Native American Rights Fund

2014 Annual Report

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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, #10350 on the Combined Federal Campaign (CFC) pledge form authorizing automatic payroll deduction.

Cover and Art: Bruce Pierre is an enrolled Lummi Tribal Member and a descendant of Tlingit/Haida. Bruce was raised on the Lummi Reservation and spent his whole life in the fishing industry. In 2002, he began to focus on his artwork as a way to connect to his culture. Bruce likes to paint legends of the north-west tribes and family clans. The focus of his art consists of graphic and mixed media art. Bruce started a small business where he sells silk screened art prints and sweatshirts at local Native events. He has been commissioned by the Lummi Indian Business Council, the Colville Tribe, an Indian County Today article, Indian Gaming Magazine, and logo design work for various Tribal programs. Bruce Pierre can be reached at 360-305-6096 or: pierrebruce1@gmail.com. Design & layout **Nakota Designs**.

Tax Status: The Native American Rights Fund (NARF) is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue code. Contributions to NARF are tax deductible. The Internal Revenue Service has ruled that NARF is not a "private foundation" as defined in Section 509(a) of the Internal Revenue Code. NARF was founded in 1970 and incorporated in 1971 in Washington, D.C.

Introduction

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

Since its inception in 1970, NARF has represented over 250 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.

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

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

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

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

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

Contained within the unique trust relationship between the United States and Indian nations is the inherent duty for all levels of government to recognize and responsibly enforce the many laws and regulations applicable to Indian peoples. Because such laws impact virtually every aspect of tribal life,

NARF maintains its involvement in the legal matters pertaining to *accountability of governments* to Native Americans.

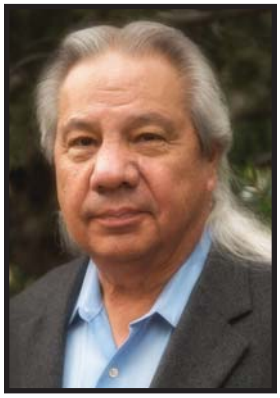
The coordinated *development of Indian law and educating the public about Indian rights, laws, and issues* is essential for the continued protection of Indian rights. This primarily involves establishing favorable court precedents, distributing information and law materials, encouraging and fostering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

NARF's Funding

NARF's existence would not be possible without the efforts 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 give our efforts life. Contributors such as the Ford Foundation have been with NARF since its inception. The Open Society Institute and the Bay and Paul Foundations have made long term funding commitments. Also, the positive effects of NARF's work are reflected in the financial contributions by a growing number of tribal governments like the Yocha Dehe Wintun Nation, the Seminole Tribe of Florida, the Shakopee Mdewakanton Sioux Community, the San Manuel Band of Mission Indians, the Muckleshoot Tribe, the Sycuan Band of Kumeyaay, the Confederated Tribes of Siletz Indians, the Tulalip Tribes, the Chickasaw Nation, and the Poarch Band of Creek Indians. 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. Finally, NARF's legal work was greatly enhanced by the on-going generous pro bono contributions by the law firm of Patton Boggs LLP. Their many hours of work made it possible for NARF to present the best positions possible and to move forward in insuring NARF's success.

Bruce Pierre feature artist for this years 2014 NARF Annual Reaport

Executive Director's Report



2014 marked the 44th year that the Native American Rights Fund has been serving as the national Indian legal defense fund, providing legal advice and assistance to tribes, Native organizations and individuals in cases of major significance. Once again during the year, we were able to help Native people achieve several important victories and achievements.

In a stunning victory for tribes, the Supreme Court of the United States issued its opinion in *Michigan v. Bay Mills Indian Community,* reaffirming the vitality of the doctrine of tribal sovereignty immunity from suit without their consent. It was only the second win for Indian tribes in eleven Indian cases heard by the Supreme Court since John Roberts became Chief Justice in 2005. The Tribal Supreme Court Project, which the Native American Rights Fund staffs along with the National Congress of American Indians, coordinated the filing of amicus curiae briefs in the case.

The only Native American federal judge out of 866 federal judgeships was confirmed in 2014 when Diane Humetewa, Hopi, became a United States District Judge for the District of Arizona. She was supported by the Judicial Selection Project, staffed again by the Native American Rights Fund along with the National Congress of American Indians, which regularly works to ensure that qualified Native candidates are considered and nominated to fill current vacancies on the federal bench.

The Final Unified Decree in the Snake River Basin Adjudication was signed formally implementing the Snake River Settlement Act which was approved by Congress in 2004. The Native American Rights Fund successfully represented the Nez Perce Tribe of Idaho in both the litigation and settlement phases of the Adjudication for over 16 years.

In *Katie John v. Norton,* the Native American Rights Fund represented an Alaska Native asserting priority subsistence fishing and hunting rights provided by the Alaska National Interest Lands Conservation Act. We prevailed in a decision by the Ninth Circuit Court of Appeals which rejected the State of Alaska's challenge to the plan of the Secretary of the Interior and the Secretary of Agriculture to implement the Act. The Court held it was reasonable for the Secretaries to decide that the public lands subject to the Act's rural subsistence priority included the waters within and adjacent to federal reservations in Alaska. During the year, the U.S. Supreme Court denied the State of Alaska's petition seeking review of the decision, ending 27 years of litigation over subsistence rights in Alaska.

In *Yount v. Jewell,* the Federal District of Arizona upheld the 2012 Northern Arizona Withdrawal where the Secretary of the Interior withdrew over a million acres of federal land around the Grand Canyon from future uranium mining claims. The Native American Rights Fund filed an amicus curiae brief in the case on behalf of the Indian Peaks Band of Paiute Indians, the San Juan Southern Paiute Tribe and the Morningstar Institute supporting the Withdrawal and citing American Indian spiritual beliefs and cultural rights in these former Indian lands now under federal ownership.

The Department of the Interior announced $2.5 million in competitive discretionary grants for tribal education departments under a new Sovereignty in Education Program. The grants are to promote full tribal capacity to manage and operate tribally controlled Bureau of Indian Education funded schools. The Tribal Education Departments National Assembly (TEDNA), represented by the Native American Rights Fund, successfully advocated in Congress for this new program.

In *State of Alaska v. Native Village of Tanana,* the Alaska Supreme Court in 2011 held that Alaska tribal court orders issued in Indian Child Welfare Act child custody proceedings are entitled to full faith and credit in Alaska state courts to the same extent as other states' and foreign orders. The Native American Rights Fund represented the Native Village of Tanana and several other Alaska tribes and Alaska Natives in the case. In 2014, we were successful in having the States Rules Committee adopt new rules making that decision

more effective in practice by providing clear procedures for the registration, confirmation and enforcement of tribal court child custody orders.

In *Parks v. Simmonds,* the Alaska Supreme Court issued a unanimous decision affirming the full faith and credit for a Minto Tribal Court's child custody order and dismissed a state court case challenging the order. The Court's opinion was notable in that it affirmed the tribal exhaustion doctrine and reiterated that litigants must exhaust a tribal court's appellate process before approaching state courts. The Native American Rights Fund represented the couple receiving permanent custody of a child from the Minto Tribal Court when parental rights were terminated by the Court.

In another Alaska tribal court child custody case, *Brasket v. Frankson,* an Alaska state court dismissed a challenge to a Nulato Tribal Court order on full faith and credit and tribal exhaustion grounds. The Native American represents the adoptive couple and the Nulato Tribe in the case.

In *Toyukak v. Treadwell,* the Alaska Federal District Court held that the State of Alaska violated the Voting Right Act by not complying with the language assistance provisions for Yup'ik speaking voters. The Native American Rights Fund represented two Alaska tribes and two Alaska Natives in the case. After a lengthy trial, the Court ordered broad remedial relief including the written and audio translation of all pre-election materials distributed in English, posting of bilingual translators at all polling places and ordering a report back to Court after the election.

At the World Conference on Indigenous Peoples at the United Nations, the Native American Rights Fund represented the National Congress of American Indians. The outcome document adopted by the U.N. General Assembly included the four elements that we advocated for: the establishment of a body at the U.N. to monitor the implementation of the U.N. Declaration on the Rights of Indigenous Peoples; the creation of a permanent, dignified and appropriate status for Indigenous Peoples at the U.N.; address violence against Indigenous women; and protections of sacred sites.

Through our Indian Law Support Center Project, the Native American Rights Fund continues to work with the 25 Indian Legal Services programs. As in past years, we continued seeking federal funds for both civil and criminal tribal court assistance grants for the 25 programs. In 2014 we were successful in being awarded funding in the amounts of $597,000 for the criminal grants and $527,000 for the civil grants which will be made to the programs.

