF represents... through preservation, protection, accountability, promotion, and through development, NARF fights for justice for all of our Indigenous “way of life” outlooks... honoring our mothers, while working to create a better future for our children... and we thank you, for all you do in supporting this venture.

**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.



PROTECTION



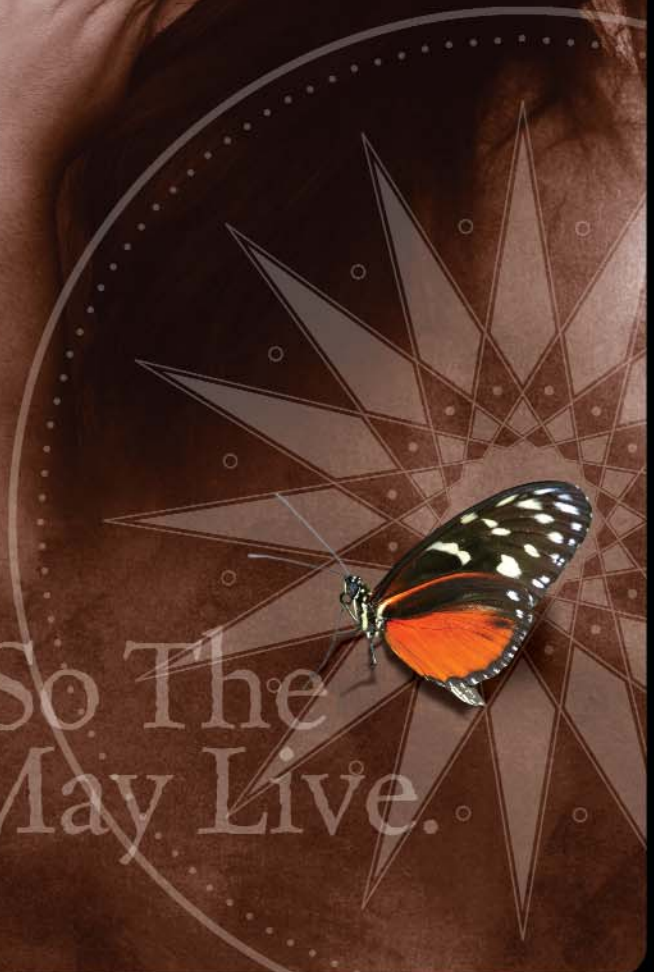
ACCOUNTABILITY

DEVELOPMENT



PRESERVATION

PROMOTION



We Dance So The People May Live.



# Devotion

## 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 or systemically eroded or undermined.

Native Americans have been subjugated and dominated. Having been stripped of their land, resources and dignity, tribes today are controlled by a myriad of federal treaties, statutes, and case law. Yet it is within these laws that Native Americans place their hope and faith for justice and the protection of their way of life. With NARF's help, Native people can go on to provide leadership in their communities and serve as catalysts for just policies and practices towards Native peoples nationwide. From a historical standpoint Native Americans have, for numerous reasons, been targets of discriminatory practices.

For the past 36 years, 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 could not exist 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 Rockefeller Foundation and the John D. & Catherine T. MacArthur Foundation have also made consistent contributions over the 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.



## 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

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*Out of the Indian approach to life there came a great freedom, an intense and absorbing respect for life, enriching faith in a Supreme Power, and principles of truth, honesty, generosity, equity, and brotherhood as a guide to mundane relations.*

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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.

## EXECUTIVE DIRECTOR'S REPORT

2006 marked the 36th year that the Native American Rights Fund has provided legal advocacy on major issues on behalf of Native Americans across the country. Once again, a number of significant victories and achievements for Native Americans were made possible through the hard work of the Board and staff of the Native American Rights Fund.

In an unprecedented effort, we joined in with other Native organizations and tribes to help block the Senate confirmation of William G. Myers to the Ninth Circuit Court of Appeals. Acting on behalf of our clients in the *Cobell v. Kempthorne* Indian trust funds class action lawsuit, we opposed the nomination of Mr. Myers by President Bush because of Mr. Myers adverse record in the *Cobell* case when he served as Solicitor of the Department of the Interior. His anti-Native record in that case and other Native American cases demonstrated a bias against the interests of Native peoples.

Once again in 2006, on behalf of the Gwich'in People of Alaska, we worked with a coalition of environmental organizations and others to stop the Congress from approving oil development in the Arctic National Wildlife Refuge (ANWR). There are about 7,000 Gwich'in people who live near the migratory route of the Porcupine caribou herd. For thousands of years, the Gwich'in have relied on the caribou for food, clothing, tools and a source of respect and spiritual

guidance. Oil development in ANWR would harm the caribou and threaten the future of the Gwich'in people.

On behalf of the Lower Brule Sioux Tribe, we successfully helped the United States resist the efforts of the State of South Dakota to establish that the Secretary of the Interior lacks authority under the Indian Reorganization Act of 1934 (IRA) to place Indian land into federal trust status. South Dakota argued that the land-into-trust provision of the IRA was an unconstitutional delegation of legislative authority by the Congress to the Secretary. The Eighth Circuit Court of Appeals had upheld the constitutionality of the IRA provision in 2005 and the United States Supreme Court declined to review the case in October, 2006. We represented the Tribe as *amicus curiae* in the proceedings to help protect federal trust status approval for 91 acres of Lower Brule Sioux lands and protect the rights of all tribes to have land taken into trust for them by the federal government.

In conjunction with the National Congress of American Indians (NCAI), we worked with the Leadership Council on Civil Rights to secure Congressional reauthorization in 2006 of certain remedial provisions in the Voting Rights Act which were scheduled to expire in 2007. The critical provisions that were reauthorized dealt with language assistance and require certain states and local jurisdictions to provide voting materials in languages other than English,



John E. Echohawk

including American Indian and Alaska Native languages. In the process, we prepared the first report ever written on the impact of the Voting Rights Act on Alaska Natives and, in conjunction with NCAI, provided testimony to the National Commission on the Voting Rights Act on behalf of Indian country.

We won important arguments in the United States Court of Federal Claims on behalf of the Turtle Mountain Chippewa, Chippewa Cree of the Rocky Boy's Reservation, White Earth Band of Minnesota Chippewa and the Little Shell Chippewa Tribe in their monetary damages case against the federal government for mismanagement of their tribal trust fund, the \$53 million Pembina Judgement Fund, awarded to them by the Indian Claims Commission in 1964 and 1980. The Court of Federal Claims rejected four major arguments by the United States to have the case dismissed or substantially limited and ruled that the case

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can go forward to determine whether the United States breached its trust responsibilities to the Pembina Chippewa Tribes with respect to the Pembina Judgement Fund.

Our National Indian Law Library (NILL) received a national award from the American Association of Law Librarians for "Public Access to Government Information." Our NILL project is a national public law library devoted to American Indian law which serves both the Native American Rights Fund and the public. Since 1972 NILL has collected nearly 9,000 resource materials that relate to federal Indian

and tribal law. NILL's holdings include the largest collection of tribal constitutions, codes and ordinances in the United States.

These accomplishments on behalf of Native American people would not have been possible without the generous financial support that we receive

as a non-profit organization from individual contributors, foundations, tribes and federal agencies. We thank you for your support and hope that your assistance to Native Americans nationwide through the Native American Rights Fund will continue.

**John E. Echohawk** Executive Director

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*We ask for nothing more, and will accept nothing less than the U.S. Government keeping the promises it has made to Native Americans.*

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## CHAIRMAN'S MESSAGE

I once again bring greetings from San Ildefonso Pueblo, New Mexico – Pueblo Country. As my second year as Chairman of the Board of Directors has begun, I would like to share with you some thoughts about the Native American Rights Fund.

NARF's new public service announcement campaign "The Indian Wars Never Ended – They Only Changed Venue" calls out to America that after 515 years, tribes continue their fight to maintain their culture and their sovereignty. For the past 36 years, NARF has been leading this charge. NARF's Board and staff, Indian and non-Indian alike, have dedicated their lives to bring excellent and highly ethical legal representation to tribes and achieving justice on behalf of America's indigenous peoples. Many of the gains in Indian country during this time can be attributed to NARF.

When I think of all the battles that the Native American Rights Fund has been involved in, I think of a 1953 quote by Felix S. Cohen, the "father" of Federal Indian law, when he stated, "[I]ike the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith..." From these words we understand that unless our country's social policy and government institutions can protect America's

smallest, poorest and weakest minority group from discrimination and injustice, they may also lack the strength and will to accord equal protection for the rest of society.

How far have we come in the 54 years since this statement was made? After each solid step taken by the tribes and NARF, the courts and/or federal and state governments have consistently found ways to bring us back two steps. Tribes are still struggling to protect their sacred sites and their religions are constantly under assault. Sports teams and fans continue to racially disparage Indigenous peoples – something that would never be tolerated for any other minority group. Desecration of Indian and Native Hawaiian burial remains and funerary objects continues. Voting Rights Act violations on reservations and Alaska Native villages continue. Basic needs on reservations, such as health care, education, transportation, and law enforcement continue to be underfunded. Settlement of the trust fund issue continues to be torpedoed by the federal government. Unfortunately, these and other issues continue to find life and NARF readies the warriors for battle.

Throughout all of these battles NARF continues to find ways to win, continues to reload and fight again. Why has NARF been so resilient after all of these years? As NARF senior attorney Yvonne Knight so aptly stated some years back "Indian attorneys



John Gonzales

have an advantage. They are fighting courtroom battles, not for abstract reasons, but for family... and this makes Indian attorneys more formidable in court."

If NARF is to continue to be a formidable force – we need your help. We challenge tribes, foundations and the thousands of individual supporters to be part of the solution. Help us to resolve these problems and issues once and for all. Together, we can then guide our energy and efforts into helping secure a future of our Mother Earth and in turn, secure a future for our children and grandchildren.