All of these significant victories and accomplishments would not have been possible without the continuing support and assistance of our many grantors and donors. We once again want to thank you all for standing with us in 2014 and hope that we can continue to count on you to help us in 2015.

John E. Echohawk
Executive Director

Chairman's Message

NARF Board Chairman Moses Haia, former Board member Mahealani Wendt, NARF Executive Director John Echohawk, former Board member Kunani Nihipali.

In its' nearly forty-five years of asserting and defending the rights of Indian tribes, organizations and individuals nationwide, the Native American Rights Fund (NARF) has stood and continues to stand guard over a way of life rooted in and informed by the interconnectedness and value of all living things. Simply put, NARF defends the Native soul. The impact this way of being is likely to have on an economic system where resources become commodities is usually the motivating factor behind efforts to paint that soul as primitive and illegitimate. It's no small wonder NARF has its' skilled and proficient yet limited hands full.

In Hawai'i, there is a tree that shows how robust and resilient it is by being the first to take root in a new lava flow. By establishing its place in such a hostile environment, it ultimately becomes the shade and shelter for the eventual establishment of an entire native forest. Hawai'i would likely be a very desolate place without this tree.

In much the same way this tree selflessly offers the necessary support for the flourishing of a native Hawaiian forest, your financial support of NARF provides the Native soul, through NARF's resulting diligence, the shade and shelter it needs to thrive and grow. Thank you for your generous support.

Moses Haia
Chairman, Board of Directors

Gerald Danforth
Outgoing Chairman, Board of Directors

Board of Directors

NARF's Board of Directors:
First row (left to right):
Virginia Cross (Muckleshoot Indian Tribe), **Mark Macarro** (Pechanga Band of Luiseño Indians), **Gerald Danforth**, Board Chairman (Oneida Indian Nation of Wisconsin).
Second Row (left to right):
Larry Olinger (Agua Caliente Band of Cahuilla Indians), **Tex Hall**, Board Treasurer (Three Affiliated Tribes), **Robert McGhee** (Poarch Band of Creek Indians).
(Not Pictured): **Natasha V. Singh**, Board Vice-Chair (Native Village of Stevens); **Peter Pino**, (Zia Pueblo); **Moses Haia**, (Native Hawaiian); **Julie Roberts-Hyslop**, (Native Village of Tanana); **Barbara Smith** (Chickasaw Nation); **Gary Hayes** (Ute Mountain Ute Tribe); **Stephen Lewis**, (Gila River Indian Community).

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

National Support Committee

The National Support Committee 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 30 volunteers on the Committee are committed to upholding the rights of Native Americans.

Randy Bardwell
(Pechanga Band of Luiseno Mission Indians)
Jaime Barrientoz
(Grand Traverse Band of Ottawa & Chippewa Indians)
John Bevan
Wallace Coffey (Comanche Nation)
Ada Deer (Menominee)
Harvey A. Dennenberg
Lucille A. Echohawk (Pawnee)
Jane Fonda
Eric Ginsburg
Jeff Ginsburg
Rodney Grant (Omaha)
Chris E. McNeil, Jr.
(Tlingit-Nisga'a)
Billy Mills (Oglala Lakota)
Amado Pena Jr. (Yaqui/Chicano)
Wayne Ross
Nancy Starling-Ross
Marc Rudick
Pam Rudick
Ernie Stevens, Jr.
(Wisconsin Oneida)
Andrew Teller (Isleta Pueblo)
Verna Teller (Isleta Pueblo)
Richard Trudell (Santee Sioux)
Rebecca Tsosie (Pasqua Yaqui)
Tzo-Nah (Shoshone-Bannock)
Aíne Ungar
Rt. Rev. William C. Wantland
(Seminole)
W. Richard West, Jr.
(Southern Cheyenne)
Randy Willis (Oglala Lakota)
Teresa Willis (Umatilla)
Mary T. Wynne (Rosebud Sioux)

The Preservation of Tribal Existence

"We at United Tribes of Bristol Bay want to say congratulations to an amazing, genuine leader for her recognition for her lifetime of dedication to Alaska's indigenous people! From winning the Katie John case to fighting for us in Bristol Bay against the mines like Pebble, and everything in between Heather has dedicated her life's work to protecting our way of life and fighting for true self-determination for Alaska's tribes. Alaska Natives are lucky to have such a tireless advocate for our people who has accomplished so much in her lifetime on our behalf, all for the love of her people. Quyana Heather for your work and for who you are, a true beacon of light for Alaska Native people – your work is changing our world for the better." — (NARF attorney Heather Kendall-Miller received a Lifetime Achievement Award from the Alaska State Legislature.)

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.

Specifically, NARF's legal representation centers on sovereignty and jurisdiction issues and also on federal recognition and restoration of tribal status. 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 inde-

pendent governmental entities with inherent authority over their members and 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 members and their territory.

Beginning with the decision in *Oliphant v. Suquamish Indian Tribe* in 1978 and with increasing frequency in recent years, 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 Supreme Court and those which actually are accepted for review. When cases are accepted, the Tribal Supreme Court Project helps to 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 weigh in on judicial nominations at the lower court and the Supreme Court levels. Finally, there is a legislative component to fight bills that are against tribal interests and to affirmatively push legislation to overturn adverse Supreme Court decisions.

The Tribal Supreme Court Project is a joint project staffed by the Native American Rights Fund and the National Congress of American Indians. The Tribal Supreme Court Project is based on the principle that a coordinated and structured approach to Supreme Court advocacy is necessary to protect tribal sovereignty — the ability of Indian tribes to function as sovereign governments — to make their own laws and be ruled by them. Early on, the Tribal Supreme Court Project recognized the U.S. Supreme Court as a highly specialized institution, with a unique set of procedures that include complete discretion on whether it will hear a case or not, with a much keener focus on policy considerations than other federal courts. The Tribal Supreme Court Project established a large network of attorneys who specialize in practice before the Supreme Court along with attorneys and law professors who specialize in federal Indian law. The Tribal Supreme Court Project operates under the theory that if Indian tribes take a strong, consistent, coordinated approach before the Supreme Court, they will be able to reverse, or at least reduce, the on-going erosion of tribal sovereignty by Justices who appear to lack an understanding of the foundational principles underlying federal Indian law and who are unfamiliar with the practical challenges facing tribal governments.

On June 30, 2014, the Supreme Court of the United States held its last conference of the October Term 2013 ("OT13"), and rose for its summer recess. During OT13, 15 petitions for a writ of certiorari were filed in Indian law cases and considered by the Court. One petition was granted *(Michigan v. Bay Mills Indian Community),* two petitions were dismissed (withdrawn voluntarily) pursuant to Supreme Court Rule 46 *(Michigan v. Sault Ste. Marie Tribe of Chippewa Indians* and *Madison County v. Oneida Indian Nation of New York),* and 12 petitions were denied review by the Court. In reviewing the 15 petitions filed, one important fact stands out: state and local governments were parties in 10 of the Indian law cases – 5 times as the petitioner (lost in the lower court) and 5 times as the respondent (won in the lower court). The United States was a party in 3 of the Indian law cases, always as the respondent. This high number of petitions involving state and local governments as a party is remarkable given the low number of petitions filed. On average, 25 petitions are filed in Indian law cases each term (OT11–26 petitions; OT10–26 petitions; OT09–24 petitions; OT08–26 petitions), but over the past two terms, this number has declined significantly (OT13–15 petitions; OT12–14 petitions). We will watch the next term with interest to determine whether this is an aberration, or whether there is a trend towards Indian tribes to stay away from the Supreme Court of the United States.

In May 2014, in a stunning victory for Indian tribes, the Supreme Court of the United States

issued its opinion in *Michigan v. Bay Mills Indian Community,* reaffirming the vitality of the doctrine of tribal sovereign immunity. The lawsuit had its origin in a dispute between the State of *Michigan and the Bay Mills Indian Community* over whether certain lands constituted "Indian lands" eligible for gaming under the Indian Gaming Regulatory Act (IGRA), but had turned into a much larger legal battle over the rights of all Indian tribes across the country.

In a 5-to-4 decision, Justice Kagan, joined by Chief Justice Roberts, Justices Kennedy, Breyer and Sotomayor, affirmed the decision of the U.S. Court of Appeals for the Sixth Circuit which had held that federal courts lack jurisdiction to adjudicate the State's claims against the Bay Mills Indian Community under the Indian Gaming Regulatory Act (IGRA)," and that the claims are barred by the doctrine of tribal sovereign immunity. In an unexpected development, Chief Justice Roberts provided the crucial fifth vote to secure this legal victory, having not voted in favor of tribal interests in a single case since he joined the Court in 2005.

First, the Court quickly recognized that although Congress did provide for a partial abrogation of tribal sovereign immunity within IGRA, none of the State's arguments fell within the plain terms of IGRA. Second, the Court declined the State's invitation to revisit and reverse its decision in *Kiowa.* The Court looked to the doctrine of *stare decisis*—the long line of precedent affirming tribal sovereign immunity, its reliance on the rule in *Kiowa* in subsequent cases, and the reliance interests of tribes and their business partners—as a strong basis "to stand pat." And the Court, in no uncertain terms, reaffirmed the principle announced in *Kiowa* that the Court should defer to Congress to determine the circumstances where Indian tribes should be subject to suit. And although the Project has characterized the recent losing streak for Indian tribes before the Court as "an era of judicial termination of tribal sovereignty," the Court took this opportunity to reassert the primary authority of Congress over Indian affairs: "The special brand of sovereignty the tribes retain—both its nature and its extent—rests in the hands of Congress." Nonetheless, the majority opinion explicitly leaves open the door to potential exceptions to the general rule in *Kiowa*.

Justice Thomas wrote the principal dissent, joined by Justices Scalia, Ginsberg, and Alito. None of the dissenting Justices took issue with majority's interpretation and holding in relation to IGRA. However, the dissent views *Kiowa* as a mistake which the Court should rectify. Justice Thomas explicitly recognizes that Indian tribes retain a sovereignty "of a unique and limited character," with immunity from suit as one attribute of that sovereignty. The dissent has no objection to tribes raising the immunity defense in tribal courts, but contends that it "cannot be sustained in the courts of another sovereign" (*e.g.*, state and federal courts).

Although the win-loss record for Indian tribes before the Roberts Court remains a dismal 2 wins and 9 losses, the *Bay Mills* decision marks the first time that Chief Justice Roberts has voted in favor of tribal interests and, in this case, provided the critical fifth vote. At present, Justice Alito remains steadfast in voting against tribal interests in every Indian law case since he joined the Court in 2006.

The research objective of the Judicial Selection Project evaluates the records of federal court judicial nominees on their knowledge of Native American issues. The Project's analysis and conclusions are shared with tribal leaders and federal decision-makers in relation to their decision whether to support or oppose a particular judicial nomination. Given the number of federal court cases involving Native American issues, the Project works with the U.S. Senate Judiciary Committee to ensure that all nominees are asked about their experience with Indian tribes and their understanding of federal Indian law during confirmation proceedings.

The Judicial Selection Project prioritized the development of a process to identify, evaluate and promote qualified Native attorneys, tribal judges and state court judges for nomination to the federal bench. A primary objective of the Judicial Selection Project is to ensure that qualified Native candidates are considered and nominated to fill current vacancies on the federal bench. There are 866 federal judgeships – nine on the Supreme Court, 179 on the Courts of Appeals and 678 for the district courts. Up until now, there were zero American Indian, Alaska Native and Native Hawaiian federal judges. In May 2014, the United States Senate unanimously confirmed Diane Humetewa as a United States District Court Judge for the District of Arizona. Humetewa is a member of the Hopi Tribe and is now the first American Indian woman federal judge. NARF and NCAI

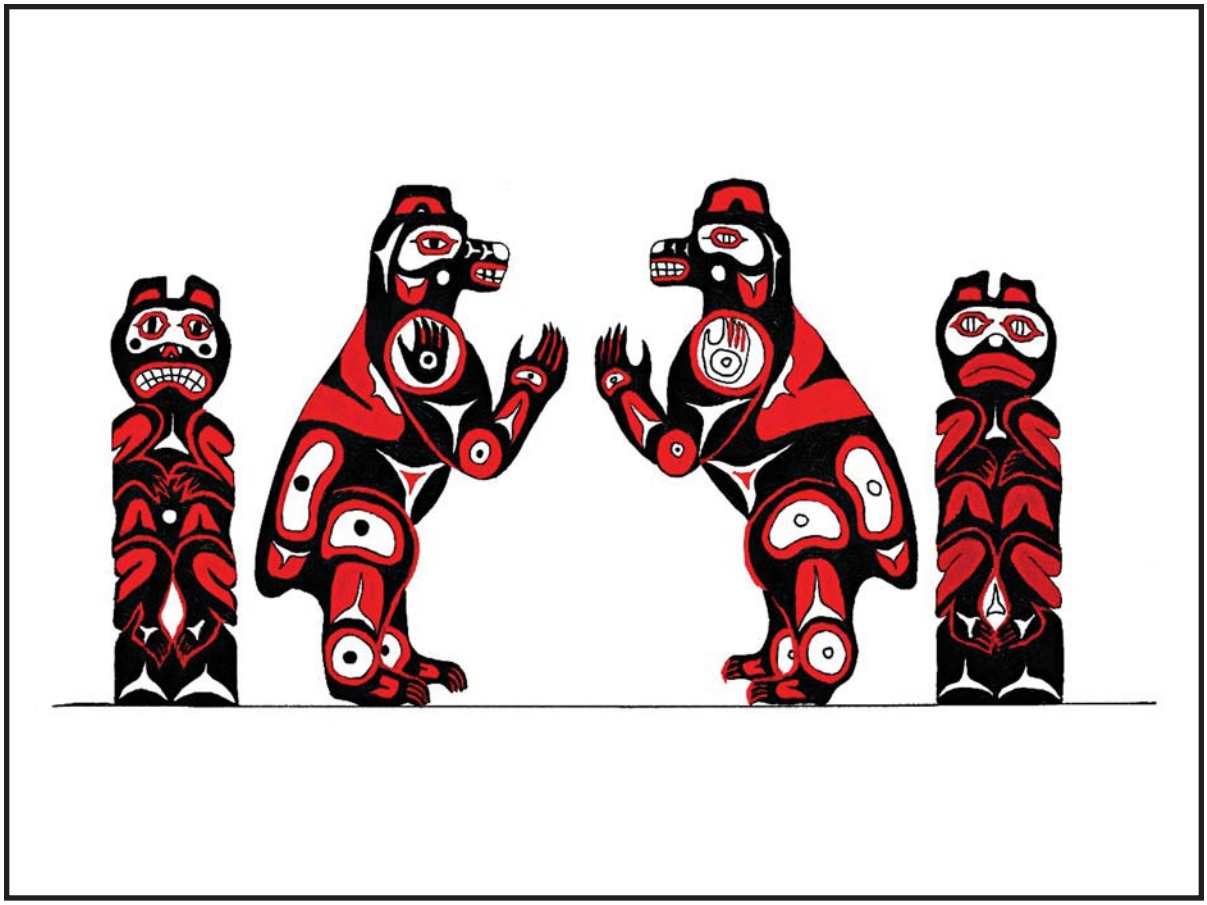
will continue to work with the White House General Counsel Office, the White House Office of Intergovernmental Affairs and the U.S. Department of Justice Office of Legal Policy to ensure that qualified Native candidates are considered and nominated to fill other current vacancies on the federal bench.

NARF was also invited to the White House for the President's announcement of three nominations to fill vacancies on the U.S. Court of Appeals for the D.C. Circuit—sometimes referred to as the second most powerful court in the United States. Through the work of the Tribal Supreme Court Project, NARF has worked closely with one of the nominees, Patricia Millett, in her capacity as a partner, head of the Supreme Court Practice, and co-leader of the National Appellate Practice at Akin Gump Strauss Hauer & Feld, LLP. NARF submitted a letter of support on her behalf to the Senate Judiciary Committee for her confirmation, and on December 10, 2013, the U.S. Senate confirmed Ms. Millett as a judge on the D.C. Circuit.

Another part of NARF's work under this priority is the 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. After several years of fruitful partnership, NARF has recently begun representing NCAI on climate change matters. Climate change is one of the most challenging issues facing the world today. Its effects on indigenous peoples throughout the world are acute and will only get worse. The effects are especially pronounced in Alaska where as many as 184 Alaska Native villages are threatened with removal. NARF, in addition to working with some of its present clients on this issue, previously worked with National Tribal Environmental Council (NTEC) on comprehensive federal climate change legislation. NTEC, NARF, NCAI and the National Wildlife Federation worked together and created a set of Tribal Principles and worked with national environmental organizations on detailed legislative proposals. Unfortunately, these efforts continue to be stalled in Congress.