**John Gonzales, Chairman**

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*Together... we can.*

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## BOARD OF DIRECTORS



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

**NARF's Board of Directors:** *(First row left to right)* – **John Gonzales**, Chairman (San Ildefonso Pueblo - New Mexico); **Andrew Bowers** (Seminole Tribe of Florida); **Lydia Olympic** (Yupik/Aleut - Alaska); **Karlene Hunter** (Oglala Lakota - South Dakota); **Delia Carlyle** (Ak Chin Indian Community - Arizona). *(Second row left to right)* – **Kunani Nihipali** (Native Hawaiian - Hawaii); *(Jaime Barrientoz' son)*; **Jaime Barrientoz**, Vice-Chairman (Grande Traverse Band of Ottawa & Chippewa Indians - Michigan); **Billy Frank** (Nisqually Tribe - Washington). *(Not Pictured)* – **Elbridge Coochise** (Hopi - Arizona) **Jim Gray** (Osage Nation - Oklahoma); **Anthony Pico** (Viejas Band of Kumeyaay Indians - California); **Paul Ninham** (Oneida Nation of Wisconsin); **Woody Widmark** (Sitka Tribe - Alaska).

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*Even the seasons form a great circle in their changing, and always come back again to where they were.*

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## 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 51 volunteers on the Committee are committed to upholding the rights of Native Americans.

Owanah Anderson, *Choctaw*  
 Edward Asner  
 Katrina McCormick Barnes  
 John Bevan  
 David Brubeck  
 Ben Nighthorse Campbell, *Northern Cheyenne*  
 Wallace Coffey, *Comanche*  
 Ada Deer, *Menominee*  
 Harvey A. Dennenberg  
 Michael J. Driver  
 Richard Dysart  
 Lucille A. Echohawk, *Pawnee*  
 Louise Erdrich, *Turtle Mountain Chippewa*  
 Jane Fonda  
 James Garner  
 Sy Gomberg  
 Carol Hayward, *Fond du Lac*  
 Richard A. Hayward, *Mashantucket Pequot*  
 John Heller  
 Emilie Heller-Rhys  
 Charles R. Klewin  
 Nancy Klewin  
 Wilma Mankiller, *Cherokee Nation of Oklahoma*  
 Chris E. McNeil, Jr., *Tlingit-Nisga'a*  
 Billy Mills, *Oglala Lakota*  
 N. Scott Momaday, *Kiowa*

Clinton Pattea, *Ft. McDowell Yavapai*  
 Amado Peña, Jr., *Yaqui/Chicano*  
 Pernell Roberts  
 Marc Rudick  
 Pam Rudick  
 Wayne Ross/Nancy Starling-Ross  
 Leslie Marmon Silko, *Laguna Pueblo*  
 Connie Stevens  
 Ernie Stevens, Jr., *Wisconsin Onieida*  
 Anthony L. Strong, *Tlingit-Klukwan*  
 Maria Tallchief, *Osage*  
 Andrew Teller, *Isleta Pueblo*  
 Verna Teller, *Isleta Pueblo*  
 Studs Terkel  
 Tenaya Torres, *Chiricahua Apache*  
 Richard Trudell, *Santee Sioux*  
 Rebecca Tsosie, *Pasqua Yaqui*  
 Thomas Tureen  
 Tzo-Nah, *Shoshone Bannock*  
 Aine Ungar  
 Rt. Rev. William C. Wantland, *Seminole*  
 W. Richard West, *Southern Cheyenne*  
 Randell Willis, *Oglala Lakota*  
 Teresa Willis, *Umatilla*  
 Mary Wynne, *Rosebud Sioux*



*Everything on the earth has a purpose, and every person has a mission to accomplish...*



PROMOTION  
DEVELOPMENT

ACCOUNTABILITY  
PROTECTION

PRESERVATION



All We Do Must Be Done  
For The Sake of Our Children



## 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 Supreme Court levels. Finally, there is a Congressional initiative 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

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cases. 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.



On the positive side, NARE, through the Supreme Court Project, participated in a case upholding the Secretary of the Interior's authority to take land into trust on behalf of Indian tribes in *Carciari v. Norton*. The Tribal Supreme Court Project coordinated the writing of amicus briefs in the case with the attorneys for the Narragansett Indian Tribe and the United States throughout the appeals process. The Project also filed an amicus brief in support of the petition for rehearing *en banc* in *Smith v. Salish Kootenai College*, a favorable decision upholding tribal court civil jurisdiction over a tort action that arose as a result of a traffic accident on a public highway within the Reservation and involving a non-member Indian who was a student at the tribal college and who was driving the vehicle as part of a vocational program at the college. Finally, the Project filed an amicus brief resulting in an *en banc* decision in *Morris v. Tanner*, upholding tribal criminal misdemeanor jurisdiction over a non member Indian. The Project has also

filed a brief in opposition to *certiorari* in *Morris v. Tanner*.

Unfortunately, there were three significant setbacks for the Supreme Court Project. In *City of Sherrill v. Oneida Indian Nation*, the Supreme Court for the first time applied the doctrine of laches to bar a jurisdictional claim brought by an Indian tribe. The doctrine of laches prevents consideration of claims based on the passage of time. Next, the U.S. Court of Appeals for the Second Circuit in the *Cayuga* case relied on *Sherrill* to bar an Indian land claim, the precise type of action that the Supreme Court had previously allowed in 1985 in *County of Oneida v. Oneida Indian Nation*, a decision that the Court took pains to preserve in *Sherrill*. Despite the Project's best efforts, the Supreme Court denied *certiorari* in *Cayuga*, thus leaving intact a decision that adversely affects many eastern Indian land claims. The Project has now mobilized its resources nationwide to provide assistance to attorneys in fighting the laches defense.



Another setback for the Project was the loss in *Wagnon v. Kansas Prairie Band Potawatomi Nation*. The Supreme Court ruled that the state could impose a tax on motor fuel sold to a reservation gas station by non-Indian wholesalers. The Tribe imposes on gasoline purchases a tax equal to that of the state to build and maintain roads on the reservation. The Court focused on the incidence of the tax being on the non-Indian wholesalers and did not apply the balancing test that considers the impact of the tax on the Tribe. This is a dangerous precedent and could negatively impact many other tribes. The Project had devoted considerable effort to coordinating *amicus* briefs and persuading the U.S. Solicitor General's Office to support the Tribe.

Several nominations to federal judgeships, including to the Supreme Court, have been considered by the Senate. NARF has researched the background of these nominees on Indian issues and made this information available to tribal leaders to consider in deciding whether to support or oppose a nominee. For example, we helped gather information on the nomination of Chief Justice John Roberts and Associate Justice Samuel Alito to the Supreme Court.

On behalf of our clients in the *Cobell v. Kempthorne* case, NARF opposed the nomination of William G. Myers to the Ninth Circuit Court of Appeals because of his adverse record as Interior Department Solicitor in that case. His nomination was not confirmed by the Senate in 2006.

When Mr. Myers was first nominated by President Bush in 2003, the Native American Rights Fund, along with the National Congress of American Indians and numerous Indian tribes and inter-tribal organizations, took the unprecedented step in formally opposing a judicial nominee to a lifetime appointment on the federal bench.

In the private sector, Mr. Myers has largely represented the mining and cattle industries as their lawyer and lobbyist. During his tenure as Solicitor – as the top lawyer at the Department of the Interior from 2001 to 2003 – Mr. Myers displayed a complete lack of understanding of the government-to-government trust relationship between the Federal government and

the Ninth Circuit Court of Appeals which contains over 400 Indian tribes and millions of acres of Indian lands.

## 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

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*The life of a human being is a circle from childhood to childhood, and so it is in everything where power moves.*

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Indian tribes, while demonstrating a calculated bias in favor of mining, grazing and other special interests.

Mr. Myer's record regarding issues impacting Indian country was unmistakably clear: He is hostile to the rule of law whenever the law does not serve the special interests he represents in the private sector. His record demonstrated a bias – a wholesale bias against the fundamental and sound interests of Native peoples. Indian country had grave concerns with Mr. Myers ability to apply the law fairly and impartially as a federal judge on

as identifiable Indian tribes but who are not federally recognized. These Indian tribes, for differing reasons, do not 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

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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. In 1998, NARF filed a petition for federal recognition on behalf of the Shinnecock Indian Nation in Southampton, New York. The Bureau of Indian Affairs (BIA) has now placed Shinnecock on the "Ready, Waiting for Active Consideration" list. This is a milestone for the Nation after many years of waiting. Shinnecock appears to be well on its way to achieving federal recognition. NARF has also assisted the Little Shell Tribe of Chippewa Indians of Montana. In 2000, the Assistant Secretary published a preliminary finding in favor of recognition. Final submissions in support of Little Shell's petition have been submitted and we are awaiting decision. Finally, NARF is helping the Pamunkey Tribe in Virginia finalize its petition for federal acknowledgment to the BIA's Office of Federal Acknowledgment for federal recognition.

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

### **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. With a representative on the Green Group, a coalition of national environmental leaders, NARF continues to coordinate with and educate the environmental community on the role of tribal governments in environmental law and policy.

In Alaska, NARF assists the Gwich'in Steering Committee in their efforts to protect the Arctic National Wildlife Refuge (ANWR) from oil development. There are about 7,000 Gwich'in people who live on or near the migratory route of the Porcupine caribou herd. For thousands of years, the Gwich'in have relied on the caribou for food, clothing, tools and a source of respect and spiritual guidance. Oil development in ANWR would not only harm the caribou and threaten the future of the Gwich'in people, but would also threaten more than 180 species of birds, and numerous mammals including polar bears, musk ox, wolves, wolverine, moose, Arctic and red foxes, black bears, brown bears, and the white Dall sheep. NARF has successfully worked with a coalition of environmental groups and organizations for several years to stop the Congress from approving oil drilling in ANWR. Drilling for oil in ANWR was once again hotly debated in the last Congress as the Senate budget reconciliation bill language allowed for drilling in ANWR and the House version did not, but it was defeated. This was a close call, but ended up being a great success. NARF will



continue to assist the Gwich'in Steering Committee in their efforts to stop the approval of oil development in ANWR.

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 February 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 recently released 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

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

The Alaska legislature created the Alaska Climate Impact Assessment Commission, which is charged with assessing the effects and costs of global warming on Alaskans, the state's natural resources, and its economy. The Commission will hold eight field hearings throughout Alaska to receive testimony from individuals and tribal representatives, who will be assisted by NARF.

NARF, working with the Tribe's Environmental Health Technical Team (EHTT), has assisted the Oglala Sioux Tribe (OST) in developing water-related environmental codes. NARF is working with the OST Department of Water Maintenance and Conservation and the EHTT 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], as well as a Solid Waste Management Code, and development of a tribal Safe Drinking Water Act. The "Tap-in" ordinance, which was adopted by the Tribal Council, will provide for the protection of the integrity of the pipeline which delivers drinking water to the public water systems on the reservation. The Code was adopted by the Tribal Council in January 2006. NARF is presently assisting the Tribe to formulate and adopt 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 will conduct training for the staff of the Water Maintenance and Conservation Department concerning the implementation of these important codes.

The Three Affiliated Tribes of the Fort Berthold Indian Reservation in North Dakota have had an application pending before USEPA Region 8 in Denver, CO since 1997 for delegation to set water quality standards for the surface water of the Reservation. USEPA recently responded to Tribal requests to act on that application. The Tribes' Manager of Environmental Programs retained NARF to assist the Tribe in assuring that the application is current, complete, and adequate to obtain delegation. NARF is working with the Tribes' Environmental Program, Tribal Reservation Attorneys, and the Tribal Council to complete a revised application.



DEVELOPMENT  
PRESERVATION

PROMOTION

PROTECTION

ACCOUNTABILITY

Through Balance  
We Find Harmony  
With Life





## 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 worked with the Lower Brule Sioux Tribe against the State of South Dakota's challenge to the United States' decision to place approximately 91 acres of land into trust for the Lower Brule Sioux Tribe under Section 465 of the Indian Reorganization Act. The State is alleging, among other things, that the Secretary lacks authority to place land into trust because Section 465 is an unconstitutional delegation of legislative authority. The U.S. Court of Appeals for the Eighth Circuit issued a favorable decision in 2005 upholding the constitutionality of Section 465. The Attorney General moved for rehearing and the Tribe filed an amicus brief opposing rehearing. After the rehearing was denied, the State filed a petition for review in the Supreme Court but that was denied in October 2006.



NARF has been retained by the Eastern Shoshone Tribe of the Wind River Indian Reservation to prepare a legal memorandum on the boundaries of their reservation. Congress adopted a Surplus Land Act for the reservation in 1905. The question is whether the result of that Act was to diminish the boundaries of the reservation, or to simply open the reservation for settlement by non-Indians while retaining the existing boundaries. Since the passage of the 1905 Act, Congress has adopted a number of other laws that affect the area in question, including an Act in 1939 that returned to tribal ownership all of the lands in the "ceded" area that had not been settled by non-Indians or set aside as a

reclamation project. The memorandum has been completed and was presented to the Tribal Business Council.

At the Tribal Business Council and General Council meetings additional assignments were made to look at and report on other Eastern Shoshone interests at Bull Lake, Wind River Canyon and the City of Riverton, Wyoming. A report to the Tribe's General Council was made in February 2006, and an additional assignment was given to NARF to look into the Tribe's application for lands to be taken into trust that the Tribe had acquired within the reservation boundaries. In the meantime the Tribe

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– along with the Northern Arapaho Tribe – has been invited by the Mayor of the City of Riverton to sit down and discuss the important issues related to jurisdiction and boundaries to see if an agreement can be reached. It is likely that the Tribes will accept the Mayor's invitation.

NARF continues to assist the Hualapai Indian Tribe of Arizona with economic development. 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 may assist in further negotiations on this matter. Finally, NARF has reviewed and provided legal analysis of other issues related to agreements with Coconino County, mineral development of tribal land acquired from fee owners, and whether the tribal constitution requires voter approval of a project involving tribal housing.

NARF represents the Pottawatomi Nation of Canada, a band of descendants from the Historic Pottawatomi Nation, which from 1795 to 1833 signed a series of treaties with the United States. While the American Pottawatomi bands recovered the

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*Treat the earth well,  
it was not given to you by  
your parents, it was loaned  
to you by your children.*

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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 final resolution.

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.

NARF represents the Native Village of Tuluksak in Alaska in their quest to have the land owned by the Village corporation transferred in fee simple to the Village tribal council. The Department of the Interior would then be petitioned to place the land into trust on behalf of the Village. Currently tribes in Alaska are not permitted to place lands into trust as do tribes in the "Lower 48." The Native Village of Tuluksak has decided to pursue litigation to establish the right of Alaska Tribes to petition the Secretary to place lands in trust. The litigation was filed in 2006 in the federal court in the District of Columbia.

For many years, NARF has co-counseled with the Native Hawaiian Legal



Corporation (“NHLC”) and private counsel in representing the Pele Defense Fund in efforts to prevent large-scale geothermal development in the Wao Kele’O Puna rainforest on the Big Island, and to regain Native Hawaiian access rights to Wao Kele lands. These efforts culminated with the entry in 2002 of a stipulated judgment and order by the state court in Hilo, Hawaii recognizing the rights of Native Hawaiians to hunt, gather, and worship on the Wao Kele lands – as part of the bundle of “traditional and customary rights” protected, preserved and enforced under Article XII, Section 7 of the Hawaii Constitution. Efforts are now underway for the acquisition of the Wao Kele O Puna rainforest lands. Discussions continue regarding the sale of over 25,000 acres of rainforest to a non-profit land trust, thereby assuring perpetual access rights for Native Hawaiians. With NARF’s assistance, the Trust for Public Lands (Hawaii Office) secured an appraisal of the property. NARF worked with the Trust for Public Lands in applying for purchase funds from the U.S. Department of Agriculture’s (Forest Service) Forest Legacy Program. TPL was successful in securing Forest Legacy Funding and, in 2006, the State of Hawaii’s Office of Hawaiian Affairs agreed to put up funding to cover the balance and make the transfer of the Wao Kele O Puna lands a reality.

## 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 represents the Nez Perce Tribe of Idaho in its water rights claim in the Snake River Basin Adjudication (SRBA). The Nez Perce Tribe is located in northern Idaho near the confluence of the Snake and Clearwater Rivers. The Nez Perce claims have been the

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biggest outstanding dispute in the SRBA, which includes a legal inventory of about 180,000 water rights claims in 38 of Idaho's 44 counties. In 2005, the Nez Perce Tribal Executive Committee (NPTEC) accepted the final terms of the water rights claims in the State of Idaho's SRBA. The Nez Perce Tribe has agreed to: 50,000 acre feet of water decreed to the Tribe for on-reservation uses; instream flows decreed on almost 200 Tribal priority streams to be held by the State of Idaho; 600 springs claims decreed on about 6 million acres of Federal land in the Tribe's 1863 ceded area; over 11,000 acres of on-reservation Bureau of Land Management land transferred to the Tribe in trust; and, \$96 million in three separate funds, for Tribal drinking water and sewer projects, water development projects, in addition to various Tribal projects including cultural preservation and fishery habitat improvements. NARF has represented the Nez Perce Tribe in Idaho in the SRBA – both litigation and settlement phases – since 1987. Congress enacted the Snake River Settlement Act of 2004 and President Bush signed it into law the same year. The Governor signed the approval legislation in 2005. The approval by NPTEC represented the final sign-off by the three sovereigns. This is a major accomplishment for the Nez Perce Tribe and its members. NARF continues to work with the Tribe to secure final approval of the settlement by the SRBA water court, and on the federal appropriations process. The Idaho Congressional delegation has informed the Tribe that the Tribe's FY 2007 settlement

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*May we be strong in spirit and equal to our Fathers of another day in reading the signs of nature accurately and interpreting them wisely... through the good earth, the blue sky, the flying birds and the changing winds.*

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appropriations are secure.

NARF represents the Klamath Tribes of Oregon who hold reserved water rights in the Klamath River Basin to support their treaty hunting, fishing and gathering rights, as well as to satisfy the agricultural purposes of the Klamath Reservation. NARF filed about 150 contests on behalf of the Tribes against unsubstantiated private

water right claims and actively prosecuted them for the past four years. During 2004 and 2005, in one of the largest contests, a four-week trial was held concerning water rights for the Bureau of Reclamation's Klamath Project. In Case 003 (one of the largest contests where NARF is still participating following a four week trial) a ruling on the merits upheld 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 claims of the water users and the districts were denied, and the holding ensures that the Klamath Project will continue to be operated pursuant to the United States' Endangered Species Act and tribal trust obligations. Proceedings to finalize the Order in Case 003 are continuing.

Adjudication of the Tribes' water rights claims became active and the parties briefed legal issues on the merits on those cases in the summary judgment stage. In November 2006, the Administrative Law Judge (ALJ) entered Orders in all eight cases that upheld 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 into 2008.

NARF represents the Tule River Indian Tribe of California in on-going negotiations to settle the Tribe's claims to reserved water rights on its Reservation. 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. 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. Settling Parties have made great progress toward reaching a water rights settlement agreement and continue to negotiate remaining issues.