Federal Recognition of Tribal Status

The second category of NARF's work under this priority is federal recognition of tribal status. NARF currently represents Indian communities



who have survived intact as identifiable Indian tribes but who are not federally recognized. 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 1997, the Branch of Acknowledgment and Research (BAR) placed the Little Shell Tribe of Chippewa Indians of Montana federal recognition petition on active review status. In 2000 the Assistant Secretary for Indian Affairs (AS-IA) published a Preliminary Determination in favor of recognition. A technical assistance meeting was held with the Office of Federal Acknowledgment (OFA) to outline a program of action to strengthen the petition prior to the final determination. Substantial work was done to strengthen the Tribe's petition and the final submissions were made in 2005. In October 2009, the Acting AS-IA issued a Final Determination against recognition of the Tribe, overruling the decision in the Preliminary Determination. The stated rationale for Final Determination was the unwillingness to go along with the "departures from precedent" which the previous AS-IA found to be justified by historical circumstances. In February 2010, the Tribe filed a Request for Reconsideration with the Interior Board of Indian Appeals (IBIA). The IBIA allowed interested parties, if any, to file opposition briefs by July 2010. No one filed an opposition brief.

In an important development after the IBIA decision, in June 2013 the AS-IA made an announcement of "Consideration of Revision to Acknowledgment Regulations" along with preliminary discussion draft regulations which propose major changes in the regulations. In light of this announcement, NARF urged the SOI to request the AS-IA to suspend consideration of the Final Determination pending completion of the revision process as the proposed amendments are very significant. In January 2014, the AS-IA granted the Little Shell Tribe's request to place their petition on suspension pending completion of the process to amend the acknowledgment regulations.

In May 2014 the AS-IA issued proposed regulations for comment. Several consultations and public hearings on the proposed regulations were

held around the country and comments on the proposed regulations were submitted on behalf of the Tribe in September 2014. The Tribe continues to pursue legislative recognition and the Tribe's recognition bill was passed out of the Senate Committee on Indian Affairs by voice vote in April 2014. Rep. Daines (R-MT) introduced a similar bill, H.R. 2991 in the House. It has been referred to the Committee on Natural Resources.

After years of preparing the necessary historical, legal, genealogical and anthropological evidence to fully document its petition for federal acknowledgment, the Pamunkey Indian Tribe, located on the Pamunkey Indian Reservation, Virginia, filed its petition with the Office of Federal Acknowledgment (OFA) in October 2010. The Tribe received OFA's letter of Technical Assistance (TA) in April 2011 and a response to the TA letter was filed in July 2012. In late July 2012, OFA informed the Tribe that its petition was moved to the top of the "Ready" list, and active consideration commenced August 2012. The Tribe received good news in January 2014 when the Assistant Secretary for Indian Affairs issued a Proposed Finding to acknowledge the Pamunkey Indian Tribe. This initiated a comment period for the Tribe to submit more materials and for other parties to comment before a Final Determination is issued.

The Pamunkey Indian Tribe is the only tribe located in Virginia to have filed a fully documented recognition petition. Established no later than 1646, the Tribe's Reservation is located next to the Pamunkey River, and adjacent to King William County. The Reservation comprises approximately 1,200 acres and is the oldest inhabited Indian reservation in America. NARF has represented the Tribe in this effort since 1988 and now is co-counsel on this matter.

The Protection of Tribal Natural Resources

"The Lakota people have always been stewards of this land. We feel it is imperative that we provide safe and responsible alternative energy resources not only to tribal members but to non-tribal members as well. We need to stop focusing and investing in risky fossil fuel projects like TransCanada's Keystone XL pipeline. We need to start remembering that the earth is our Mother and stop polluting her and start taking steps to preserve the land, water, and our grandchildren's future." — Cyril Scott, President of the Rosebud Sioux Tribe

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

Protection of Indian Lands

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

NARF has been retained by the Eastern Shoshone Tribe (EST) of the Wind River Indian Reservation to analyze the Surplus Land Act of March 3, 1905, and other legislation and cases, to determine their implications for the boundaries of the Reservation.

The EST and Northern Arapaho Tribes cooperated in an application to the U.S. Environmental Protection Agency (EPA) for delegation of "treatment in the same manner as a state" in the admin-

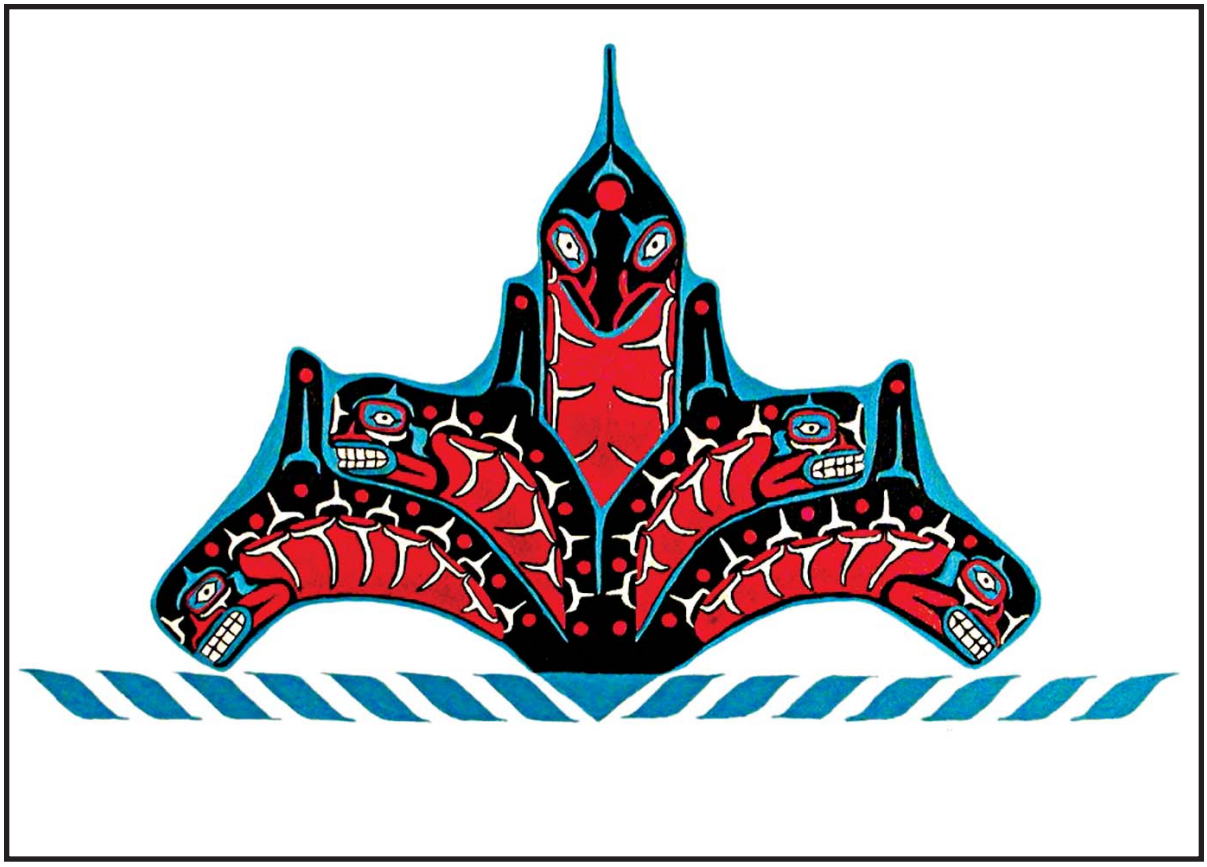
istration of certain Clean Air Act programs. EPA issued its approval of their application in December 2013. In its approval decision, EPA determined that the boundaries of the Reservation were not altered by the 1905 Surplus Land Act. The State of Wyoming filed a Petition for Reconsideration and Stay with EPA in January 2014. That Petition for a stay was granted in part by EPA as to lands over which jurisdiction is in dispute. Wyoming then filed a Petition for Review in February 2014, with the US Court of Appeals for the Tenth Circuit which was followed in due course by separate Petitions for Review from Devon Energy and the Wyoming Farm Bureau. The Court of Appeals consolidated the three petitions into one case. The City of Riverton and Fremont County have filed motions for Intervention on the side of the Petitioners. Those motions are pending. The Northern Arapahoe Tribe filed a Motion for Intervention which the Court granted, and the EST filed a Notice of Intervention which the Court also granted. The Tribes are urging the parties to sit down to negotiations in mediation or other settings to address the broad range of issues facing all of the parties. So far, the State of Wyoming has indicated no interest in talks. Devon Energy approached the Tribes with a request that they engage in mediation and settlement of Devon's petition. The Tribes and Devon are presently working with the Tenth Circuit Mediation Office to craft a settlement between the Tribes and Devon Energy.