In June 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

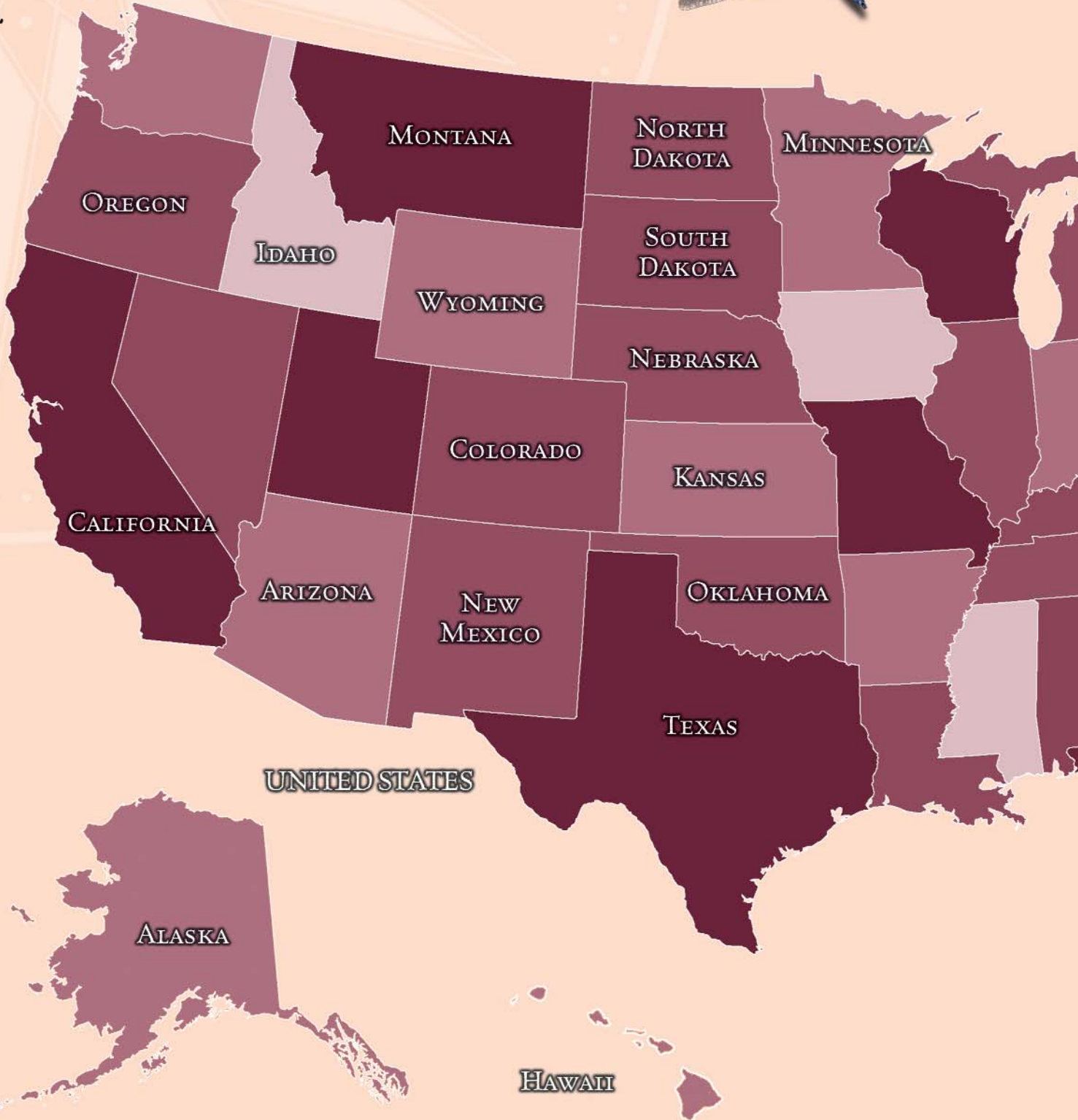
State of Kansas made these promises to the Tribe over a decade ago. In the intervening years these parties have been actively developing the water resources of the watershed, resulting in the near depletion of the Tribe's senior federal water rights in the drainage.

The water quality on the reservation is so poor it is harmful to human health and unsuitable for human consumption according to the EPA. 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

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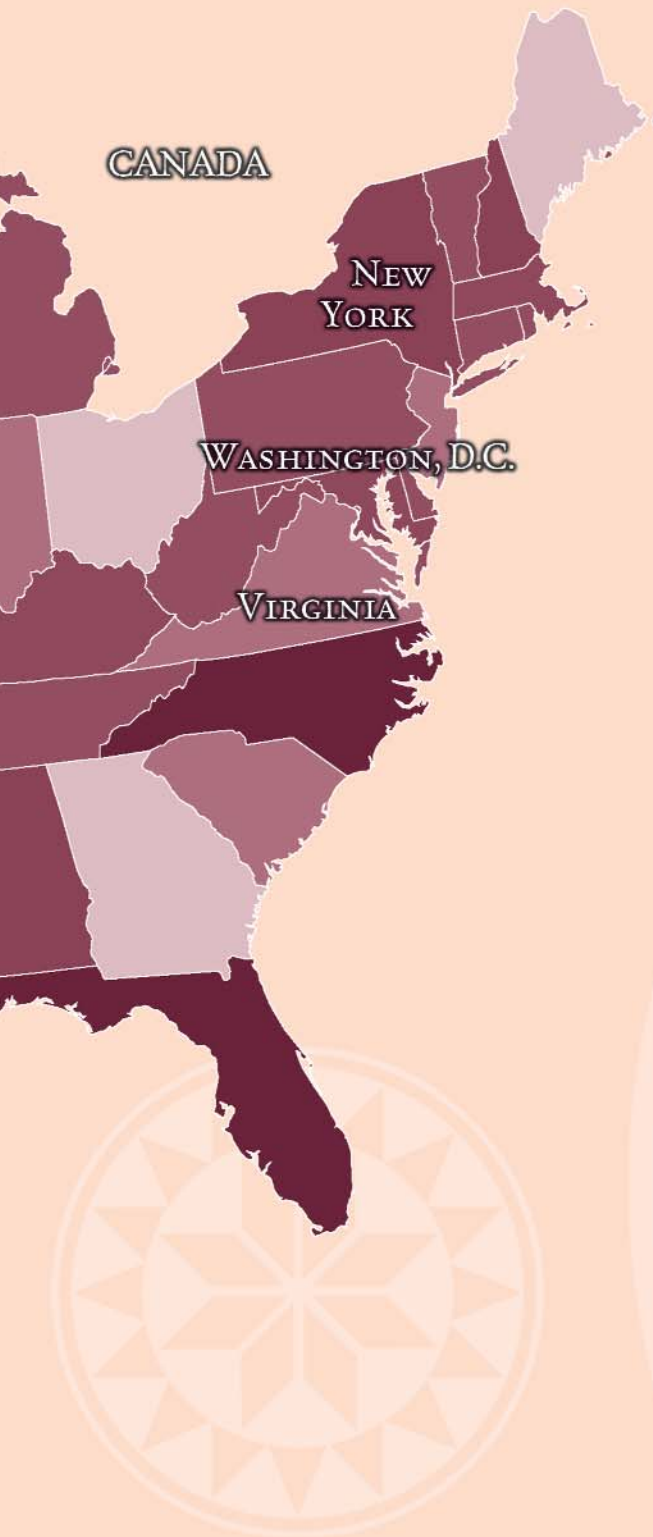


# MAJOR ACTIVITIES 2006 NARF CASE STUDIES





Mother Earth



**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
- Voting Rights Act

**ARIZONA**

- Hualapai Tribe – Boundary Issue

**CALIFORNIA**

- Tule River Tribe – Water
- 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

**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**

- Jicarilla Apache Tribe - Education
- 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



conditions forced upon them by their unreliable and dangerous water supply.

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.

### **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 2004, the U.S. Court of Appeals for the Ninth Circuit en banc remanded for a determination of whether the tribes can establish aboriginal rights in their traditional-use areas. The District Court ordered the parties (the plaintiff Chugach Tribes are represented by NARF) to refile Motions for Summary Judgment. The Chugach chose not to file a motion for summary judgment given the remaining fact disputes, but the government did submit one. Summary judgement was denied in December 2006 and a schedule for trial will now be set.

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 July 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. Thus the FSB now has to re-do its regulations about who can hold seats on it, and it is expected to reissue the regulations for public comment in early 2007.

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*. This prior NARF 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 challenges the Secretaries' implementation of the mandate by arguing that the reserved waters doctrine requires a quantification of waters necessary to fulfill specific purposes. Alaska Native subsistence user Katie John filed a motion for limited intervention for purposes of filing a motion to dismiss for failure to join an indispensable party. The United States filed a motion to transfer venue to Alaska. The court entered an

Order transferring the case to the District of Alaska.

Katie John had filed *John v. Norton* in the District of Alaska challenging the Secretaries' 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 now been consolidated and briefing is underway.

In June 2006 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 use finding entitles residents for a specific community to the subsistence priority under Title VIII of the Alaska National Interest Lands Conservation ("ANILCA"). Represented by NARF, Chistochina was granted intervention in this action to protect its customary and traditional use status for moose.





PROMOTION

ACCOUNTABILITY

PRESERVATION

DEVELOPMENT  
PROTECTION

It Takes a Village  
To Raise a Child





## 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.

NARF represents the Pawnee Nation in the reburial of about 800 human remains in the State of Nebraska. This reburial entails facilitation of a transfer of private land located within the heart of the aboriginal Pawnee homeland to the Nation for use as a reburial and cultural site. Meetings were held during 2006 concerning these matters. The Nebraska Attorney General issued an opinion in 2006 clarifying that reburials may be done on private land in Nebraska.

In January 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 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 September 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. This failure by the BLM violates the NAGPRA and the Administrative Procedures Act and, therefore, necessitated a finding that the BLM acted arbitrary and capricious. The order, however, does not require the BLM to reverse its determination of non-affiliation. Instead, the Court ordered the BLM to compare its initial determination with the Tribe's evidence and the Review Committee's findings, and to "explain why its determination is, or is not, still the most correct finding available."

In November 2006, the United States appealed the Judge's decision to the 9th Circuit Court of Appeals. The Tribe, in turn, filed a cross-appeal in December 2006. As a result, NARF is again, considering filing an *amici* brief in support of the Tribe.

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In addition to NAGPRA, NARF also played a key role in the 1994 enactment of Public Law 103-344, which exempts the religious use of peyote by Indians in bona fide traditional ceremonies from controlled substance laws of the federal and state governments. This law also prohibits discrimination against Indians for such religious use of peyote.

NARF is representing the Native American Church of North America (NAC) in the case *O Centro Espírita Beneficente União Do Vegetal (UDV-USA) v. Ashcroft*. NARF and the NAC assisted the United States Department of Justice in defending current federal law which protects the religious use of peyote by NAC members. In 2002, the Federal District Court in New Mexico rejected the UDV's equal protection argument that it was entitled to the same protection as the NAC's use of peyote. The U.S. Court of Appeals for the Tenth Circuit also rejected the UDV's equal protection claims that threatened the NAC's Indian churches special status under federal law. The United States Supreme Court issued a decision in February 2006, holding that the government has a burden to demonstrate a specific, compelling interest in regulating the use of a hallucinogenic tea under the Religious Freedom Restoration Act, but that it had failed to do so. The Supreme Court did not rule on the equal protection claim.

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, and rejected 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

NARF, in conjunction with NCAI, worked with a coalition of civil rights organizations under the direction of the Leadership Conference on Civil Rights (LCCR) to ensure that Congress reauthorized certain remedial provisions within the Voting Rights Act (VRA) which were scheduled to expire in 2007. The critical remedial provisions are found in the language assistance provision, §203 of the VRA,



which requires certain states and local jurisdictions to provide voting materials in languages other than English, including American Indian and Alaska Native languages.

In March 2006, NARF prepared the first ever report on the impact of the VRA in Alaska. This report was submitted to Congress and included in the Congressional record. NARF was then requested to provide written and oral testimony in support of this report to the Senate Judiciary Committee in May 2006. In addition, NARF, in conjunction with NCAI, provided written and oral testimony at a hearing before the National Commission on the Voting Rights Act – *Examining the Degree of Racial Discrimination in Voting and the Impact of the Voting Rights Act Since 1982: A Perspective From Indian Country* – held in September 2005, in Rapid City, South Dakota. NARF is extremely pleased to say that the VRA was re-authorized by Congress with all of its critical provisions intact in the summer of 2006. This ensures that Native voters are protected for the next 25 years.

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

*We must protect the forests for our children, grandchildren and children yet to be born. We must protect the forests for those who cannot speak for themselves such as the birds, animals, fish and trees.*

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.

NARF is also helping tribes and Indian families to enforce their federal rights under the Indian Child Welfare Act (ICWA). Tribal courts, already understaffed, underfunded, and lacking legal resources, are fighting an uphill battle to fully implement the ICWA. To assist with this critical issue, the U.S. Department of Health and Human Services’ Administration for Native Americans (HHS-ACF) has provided funding to NARF to assist tribes in resolving these issues through the development of a Practical Guide to

the ICWA that will address these issues and benefit tribal courts and tribal social services programs, as well as their non-Indian counterparts. This Guide, once completed in 2007, will be the largest and most comprehensive of its kind, containing resources for all 50 states, and organized as a fully searchable online database. This will enable any ICWA worker, including at the tribe level, involved in a state Indian child custody proceeding to have full access to all the necessary laws and rules governing ICWA.

In January 2005 the Villages of Tanana, Nulato, Akiak, Kalskag, Lower Kalskag and Kenaitze along with the named parents 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

*continued on the following page*

successfully petitioned the Department of Interior to reassume 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 26 U.S.C. §§1911(b). Oral argument took place in October 2006. A decision is now pending from the Superior Court.

In another ICWA matter, the Kaltag Tribe and the parents had completed an adoption and applied for a new birth certificate listing the new parents but the State refused to issue one on the grounds that the Tribe had not petitioned for reassumption of jurisdiction under ICWA. 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 section 1911(d) of the Indian Child Welfare Act. The parents also have raised a civil rights claim.

## 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. In response, NARF has worked closely with six tribal communities – the Assiniboine and Sioux Tribe of the

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*We put our minds together to give thanks to our oldest Grandmother, the Moon, who lights the night-time sky. She is the leader of women all over the world, and she governs the movement of the ocean tides... it is she who watches over the arrival of our children.*

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Fort Peck Reservation in Montana, the Three Affiliated Tribes of the Fort Berthold Reservation in North Dakota, the Jicarilla Apache Nation in New Mexico, the Native Villages of Kiana and Nulato in Alaska, and the Rosebud Sioux Tribe in South Dakota – to create a foundation for working collaboratively with public school districts, states, and other parties. Partnerships were established; basic aggregate student data was gathered and analyzed; initial collaborative strategies were determined; tribal curriculum was developed; and tribal education codes and policy were developed and adopted. NARF's client tribes are now on firm ground for equal partnerships with school districts and states in improving the education of tribal students. This remarkable progress solidifies our belief that partnerships and collaboration among tribes and other key stakeholders in Indian education are critical to effectuating needed change and to achieving the ultimate goal of improving the education of tribal students.

NARF also helped establish the

Tribal Education Departments National Assembly (TEDNA) under contracts from the U.S. Department of Education's Office of Indian Education. Thirty-five federally-recognized tribal education departments now have joined TEDNA. TEDNA carries on a variety of advocacy activities. Most recently, on behalf of TEDNA and with funding from the Administration for Native Americans, NARF partnered with the Council of Chief State School Officers (CCSSO) in a recent initiative, Strengthening Partnerships for Native American Students in Education. NARF drafted and then finalized a *Manual for Chief State School Officers and State Education Agencies on American Indian and Alaska Native Tribal Sovereignty, Federal Education Programs for Tribal Students, and Tribal Education Departments*. While the Manual is not specific to any one state, it is intended to help any state generally and provide useful models and examples from various states in an effort to guide all states. The information in the Manual is current, accurate, and pertinent and has been widely distributed.



Finally, NARF is helping the Pawnee Nation College get off the ground. During its first year of operation, twenty-one courses were offered to 99 students. The college is now focusing on completing work necessary to obtain accreditation.

## International Recognition of Indigenous Rights

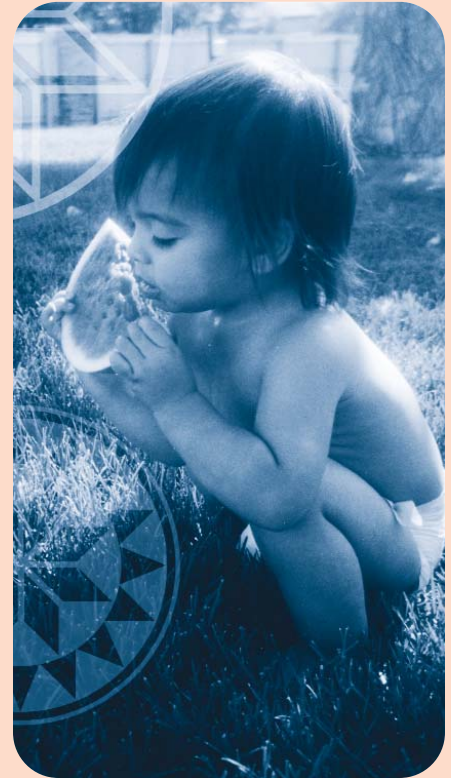
The development of international laws and standards to protect the rights of indigenous peoples can be beneficial to Native American people as well as other indigenous peoples around the world. Native American tribes therefore need to be involved in these efforts and enlist the support of the United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

NARF and the National Congress of American Indians entered into an attorney-client relationship several years ago for the purpose of working in the international arena to protect indigenous rights. There have been recent, significant developments in both the United Nations and Organization of American States. In June 2006, in an historic vote, the new United Nations' Human Rights Council overwhelmingly approved the United Nations' Draft Declaration on the Rights of Indigenous Peoples. The vote was thirty in favor, two opposed, and twelve abstaining. The only two countries voting against the Declaration were Russia and Canada. The Declaration approved was a combination of provisions agreed upon by indigenous peoples worldwide and states, and a compromise text of those

provisions upon which consensus had not been reached. This compromise text was developed by the Chair of the Working Group on the Draft Declaration. Thus, while the Declaration as approved was not totally a consensus document, it was endorsed by most indigenous peoples worldwide as a major step forward in a process that has been going on since the 1970s. The Declaration recognizes that indigenous peoples have important collective rights in a multitude of areas, including self-determination, spirituality, lands, territories and natural resources.

The positive vote by the Human Rights Council resulted in the Declaration being forwarded to the General Assembly of the United Nations for a hoped for approval in 2006. Unfortunately, the Declaration was referred to the Third Committee of the General Assembly rather than going directly to the General Assembly. In the Third Committee, certain African Nations led a successful effort to defer consideration to allow more time for consultation. This was a significant setback and is cause for concern because no one knows what is contemplated by the term "consultation." The consultation and action on the Declaration are supposedly to be completed by September of 2007, but a timetable and framework for "consultation" have not been established as yet.