NARF represents the Hualapai Indian Tribe of Arizona in preparing and submitting five applications for the transfer into trust status of 8 parcels of land owned in fee by the Tribe. 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 applications have been submitted to the BIA which is preparing them for review by the U.S. Interior Department's Solicitor for a Preliminary Title Opinion (PTO) on the applications. The Regional Solicitor in Phoenix recently issued a PTO on one of the Applications.

In July 2014 NARF filed an amicus brief in the U.S. Court of Appeals for the Tenth Circuit supporting the Jemez Pueblo's claim of aboriginal title to land purchased by the United States and put into the Valles Caldera National Preserve in New Mexico. The district court denied the Pueblo's claim, holding that the Indians Claims Commission Act has transmuted all aboriginal title claims into monetary claims and the Pueblo should have sued under that Act for loss of its aboriginal title. Oral argument in the appeal was held in November 2014 at the University of New Mexico in Albuquerque.

In *Akiachak Native Community, et al. v. Department of Interior, et al.,* the Akiachak Native Community, et al., represented by NARF, brought suit in the U.S. District Court for the District of Columbia seeking judicial review of 25 C.F.R. Part 151 as it pertains to federally-recognized Tribes in Alaska. This federal regulation governs the procedures used by Indian Tribes and individuals when requesting the Secretary of the Interior to acquire title to land in trust on their behalf. The regulation bars the acquisition of land in trust in Alaska other than for the Metlakatla Indian Community or its members. After full briefing, but nearly three years of no action by the federal court, the case was transferred to Judge Rudolph Contreras. In March 2013, an Order was issued by Judge Contreras, granting Plaintiffs complete relief on all of their claims – a major victory for Alaska Tribes. Briefing on remedies was concluded and a Memorandum Order was entered in September 2013 denying the State of Alaska's motion for reconsideration, and severing and vacating Part 1 of 25 C.F.R. 151. The State filed its motion of appeal.

In May 2014, the Department of the Interior published a proposed rule addressing the acquisition of land into trust in Alaska. Specifically, the proposed rule would delete a provision in the Department's land-into-trust regulations at Part 151 that excluded from the scope of the regulations, with one exception, trust acquisitions in the State of Alaska. Following the notice of rule-making, the State of Alaska filed a motion to stay the rule-making pending appeal. In June 2014, the court issued an Order granting in part and denying in part Alaska's motion to stay pending appeal. The court found that the State would suffer no harm from allowing the rule-making to proceed but granted the stay in part to prevent the Department from considering specific applications or taking lands into trust in Alaska until resolution of the appeal. The D.C. Court of Appeals recently issued its briefing Order directing that briefing be completed by the end of February 2015 with oral argument yet to be scheduled.



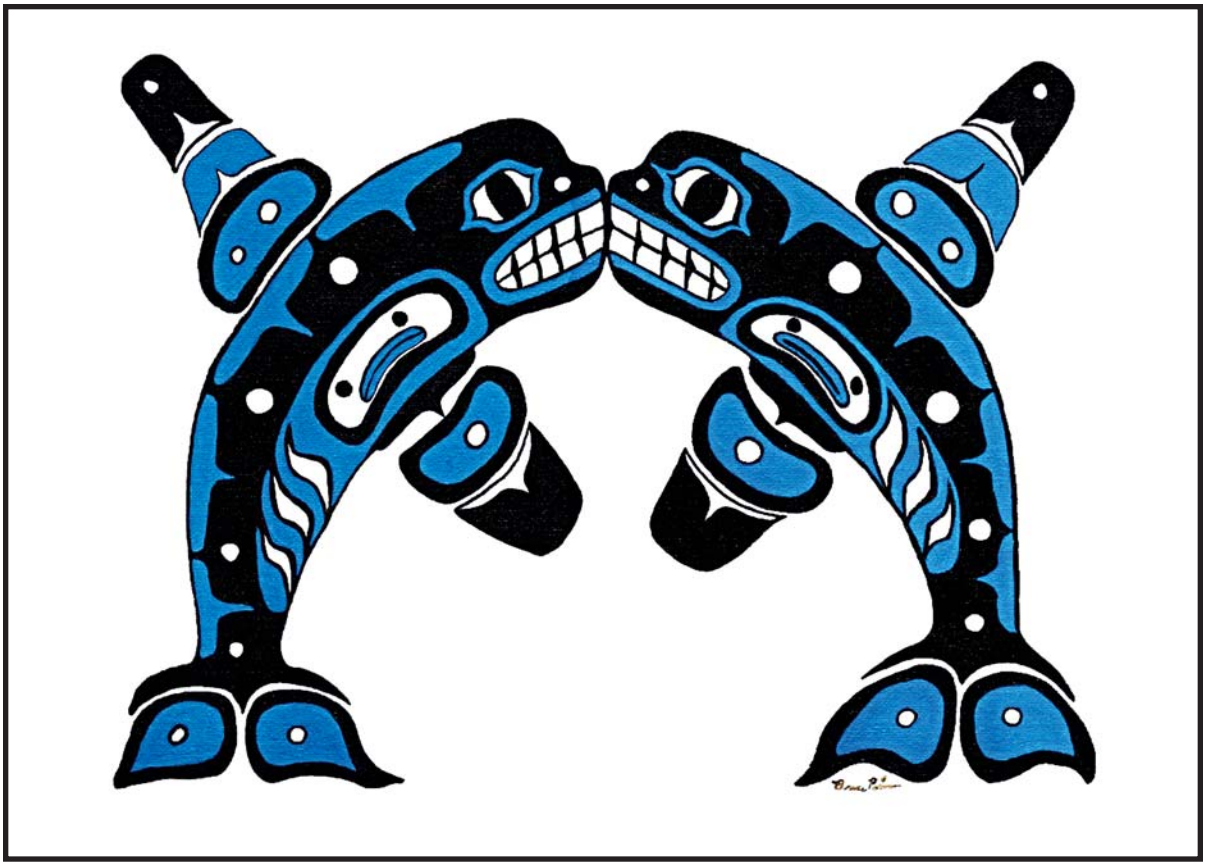
Water Rights

The culture and way of life of many indigenous peoples are inextricably tied to their aboriginal habitat. For those tribes that still maintain traditional ties to the natural world, suitable habitat is required in order to exercise their treaty-protected hunting, fishing, gathering and trapping rights and to sustain their relationships with the animals, plants and fish that comprise their aboriginal habitats.

Establishing tribal rights to the use of water in the arid western United States 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 specific Indian tribes represented by NARF and other western tribes generally. Under the precedent established by the 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 Tribe's reservation to serve as a permanent homeland.

NARF, together with co-counsel, represents the Agua Caliente Band of Cahuilla Indians in a lawsuit filed in May 2013 in the U.S. District Court for the Central District of California, asking the Court to declare the existence of the Tribe's water rights as the senior rights in the Coachella Valley under federal law, to quantify these rights, and to prevent Coachella Valley Water District and Desert Water Agency from further injuring the Tribe, its members and residents in surrounding communities throughout the Valley by impairing the quantity and quality of water in the aquifer.

The water districts import and then fail to adequately treat substantially lower quality water



from the Colorado River and inject that water into the aquifer. The recharge water, which contains higher total dissolved solids, nitrates, pesticides, and other contaminants, is re-injected into the Coachella Valley aquifer at a facility close to the Tribe's lands. Thus, the groundwater in the Western Coachella Valley, including the water below the Agua Caliente Reservation, which includes the cities of Palm Springs, Cathedral City, Rancho Mirage, and Thousand Palms, is being polluted at a faster rate than the aquifer down-valley.

In February 2014 the court set a discovery and pre-trial motion practice schedule in the case. The parties completed discovery in Phase I of the case this past summer. The United States moved to intervene in the case and the court granted the US' intervention, a significant achievement for the Tribe and its attorneys. Summary judgment motions were filed in October 2014, and response briefs were filed in November 2014 and reply briefs in December 2014.

NARF has represented the Nez Perce Tribe in Idaho in its water rights claims in the Snake River Basin Adjudication (SRBA) both litigation and settlement phases for over 16 years. In 2004 Congress enacted and the President signed the Snake River Settlement Act. We continued to work with the Tribe, on a very limited basis, to secure final approval of the settlement by the state water court, and on the federal appropriations process. Additionally, we have been representing the Tribe in the drafting and negotiations with the United States, the State and private water interests of a Final Unified Decree that will be the capstone document closing the SRBA. With the court, and one of the special masters, we have worked through many drafts of the Final Unified Decree with an eye toward resolving all objections to the text. The signing of the Final Unified Decree occurred August 25-26, 2014, at a conference and ceremony in Boise, ID.