In the Organization of American States, the most recent drafting session on the Declaration on the Rights of Indigenous Peoples, the eighth, took



place in December 2006 in Washington, D.C. Section One, Indigenous Peoples, Scope of Application and Section Two, Collective Rights were discussed, but little progress was made. The ninth session will be held in Washington, D.C. and Section Three on Cultural Identity and Section Four on Organizational and Political Rights will be covered. The net result of these negotiation sessions to date is that a few provisions have been tentatively agreed upon and the areas of difference in the remainder of the document have been significantly narrowed. This time through the document was to have resulted in substantial adoption of provisions, but if the discussion concerning Sections One and Two is any indication, agreement on a Declaration is still a ways off.

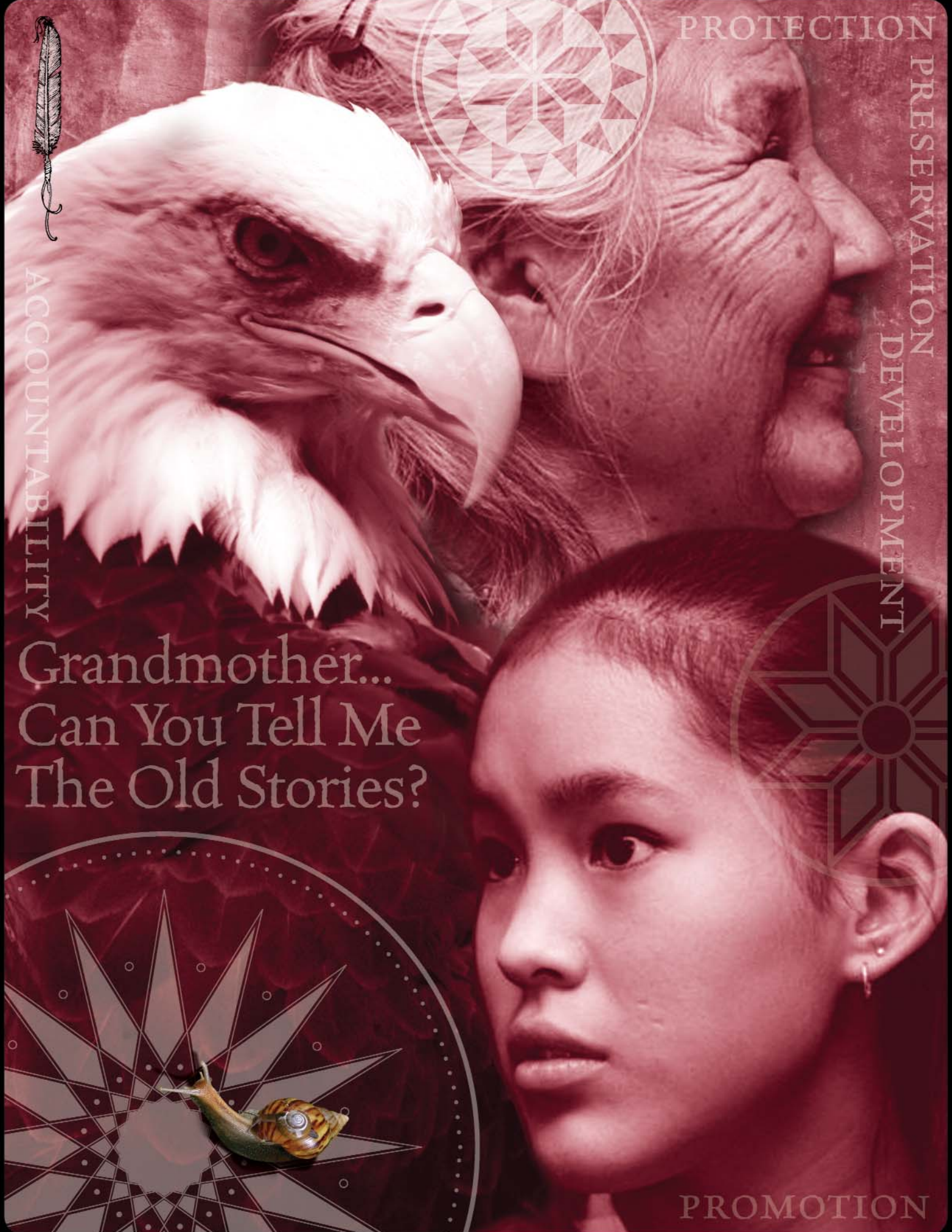


PROTECTION  
PRESERVATION  
DEVELOPMENT

ACCOUNTABILITY

Grandmother...  
Can You Tell Me  
The Old Stories?

PROMOTION





## 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 continues in its new role as Of Counsel in this case working primarily on settlement issues with the

private attorneys involved in this case. Settlement was the major focus in the *Cobell* case during the last Congress. Settlement bills including an \$8 billion settlement figure were not passed by Congress due to opposition from the Administration. The Administration wanted to include provisions limiting the ownership of Indian allotments to ten Indians, creating a beneficiary-managed trust for individual and tribally owned land, eliminating any further liability for the federal government as trustee, and requiring the inclusion of all tribal trust fund mismanagement claims in the settlement as well. Tribal leaders rejected the Administration's position, so the *Cobell* settlement legislation died.

Prospects for *Cobell* settlement legislation in the new Congress are uncertain. Trust reform has become a priority in the Senate Indian Affairs Committee. NARF continues to urge Congress to hold oversight hearings on trust reform and to develop *Cobell* settlement legislation based on those hearings.

In the litigation, two petitions were filed in the U.S. Supreme Court in December 2006, seeking review of two D.C. Circuit Court of Appeals decisions last year removing Judge Royce Lamberth from the case and reversing Judge Lamberth's order to disconnect many of the Interior Department computers from the internet and internal computer networks to protect the integrity of individual Indian trust data on Interior's computers. The Supreme

Court should decide whether it will hear either case by early spring.

In the meantime, Judge James Robertson, the new U.S. District Court judge assigned to the *Cobell* case, held a status conference in December 2006, to hear from the parties on the next steps in the case. NARF urged Judge Robertson to hold a trial on the accounting which would show that the government is unable to do an accounting and which would require the Judge to order alternative relief for the *Cobell* plaintiffs. The government opposed a trial and asked for an unlimited amount of time to work on an accounting as it sees fit. We await a decision from Judge Robertson on which direction he will go with the case.

NARF represents the Turtle Mountain Chippewa, Chippewa Cree of the Rocky Boy's Reservation, White Earth Band of Minnesota Chippewa, and Little Shell Chippewa Tribe in this case against the Federal government for monetary damages for mismanagement of their tribal trust fund, the \$53 million Pembina Judgment Fund, awarded to them by the Indian Claims Commission in 1964 and 1980 decisions. In January 2006, the U.S. Court of Federal Claims rejected four major arguments by the United States to get the case dismissed or substantially limited and ruled that the case can go forward to determine whether the United States breached its trust responsibilities to the Pembina Chippewa Tribes with respect to their Judgment Fund.

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The Court ruled that statutes of limitations do not bar the case because the United States has never provided a full accounting of the Pembina Judgment Fund to its beneficiaries. The Court ruled that the United States held the Pembina Judgment in trust from the time that Congress appropriated the monies for the Fund, and that the United States had a judicially enforceable statutory duty to make the Fund productive while it held the Fund in trust. The Court also ruled that the case can go forward as a “group claim” by the Pembina Judgment Fund beneficiaries without the procedural difficulties of joining all of the beneficiaries individually, or certifying the beneficiaries as a class. On this last issue - the posture of the case as a group claim - The United States moved for reconsideration in April 2006. The

Tribes opposed reconsideration and in September 2006, the Court denied the United States’ reconsideration motion. In December 2006 the Court ordered the case to be at least partially settled or brought to trial in calendar year 2007. The parties have resumed negotiated settlement discussions.

NARF represents eleven 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, and the Santee Sioux Tribe – 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 reconciliation reports prepared under contract and provided to tribes in the 1990’s 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 want to choose to remain in the class. It is estimated that about 70 to 80 tribes filed their own actions, but as many as 240 may be in the class if certification is granted. The action had to be filed by December 31, 2006 under an act of Congress that gave tribes that date as a deadline by which to challenge the adequacy of the Arthur Andersen reconciliation reports.



## 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) is a national public law library devoted to American Indian law which serves both the Native American Rights Fund and the public. Since 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; and law review articles on Indian law topics. 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.

In an effort to provide Colorado lawyers and the general legal community with a useful guide to Indian law research, NILL published two short articles on Indian law research in the *Colorado Lawyer*. "Basic Indian Law Research Tips - Federal Indian Law"

was published in the May, 2005 issue and "Basic Indian Law Research Tips - Tribal Law" was published in the August issue. As part of NILL's long-standing goal to make the unique NILL collection more accessible to the public, the Library has joined the world-wide bibliographic utility called Worldcat, which allows librarians and library users to find out what is in the collections of libraries nationwide.

For its outstanding work in providing information to the public, NILL received a national award from the American Association of Law Librarians for "Public Access to Government Information." Also, one of NILL's librarians published "Creating a Supplemental Thesaurus to the LCSH for a specialized collection: The Experience of the National Indian Law Library." *Law Library Journal* volume 98 n2 (Spring 2006).

### 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. ILSC continues to send out regular correspondence to Indian legal services programs, handling requests for assistance, and working with Indian legal services programs to secure a more stable funding base from the Congress. The Department of Justice awarded a grant of \$1,987,000 to NARF in 2004. Most

of the grant funds have been contracted out to the Indian legal services programs with a small portion used to cover NARF administrative costs. NARF continues to be actively involved with local Indian legal services programs in the administration of the grant and in developing training events to meet local program needs. NARF received an award of additional funding in the amount of \$1,726,626 for calendar year 2006 for the project.

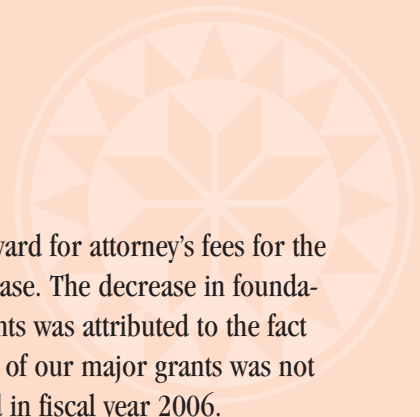
### Other Activities

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.

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*Honoring the Earth*

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## 2006 FINANCIAL REPORT

Based on our *audited* financial statements for the fiscal year ending September 30, 2006, the Native American Rights Fund reports total unrestricted revenues of \$8,766,471 against total expenditures of \$7,824,088. Total net assets at the end of the year came to \$6,871,196. 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 \$980,416, resulting in an increase to NARF's reserve fund. In fiscal year 2006, there was increased activity related to federal awards and legal fee cases. Also, we received a substantial

court award for attorney's fees for the *Cobell* case. The decrease in foundation grants was attributed to the fact that one of our major grants was not renewed in fiscal year 2006.

Revenue and Expense comparisons between fiscal year 2006 and fiscal year 2005 are shown below.

<b>UNRESTRICTED SUPPORT AND REVENUE COMPARISON</b>				
	<b>2006</b>		<b>2005</b>	
	<b>dollars</b>	<b>percents</b>	<b>dollars</b>	<b>percents</b>
Public Contributions	\$ 1,795,069	20.5%	\$ 2,263,209	31.7%
Tribal Contributions	796,167	9.1%	336,460	4.7%
Federal Awards	2,001,980	22.8%	1,490,509	20.9%
Foundation Grants	736,900	8.4%	1,370,529	19.1%
Legal Fees	2,811,484	32.1%	957,609	13.4%
Return on Investments	556,866	6.3%	709,026	9.9%
Other	68,005	0.8%	17,351	0.3%
<b>TOTALS</b>	<b>\$ 8,766,471</b>	<b>100%</b>	<b>\$ 7,144,693</b>	<b>100%</b>

<b>EXPENSE COMPARISON</b>				
	<b>2006</b>		<b>2005</b>	
	<b>dollars</b>	<b>percents</b>	<b>dollars</b>	<b>percents</b>
Litigation and Client Services	\$ 4,935,436	63.1%	\$ 4,850,670	66.6%
National Indian Law Library	313,365	4.0%	262,086	3.6%
<b>Total Program Services</b>	<b>5,248,801</b>	<b>67.1%</b>	<b>5,112,756</b>	<b>70.2%</b>
Management and General	935,263	11.9%	925,508	12.7%
Fund Raising	1,640,024	21.0%	1,243,550	17.1%
<b>Total Support Services</b>	<b>2,575,287</b>	<b>32.9%</b>	<b>2,169,058</b>	<b>29.8%</b>
<b>TOTALS</b>	<b>\$ 7,824,088</b>	<b>100%</b>	<b>\$ 7,281,814</b>	<b>100%</b>

*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](http://www.narf.org).*



## NARF ACKNOWLEDGMENT OF CONTRIBUTIONS:

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 2006 (October 1, 2005 through September 30, 2006).

### Living Waters Endowment

Elwood H. Brozman Memorial Fund  
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 G.E. Foundation

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 Morgan Stanley  
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 Nokia Inc.  
 Pfizer Foundation  
 The May Department Stores Company Foundation  
 Verizon Foundation  
 Vivendi Universal US Holding Co.  
 Wachovia Foundation  
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 Ziff Brothers Investments, L.L.C.

### Tribes and Native Organizations

Agua Caliente Band of Cahuilla  
 Barona Band of Mission Indians  
 Coquille Tribe  
 Cow Creek Band Of Umpqua Tribe Of Indians  
 Grand Traverse Band of Ottawa and Chippewa Indians  
 Grand Traverse Casinos & Resorts  
 Hopi Tribe  
 Keweenaw Bay Indian Community  
 Little Traverse Bay Band of Odawa Indians  
 Mashantucket Pequot Tribe  
 Mohegan Sun Casino  
 Morongo Band of Mission Indians  
 Native Village of Nunapitchuk (IRA)  
 Oneida Tribe of Indians of Wisconsin  
 Saginaw Chippewa Indian Tribe of Michigan  
 San Manuel Band Of Mission Indians  
 Seminole Tribe of Florida  
 Shakopee Mdewakanton Sioux Community  
 Twenty Nine Palms Band Of Mission Indians  
 Viejas Band of Kumeyaay Indians  
 White Mountain Apache Tribe

*continued on following page*

**FISCAL YEAR 2006**

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Marc Pearce  
Moses Peter

Randall Petersen  
Denise Pfalzer  
Rose Pilcarsky  
Thelma Populus Gordon  
B. Powell  
Horace Raines  
Robert & Mary Resnik  
Maureen Ripley  
Barbara Roberts  
Andrea Robinsong  
June Rosenthal  
Keith Ross  
William Rozier  
Mary Sacher  
B. Sampson  
Peter Schmidt  
LaRoy Seaver  
Michael Seeley  
Charlotte Selver  
Katey Simetra  
Mr. & Mrs. Charles Smith  
Kirk Sperry  
Carolyn Staby  
Herbert Stewart  
James & Patricia Straus  
Rennard Strickland  
Michael & Carol Sullivan  
Louis Tabois  
Valeria Tenyak  
Charlotte Thompson  
M. Turek  
John Tyler  
Rene' Vivo'  
William Wade  
Ted Weitz  
Robert & Mary Wellman  
Roger Welsch  
Gary White  
Karen Williams-Fast Horse  
Marcel Wingate  
David Yeoman  
Wayne Zengel

*continued on following page*

**FISCAL YEAR 2006**

**NARF Employee Endowment Giving**

Rose Cuny  
 John Echohawk  
 Gayla Fills Pipe  
 Kim Gottschalk  
 Heather Kendall Miller  
 Yvonne Knight  
 Melody McCoy  
 Steven Moore  
 Christine Pereira  
 Donald Ragona  
 Ray Ramirez  
 David Selden  
 Mark Tilden  
 Don Wharton

Joanne Beckett  
 Richard Bedard  
 Leona Begay  
 Bryan Belknap  
 Diane Bell  
 Gordon Bell  
 John Bellefontaine  
 Loretta Bemederfer  
 Joyce Benedict  
 Pamela Bennett  
 James Bergstrom  
 Judy Berti  
 Joan Beuttler  
 Jefferson Bishop  
 Janine Blackburn  
 Steven Block  
 Nanette Bohren  
 Robbin Bond  
 Fern Booth  
 Richard Boylan  
 Beverly Branaman  
 Joseph Braun  
 Margaret Brenner  
 Herbert Brentlinger  
 Elaine Brewington  
 John Brigham  
 Nina Brilli  
 Mary Brook  
 Mary Brooks  
 Michael & Geri Brown  
 Shelley Buck-Yeager  
 Maureen Burke  
 Chris Burr  
 Perri Burritt  
 Jay Byerley  
 Sarah Callahan - Chin  
 Carol Campau  
 Thomas Campbell  
 Carolyn Carter  
 John & Shirley Chase  
 Nason & Lisa Chehreh  
 Jane Christian  
 Samuel Clopper

George Colias  
 Allyn Collins  
 Mae Collins  
 Helen Cooper  
 G. Copeland  
 Charles Crittenden  
 W. Croft  
 Michael Cummings  
 Ruth Cuprak  
 Elizabeth Cuprak  
 Linda Cwiak  
 Gwen Daum  
 Lois Daunt  
 Norman Davies  
 Pam Davison  
 Barbara DeJaynes  
 Patricia deKoven  
 Cathy DeNu  
 Patricia DiLeo  
 Paul & Elizabeth Dombrosky  
 Ian Douglas  
 Phillip Douville  
 David Dresser  
 Sioux DuBois  
 William Dyer  
 Cheri Edwards  
 Alfred Egendorf  
 Daren & Amy Eilert  
 Cathy Ellis  
 J. Embury  
 Rebecca Engleby  
 Jennifer Erdmann  
 Judy Fair-Spaulling  
 Dorothy Fardan  
 Patricia Faulkner  
 Judith Fazio  
 James Feichtl  
 Michael & Ellen Finazzi  
 Marlene Fischer  
 Sharon Flaherty  
 Winn Flannery  
 Holly Flutot  
 Martha Ford

Marianne Freidberg  
 Russell Freshour  
 David Frye  
 Shirley Fultz  
 Ann Gabor  
 James Galle  
 James Gambino  
 Diann Gamble  
 Suzanne Gartz  
 Lawrence Geller  
 Tracy Gibson  
 Carole Giles  
 James Gilkeson  
 Clara Gillis  
 Judy Goebel  
 James Gootee  
 Jean Gore  
 Larry & Melissa Graykin  
 Barry Greenberg  
 Paul Greenhall  
 Weda Gregorieff  
 Jeri Groves Hodgkinson  
 Martha Grudzien  
 Bernie Haase  
 Thomas Halliday  
 Marcia Halligan  
 Barbara Hann  
 Susan Hanna  
 Richard Hansen  
 Barbara Hargrove  
 Ronald Hartling  
 Margaret Hartnett  
 Bartlett Harvey  
 Carol Hatfield  
 Wayne Hawkins  
 Patricia Hayden  
 Leonard Heinz  
 Dawson Her Many Horses  
 Egbert & Ghislaine Heslinga  
 George Hetrick  
 Diana Heyneker  
 Elna Hickson  
 Taps Hines