Exceptions to the Oregon Water Resources Department's Findings of Fact and Order of Determination (FFOD) in the Klamath Basin Adjudication were filed by the Klamath Tribes and other Adjudication parties in October 2014. Over 190 exceptions were filed. A statutorily required Initial Hearing was also held in October. The hearing was largely pro forma, with the only action

taken being the adjustment of the schedule for future proceedings. Under the current schedule, requests to be heard on exceptions are due in January 2015. A case management conference to establish the structure and processing of future proceedings on the various claims included in the FFOD, including those of the Klamath Tribes, will be held in March 2015.

In April 2014, Upper Basin stakeholders, including the Klamath Tribes, signed the Upper Klamath Basin Comprehensive Agreement (UBA). The UBA is an agreement for water management and restoration in the Upper Klamath Basin. When fully implemented, the UBA will provide for increased inflows into Upper Klamath Lake of at least 30,000 acre-feet annually, and enhance and protect riparian conditions to help restore Tribal fisheries. Public access sites for exercise of Tribal Treaty fishing rights and an Economic Development Plan for the Klamath Tribes are additional components of the UBA. Federal legislation (S. 2379) that is needed to fully implement the UBA, as well as the Klamath Basin Restoration Agreement and the Klamath Hydroelectric Settlement Agreement, is pending in Congress.

After almost 30 years of advocacy, the Tule River Indian Tribe, represented by NARF, successfully settled its water rights in November 2007 by signing a Settlement Agreement with water users on the South Fork Tule River of California. The Settlement Agreement secures a domestic, municipal, industrial, and commercial water supply for the Tribe. The Tribe now seeks federal legislation to ratify the Settlement Agreement and authorize appropriations to develop the water rights through the creation of water infrastructure and reservoirs on the Tule Reservation. Bills introduced in the U.S. House and Senate in 2007, 2008, and 2009 did not pass. With the present Congress, we are once again engaged in strategy meetings with the California Congressional delegation regarding the possible introduction of a water settlement bill. Additionally, we are continuing work with the federal Bureau of Reclamation on necessary studies for the feasibility and design of the Tribe's water storage project. New federal negotiation team members were appointed recently by the Secretary's Indian Water Rights Office. The first meeting with the new team was held in July 2014 and a second meeting was held the first week of October 2014.

In June 2006, the Kickapoo Tribe in Kansas, represented by NARF, filed a federal court lawsuit in an effort to enforce express promises made to the Tribe to build a Reservoir Project. The Nemaha Brown Watershed Joint Board # 7, the Natural Resources Conservation Service of the U.S. 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.

According to the Environmental Protection Agency, the water supply for the Reservation is in violation of the Safe Drinking Water Act of 1974. The Kickapoo people are unable to safely drink, bathe or cook with tap water. There is not enough water on the reservation to provide basic municipal services to the community and the Tribe is not even able to provide local schools with reliable, safe running water. The fire department cannot provide adequate fire protection due to the water shortage. The proposed Reservoir Project is the most cost effective and reliable means by which the Tribe can improve the water supply.

The US, the State and the local watershed district all concede the existence of the Tribe's senior Indian reserved water rights; the real issue is the amount of water needed to satisfy the Tribe's rights, and the source or sources of that water. The Tribe and the US have also discussed funding to quantify the Tribe's water rights.

In March 2011, the watershed district rejected a Condemnation Agreement that the State and Tribe had approved. That agreement created the mechanism for condemning the property for the water storage project. NARF then succeeded in restructuring the litigation to place an immediate focus on discovery against the watershed district and on getting the condemnation dispute resolved by the federal court. Most recently, the federal court entered summary judgment in favor of the watershed district on the question of whether a 1994 agreement obligated the district to make its condemnation power available to aid the Tribe in acquiring the land for the water storage project area. The Tribe is now evaluating its options, including discussions with the Interior Department and the State of Kansas to find an alternative means of securing the land rights for the project. Additionally, the State, the US and the

Tribe have recently resumed active negotiations of the Tribe's federally reserved water rights.

Protection of Hunting and Fishing Rights

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 *Katie John v. Norton,* Katie John, represented by NARF, filed a lawsuit in 2005 in the U.S. District Court for the District of Alaska challenging Federal Agencies' final rule implementing the prior Katie John mandate as being too restrictive in its scope. Katie John alleged that the Federal agencies should have included Alaska Native allotments as public lands and that the federal government's interest in water extends upstream and downstream from Conservation Units established under the Alaska National Interest Lands Conservation Act. The State of Alaska intervened and challenged the regulations as illegally extending federal jurisdiction to state waters. In 2009 the court upheld the agencies' final rule as reasonable. While rejecting Katie John's claim that the agency had a duty to identify all of its federally-reserved water rights in upstream and downstream waters, the court stated that the agency could do so at some future time if necessary to fulfill the purposes of the reserve. The case was appealed to the U.S. Court of Appeals for the Ninth Circuit where oral argument was held in July 2011.

In July 2013, a panel of the Ninth Circuit Court of Appeals affirmed the district court's decisions upholding the 1999 Final Rules promulgated by the Secretary of the Interior and the Secretary of Agriculture to implement part of the Alaska National Interest Lands Conservation Act concerning subsistence fishing and hunting rights. In March 2014, the U.S. Supreme Court denied the State's petition ending twenty-seven years of litigation over subsistence rights in Alaska.

In the subsistence case of *Stickwan v. Catholic Church,* NARF is representing the Stickwan family from Tazlina in the establishment of a prescriptive easement to protect a historic customary and tradi-

tional fishing site on property owned by the Catholic Church that is slated to be sold. The Church received the land in a special legislative land grant in 1952 with a reservation that land would be used as a mission school for Indians. A complaint on behalf of the family was filed in April 2014. Within days the Catholic Church directed their attorney to settle the case in favor of Plaintiffs' claims. In settlement discussions the Church also indicated that it preferred to settle all potential other claims by subsistence users at one time. The case was stayed through August 2014 while the parties negotiated the terms of the settlement. The stay was recently extended to allow further negotiation.

The Alaska National Interest Lands Conservation Act (ANILCA) provides a subsistence harvest priority to Alaska's "rural" residents. ANILCA itself, however, does not define which individuals or communities qualify as "rural." The Organized Village of Saxman is a coastal community of 411 residents. The population is overwhelmingly Alaska Native. Saxman has its own federally recognized tribal government, its own state recognized municipality, and its own ANCSA village corporation. Saxman is, however, connected to the city of Ketchikan by a two-mile long road.

In 2007, the Federal Subsistence Board (FSB) promulgated a final rule revoking Saxman's rural community status. The FSB reasoned that Saxman's close proximity to Ketchikan justified aggregating the two communities together as non-rural. The Saxman IRA Council, assisted by NARF, is pursuing its administrative remedies in order to reinstate its rural status. Implementation of the 2007 Final Rule was delayed by the Secretary of the Interior and the FSB is presently engaging in an overhaul of the rural determination criteria used to designate communities "rural or non-rural" under ANILCA. Although there is strong support among the present FSB members to reverse the prior Board's decision, the statute of limitations to challenge the 2007 Final Rule expired in July 2014.

NARF filed a complaint for declaratory and injunctive relief in Alaska's federal district court in June 2014. The complaint challenges the merits of the FSB's 2007 decision to classify Saxman as non-rural. As expected, the federal government has asked

for and received an extension of time to answer the complaint. In addition to the litigation, NARF continues to pursue action in the administrative realm. While the FSB's proposed overhaul is currently before the Secretaries of Interior and Agriculture, NARF is working with state and national organizations, such as the Alaska Federation of Natives and the National Congress of American Indians, to push the Secretaries to publish the proposed rule and begin the formal rulemaking process.

The Bering Sea Elders Group is an alliance of thirty-nine Yup'ik and Inupiaq villages that seeks to protect the sensitive ecosystem of the Bering Sea, the subsistence lifestyle, and the sustainable communities that depend on it. NARF has designed a comprehensive plan to help this group of Alaska Native villages in their efforts to protect the area and become more engaged in its management. Subsistence is the inherently sustainable Native philosophy of taking only what you need. There are often no roads and no stores in rural Alaska, and so no other group of people in the United States continues to be as intimately connected to the land and water and as dependent upon its vast natural resources as Alaska's indigenous peoples.

NARF has been working with the Elders Group in their negotiations with the bottom trawl industry. These negotiations have resulted in the creation of a Working Group which will study various issues including seafloor habitat and subsistence uses of the area and make recommendations about needed changes. The first Working Group meeting was held in November 2014.

Alaska's Bristol Bay region is home to the largest wild salmon runs in the world. It is also home to the Yup'ik, Dena'ina, and Alutiiq people who depend on the sustainable salmon runs for their subsistence. In April 2013, NARF assisted in the creation of the United Tribes of Bristol Bay (UTBB). UTBB is a consortium of federally- recognized tribes in the region. It was formed in order for tribes to directly address regional large-scale mining proposals threatening salmon rearing streams – such as the proposed Pebble Mine, which would sit on the headwaters of the largest salmon-producing river in Bristol Bay. Exercising its delegated governmental authority, with NARF as legal counsel, UTBB has actively engaged the federal government in direct government-to-government consultation on large scale mining in Bristol Bay.

EPA released its Watershed Assessment in January 2014. The assessment is a science- based document that supports the use of 404(c) authority by EPA to prohibit or restrict hard rock mining in the Bristol Bay watershed. In February 2014, EPA gave their 15-day notification that it would initiate a 404(c) process for the Pebble Mine. The State of Alaska immediately filed a statement requesting a stay to allow the developer to submit a permit under the NEPA process. EPA granted the State and the Corp. of Engineers a thirty day extension to respond to the notification of 404(c) process. Public hearings commenced over the 2014 summer season.

The global mining firm Rio Tinto announced in April 2014, that it will divest its 19 percent stake in the controversial Pebble Mine project in Alaska, donating its shares to two state charities. The decision is the latest blow to the proposed gold, copper and molybdenum mine, which is under federal scrutiny for how it could affect the nearby Bristol Bay watershed, which supports nearly half the world's sockeye salmon. In May 2014, Pebble Limited Partnership filed suit against EPA and Region 10 Administrator challenging EPA's Section 404(c) review process as exceeding its statutory authority under the Clean Water Act. The State of Alaska filed a motion to intervene as a plaintiff and such motion was granted in June 2014. Both parties moved for a preliminary injunction. The UTBB, represented by NARF, filed a motion to intervene as Intervenor-Defendants in July 2014, and such motion was granted. The defendant's opposition to Pebble's preliminary injunction motion and potential motion to dismiss was submitted in July 2014. In September 2014 Judge Holland heard oral argument then ruled from the bench dismissing PLP and the State of Alaska's Motion for a Preliminary Injunction on the ground that agency action was not final. PLP and State of Alaska filed their motion to appeal in October 2014.

In response to a Request for Assistance in relation to a dispute with the State of Maine involving the 2014 Elver Fishery, NARF has been retained by the Passamaquoddy Tribe to provide pro bono legal representation concerning their treaty-reserved marine fishery rights. NARF has completed the legal research and analysis related to the Tribe's substantive legal rights under the Maine Indian Land Claims Settlement Act and the Maine

Implementing Act. NARF is in the process of preparing a legal opinion detailing its findings and conclusions in relation to possible federal court litigation to vindicate those rights and will be meeting with the Joint Tribal Council to discuss the tribe's legal options

Climate Change Project

Global warming is wreaking havoc in Alaska. In recent years scientists have documented melting ocean ice, rising oceans, rising river temperatures, thawing permafrost, increased insect infestations, animals at risk and dying forests. Alaska Natives are the peoples who rely most on Alaska's ice, seas, marine mammals, fish and game for nutrition and customary and traditional subsistence uses; they are thus experiencing the adverse impacts of global warming most acutely. In 2006, during the Alaska Forum on the Environment, Alaska Native participants described increased forest fires, more dangerous hunting, fishing and traveling conditions, visible changes in animals and plants, infrastructure damage from melting permafrost and coastal erosion, fiercer winter storms, and pervasive unpredictability. Virtually every aspect of traditional Alaska Native life is impacted. As noted in the Arctic Climate Impact Assessment of 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. Efforts are continuing to convene Congressional hearings on climate change impacts on indigenous peoples.

After several years of fruitful partnership, NARF has recently begun representing NCAI climate change matters. Climate change is one of the most challenging issues facing the world today. Its effects on indigenous peoples throughout the world are acute and will only get worse. The effects are especially pronounced in Alaska where as many as 184 Alaska Native villages are threatened with removal.

On the international stage, the first meetings on the specifics of the new "protocol" to be adopted by December 2015 were held in Bonn in April/May and June, 2013. NARF attended all of the April/

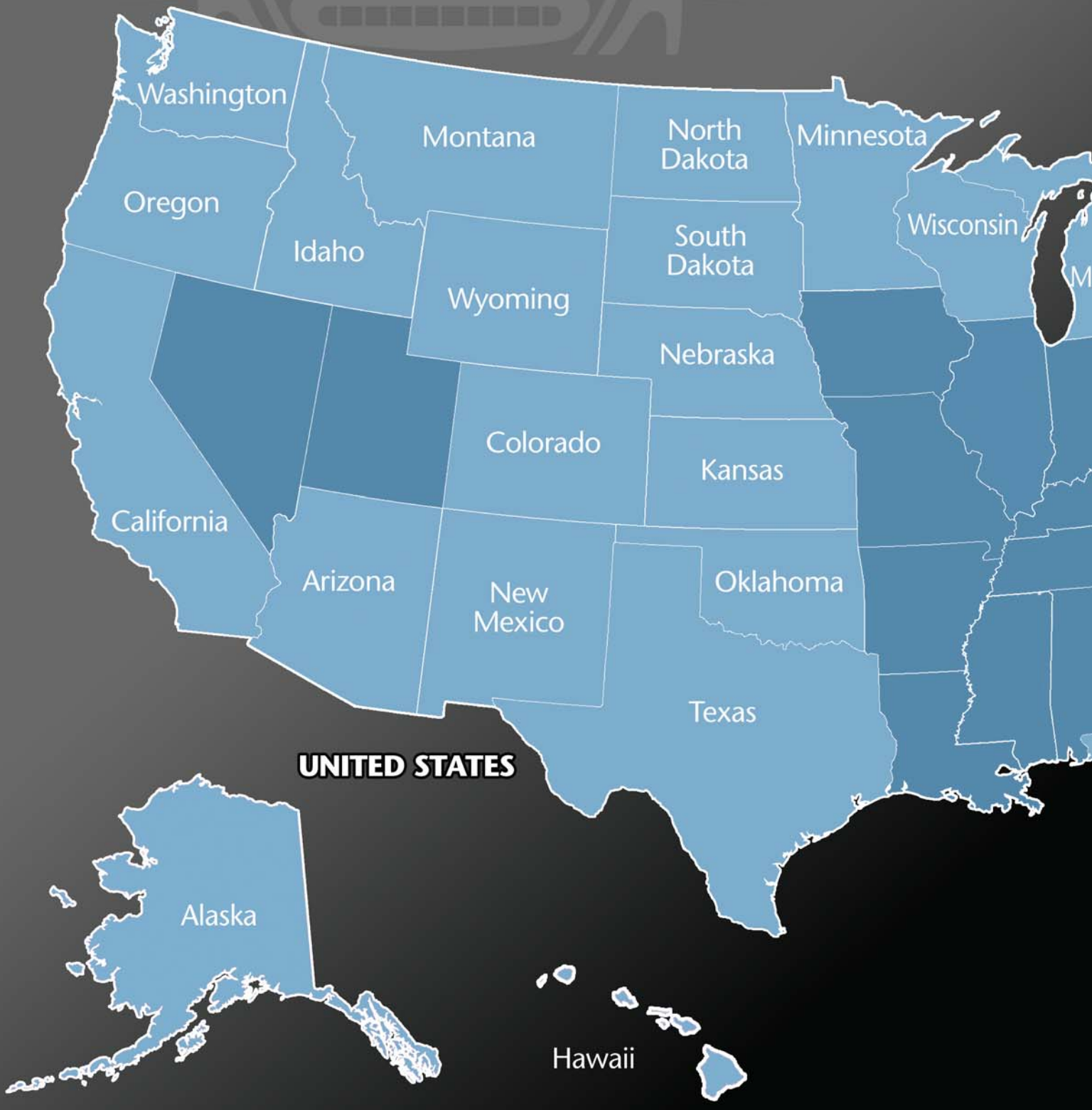
May meeting and part of the June meeting on behalf of NCAI. NARF was the only one to make a brief statement on behalf of the indigenous viewpoint at the April/May meeting. So far, the process is very slow and developed countries are spending a lot of time on general concepts, but no specific language has been proposed yet. In November 2013 NARF attended Conference of the Parties 19 (COP) in Warsaw, Poland and the results were disappointing. Disturbingly, Poland only authorized a small percent of Non-Governmental Organizations (NGOs) to attend. One indigenous organization requested 30 slots and only seven were approved. The main accomplishment of COP 19 was the approval of a loss and damage mechanism (though with no finding) which would address loss due to climate change.