**Tsanáhwit Circle Members**

Jay Adler  
 Cheyanne Alberti  
 Ken & Carol Ampel  
 Dennis Anderson  
 Susan Anderson  
 MaryLou Anibaldi  
 Dale Armitage  
 Jurgen Arnold  
 Holly Arrow  
 John Bach  
 Carla Bagley  
 Kathy Bagwell  
 D. Bailey  
 Moira Bailis  
 Colleen Baker  
 Jerry Baker  
 N. Balfour  
 John Ballard  
 Jesus Barbarin  
 Mildred Barkovich  
 Cecil Barley  
 Ruth Barr  
 C. Barron  
 Inez Baskin  
 Susan Battle



**FISCAL YEAR 2006**

Michael Hines	Nona LaRue	Mary McGuigan	Trevor & Laura Powdrell
John Hodgson	Yuk Lau	LeRoy McLaughlin	Larry Powell
Judith Hodson	Dorothy Lear	Phyllis McNeill	Michael Price
Charles Holtzer	Kurt Lehmann	Dorothy Meisky	Linda Proctor
Nancy Homyak	Lyon Leifer	Michael Melendez	Timothy Raab
Shirley Hooker	Catherine Leonard	Eva Mendelson	Emily Rader
Joyce Hoover	Nina Lerman	William Milligan	Louis Ragno
Judith Horton	Eugene LeTourneau	Doris Mitchell	John Reed
Nicholas Horvath	Stanley Lewandowski	Jean Moore	Robert Renner
Carol Houghton	John Lewis	Lora Moreau	Robert & Mary Resnik
Ethel Huebner	James Lichtenstein	Jeff Morehead	Thursa Revenaugh
Clayton Hugo	John Lipner	Imogene Morgan	Priscilla Rich
Gary Hults	Debra Lippitt	Claire Morisset	Gail Richardson
Charley Ice	Leo Lirette	Janis Morrison	Patrice Riley
John Ivie	Hal Litoff	Jean Moyer	George Rine
Rochelle Jacobs	Valerie Lloyd	Josie Moyer	Maryana Robertson
Maria Januzys	Dorothy Lockman	Kayla Mullins	Linda Robinson
Louise Johnson	Elisabeth Lucree	Kathleen Munsell	Susan Robinson
Janice Johnson	Rima Lurie	Rick Myers	Elizabeth Rockmore
Earl Johnson	Mary-Lee Lutz	Louise Myers Ispay	Gerald Rogers
Brenda Jones	Lydia Lyman	Wendy Nash	Ydameh Roig
Kelly Jones	Mary Lyon	Miriam Nathenson	Sonia Romano
Judith Karpilow	Kimberly MacLoud	Sabina Nelson	Jan Roome
Marian Kasabach	Jil MacMenamin	James Nirenstein	Christine Rosen
George Keefer	Wayne Maggs	Donna Normand	Stephanie Rossi
Barbara Keith	Richard Magyar	Rob Norris	Ralph Rossilli
Stephen Kellogg	Ron Mahoney	Joan Olguin	Marlene Rounsaville
Jeralyn Keltonic	Frank Makai	Patricia Opaskar	Jay Rubenstein
Sherry Kendrick	Brigitta Mann	James & Rachel Osborne	Ronald Ruble
Grace Kepler	Verdena Mardis	Doris Palmer	Ruth Ruby
Susan Kepler	Miroslav & Anna Marek	Joyce Pappas	Maura Russell
Latifah Khidhr	Marcelle Martin	David Parachini	David & Adrienne Ruud
Hilde Klimek	James Martin	Dorothy Patrick	Theodore Sahl
Larry Klingensmith	Greg Mathias	Toddy Perryman	Marge Salo
Kate Knapp	Jacqueline Matte	Anna Pfeifer	Howard Sargent
William Koenig	Murray Matzner	Margaret Phillips	Ronald Savage
Laura Koester	Christopher McAuliffe	David Pierson	Edmond & Brietta Savoie
Niilo Koponen	Boni McCabe	Albert Pilcher	Mary Schappell
Fred Kraeuter	Donald McCaffrey	Jacqueline Pine	William Schatz
Frances Kranz	Ann McCarthy	Jacquelyn Platt	Gerald & Karen Schuler
Vaunceil Kruse	Debbi McCoy	Gerald & Antoinette Pollack	David Schwien
Rollins Lambert	James McDaniel	Deborah Pomplun	Brenda Scott
Risa Lange-Navarro	Linda McGrew	Michael Porlides	Shirley Seagren

*continued on following page*

## FISCAL YEAR 2006

Susan Sherer  
Paul Shickle  
Myra Shinkle  
Freda Silver  
Marie Simirenko  
Pat Simons  
Laura Sironi  
Herman & Lois Sisk  
Joan Slebos  
Michael Smith  
Walter Smith  
Betty Smith  
Shirley Sneed  
Marilyn Snider  
Jerry & Rita Spalding  
Esther Span  
Wilann Spiccia  
Paul Spicer  
Mary Stafford  
Gretchen Steerenberg  
Craig Stephens  
Stephen & Karen Strom  
Elizabeth Szawlowski  
Patricia Taylor  
Laura Teague  
Paul Theodore  
Claudine Thomas  
Douglas Thompson  
Edward Thompson  
Charlotte Thompson  
Donald Tobler  
Janice Tonietto  
Rebecca Townsend  
Karen Trowbridge  
Joyce Tucker  
Richard Vanden Heuvel  
Montez Vaught  
Kristy Visser  
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Carolyn Warner  
Ron Warren  
Lynn Waugh  
Cecelia Welenowski

Martha Weller  
Cathy Westlund  
Geri White  
Lisbeth Whitledge  
Deborah Wilker  
Catherine Williams  
Holly Williams  
Arnold Wilson  
Margaret Wilson  
Jerry Wilson  
Roger Wise  
Wm. Wissmueller  
Geoffrey & Mary Wold  
Lisabeth Wolf  
Andrew Wolfe  
Ronald & Frances Woodall  
Jean Woodman  
Jim Yellow Horse  
Pamela Zawila

### Special Events

*NARF gratefully honors our many friends and partners who sponsored and supported our special events in 2006. Thank you for your support and for caring so deeply about Indian rights, laws and issues.*

### In-Kind Contributions

Amy Hayes  
Anne Estin  
Bernies Route 66 Motorcycles  
Crossroads Cycles  
Donovan (Tex) & Lisa Brown  
Drew Allen  
Jackie Finch  
Paul Gibb  
Santa Fe Harley Davidson  
Stuart T. Langley  
Sundance Photography  
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Tim Reese  
Tribal Motorworks

### Boulder-Denver Advisory Committee

Lucille A. Echohawk  
Thomas W. Fredericks  
David Getches  
Ava Hamilton  
Jeanne Whiteing  
Charles Wilkinson

### 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 \$65,180 in fiscal year 2006.

### Federal Programs

Administration for Native Americans  
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.

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**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](mailto: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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*“Ho’opono’ono”  
making things right.*

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## NARF STAFF

### CORPORATE OFFICERS

John E. Echohawk (*Pawnee*)  
Executive Director/Attorney

K. Jerome Gottschalk  
Litigation Management Committee  
Member/Attorney

Yvonne T. Knight (*Ponca-Creek*)  
Litigation Management Committee  
Member/Attorney

Natalie Landreth (*Chickasaw*)  
Litigation Management  
Committee/Attorney

Donald M. Ragona  
(*Mattinecock/Oglala Lakota*)  
Director of Development

Ray Ramirez  
Secretary/Editor/Technical Writer

Clela Rorex  
Chief Financial Officer/Law Office  
Administrator

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John E. Echohawk (*Pawnee*)  
Executive Director/Attorney

Walter R. Echo-Hawk (*Pawnee*)  
Attorney

K. Jerome Gottschalk - Attorney

David Gover (*Pawnee/Choctaw*)  
Attorney

Yvonne T. Knight (*Ponca-Creek*)  
Attorney

Melody McCoy (*Cherokee*) - Attorney

Steven C. Moore - Attorney

Mark Tilden (*Navajo*) - Attorney

Donald R. Wharton - Attorney

Eric Anderson - Legal Assistant



Rose Cuny (*Oglala Lakota*)  
Office Manager

Crystal Echo Hawk (*Pawnee*)  
Assistant Development Director

Gayla Fills Pipe (*Oglala Lakota*)  
Receptionist

Michael Kennedy - Assistant Controller

Mireille Martinez  
Development Projects Coordinator

Christine Pereira  
Micro Computer Specialist

Donald M. Ragona  
(*Mattinecock/Oglala Lakota*)  
Director of Development

Ray Ramirez  
Editor/Technical Writer/Public  
Relations

Jennifer Redbone  
(*Apache/Comanche, Kiowa*)  
Development Staff Assistant

Clela Rorex  
Law Office Administrator

Susan Irwin-Savage (*Dineh*)  
Office Services Clerk

Joanne Soklin - Legal Assistant

Debbie Raymond-Thomas (*Navajo*)  
Assistant Controller

Jennie Tsikewa (*Zuni*) - Accountant

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David Selden - Librarian

Monica Martens  
Assistant Law Librarian

### ANCHORAGE OFFICE STAFF

Heather Kendall-Miller (*Athabaskan*)  
Attorney

Natalie Landreth (*Chickasaw*)  
Attorney

Anne Thomas - Legal Assistant

### WASHINGTON, D.C. OFFICE STAFF

Richard Guest - Attorney

Dawn Baum (*Mole Lake  
Chippewa/Menominee*) - Attorney

Darian Balcom - Legal Assistant







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