On a more positive note, the Indigenous Caucus met with the organizers of COP 20 to be held in Lima, Peru in December 2014 and were assured that ample attendance by Indigenous participants would be approved and that a pre-meeting would be held between Indigenous representatives and friendly states just as had been done before COP 16 in Mexico and COP 17 in Durban, South Africa. Finally, the caucus also met with organizers for COP 21 to be held in France in 2015 who gave assurance of ample participation as well, though they did not commit to a pre-meeting.

At the March 2014 meeting of the United Nations Framework Convention on Climate Change in Bonn, an open-ended consultation occurred where countries exchanged views on the elements of the 2015 agreement. No text was produced and developing countries expressed their view that more formal negotiations that allowed for the tabling of text were due. In the June 2014 session, it was anticipated that draft text would be tabled but this did not happen, as more discussion occurred on the elements of a draft text. An additional session was held in Bonn in October 2014. In anticipation of the COP 20, a meeting was held in Lima, Peru in late November 2014.

Native American Rights Fund

MAJOR ACTIVITIES 2014 - CASE MAP



ALASKA

NARF ANCHORAGE OFFICE

Akiachak Native Community – Land into Trust

Native Village of Atka – Tribal Trust Funds

Aleut Community of St. Paul Island – Tribal Trust Funds

Bering Sea Elders Group – Subsistence

Chilkoot Indian Association – Land into Trust

Chalkyitsik – Land into Trust

Chistochina Tribe – Subsistence

Churyung v. Alaska – Indian Child Welfare

Native Villages of Eyak, Tatitlek, Chenega, Nanwalek, and Port Graham – Subsistence & Aboriginal Title

Ivanof Bay Village – Sovereign Immunity

Kaltag Tribe – Indian Child Welfare

Native Village of Kasigluk – Voting Rights Act Suit

Katie John v. Norton – Subsistence

Kenaitze Indian Tribe – Tribal Trust Funds

Native Village of Kivalina - Global Warming Project

Native Village of Kwigillingok – Voting Rights Act Case

Gwich'in Steering Committee – Environmental/Subsistence

Native Village of Nulato – Indian Child Welfare

Ninilchick Tribe – Subsistence

Tanana – Tribal Sovereignty

Tlingit and Haida Indian Tribes – Tribal Trust Funds

Native Village of Tuluksak – Trust Lands & Voting Rights Act Case

Native Village of Tuntutuliak – Voting Rights Case

Native Village of Tyonek – Subsistence & Cultural Preservation

Native Village of Venetie – Subsistence

United Tribes of Bristol Bay – Environmental/Subsistence

ARIZONA

Hualapai Tribe – Boundary Issue

Kaibab Paiute Tribe – NAGPRA

Arizona Inter Tribal Council – Education Trust Funds

CALIFORNIA

Agua Caliente Band of Cahuilla Indians – Tribal Water Rights

San Luis Rey Indian Water Authority – Tribal Trust Funds

Tule River Tribe – Tribal Water Rights

Yurok Tribe – Tribal Trust Funds

COLORADO

NARF HEADQUARTERS BOULDER, COLORADO

Southern Ute Tribe – Tribal Trust Funds

Valmont Butte – Sacred Site Issue

FLORIDA

Seminole Tribe of Florida – Tribal Trust Funds

IDAHO

Nez Perce Tribe - Water Rights

KANSAS

Kickapoo Tribe – Water Rights

MAINE

Penobscot Indian Nation – Tribal Trust Funds

Passamaquoddy Tribe – Fishing Rights

MICHIGAN

Grand Traverse Band of Ottawa and Chippewa Indians – Tribal Trust Funds

MINNESOTA

Prairie Island Indian Community – Tribal Trust Funds

White Earth Band of Chippewa Indians - Tribal Trust Funds

MONTANA

Chippewa-Cree Tribe of the Rocky Boys Reservation – Tribal Trust Funds

Crow Tribe – Coal Reclamation

Little Shell Tribe of Chippewa Indians – Recognition & Tribal Trust Funds

NEW MEXICO

Pueblo of Acoma – Tribal Trust Funds

Jemez Pueblo – Sacred Site Protection

NORTH DAKOTA

Turtle Mountain Chippewa Tribe – Tribal Trust Funds

North Dakota Voting Rights Law

OKLAHOMA

Cheyenne-Arapaho Tribes – Tribal Trust Funds

Comanche Nation – Tribal Trust Funds

Kickapoo Tribe – Tribal Trust Funds

Muscogee Creek Nation – Tribal Trust Funds

Pawnee Nation – Water Rights

Sac & Fox Nation – Tribal Trust Funds

Tonkawa Tribe – Tribal Trust Funds

OREGON

Klamath Tribes – Water Rights & Tribal Trust Funds

Confederated Tribes of the Umatilla Reservation – Tribal Trust Funds

SOUTH DAKOTA

Oglala Sioux Tribe – Environmental

Sisseton Wahpeton Oyate – Tribal Trust Funds

TEXAS

Native American Church of North America – Religious Freedom

VIRGINIA

Pamunkey Tribe – Tribal Recognition

WASHINGTON

Nooksack Tribe – Tribal Trust Funds

Quinault Indian Nation – Tribal Trust Funds

Samish Indian Nation – Tribal Trust Funds

Shoalwater Bay Tribe – Tribal Trust Funds

Skokomish Tribe – Tribal Trust Funds

WASHINGTON, D.C.

NARF WASHINGTON, D.C. OFFICE

Tribal Supreme Court Project

WISCONSIN

Bad River Band of Lake Superior Chippewa Indians – Tribal Water Rights

WYOMING

Eastern Shoshone Tribe – Land Issue

INTERNATIONAL

Declaration on the Rights of Indigenous Peoples/Climate Change Issues – Organization of American States and United Nations

The Promotion of Human Rights

"We are now living outside the laws of nature where nature is now turning against man and becoming the enemy. Climate change is the consequence of the fact that man is operating outside the laws of life and laws of nature, law of the balance of the world. And doing so will destroy the balance." — Kogi

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. NARF also works with Tribes to 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.

In NARF's Sacred Places Project, NARF has partnered with the National Congress of American Indians and the Morningstar Institute to help ensure that various federal agencies with jurisdiction over federal lands are held accountable to their obligation to protect sacred places and provide meaningful access to tribal people wishing to use those places for traditional purposes. These efforts will include providing best practices analysis, as well as raising awareness of issues and different approaches that can be used to protect sacred places held by the federal government. To the extent possible, analysis

and practices learned from federal lands will also be compared for use on private and state-held lands.

NARF has a long history in the protection of Native religion and cultural property, including sacred sites. Thanks to recent funding from a challenge grant from a generous private donor, NARF will now redouble its sacred sites protection efforts. The project focuses on monitoring legal issues impacting sacred places for Native peoples, collaborating with various groups that are already working to protect sacred places, monitoring and participating in litigation to protect sacred places, and advocating for greater protection and access for sacred places at the congressional and administrative levels. A website will be developed to act as a clearinghouse of information regarding sacred places protection laws and cases.

NARF has begun to provide input to the federal Departments of the Interior, Agriculture, Defense, and Energy, which signed a Memorandum of Understanding (MOU) Regarding Interagency Coordination and Collaboration for the Protection of Indian Sacred Sites to improve the protection of and tribal access to Indian sacred sites through enhanced and improved interdepartmental coordination and collaboration. The MOU was followed in March 2013 with an "Action Plan" calling for establishment of working groups to perform various listed activities to facilitate better coordination and access. NARF will continue to provide input to the working groups on best practices and suggestions going forward as the working group will have a series of consultations on some proposals they have for better protecting and providing access to sacred sites.

NARF, representing the Indian Peaks Band of Paiute Indians, the San Juan Southern Paiute Tribe, and the Morningstar Institute, filed an amicus brief in *Yount v. Jewell,* a case in federal district court of Arizona about the Northern Arizona Withdrawal. In 2012, then-Interior Secretary Salazar announced that he was withdrawing over a million acres of Bureau of Land Management and Forest Service land around the Grand Canyon from future uranium mining claims. The Northern Arizona Withdrawal would prohibit future mining claims from being perfected as of January 2012, but would permit claims that were valid as of that date to go forward. Several mining companies and individuals challenged the Withdrawal on many grounds, including that the Withdrawal violated the Establishment Clause of the U.S. Constitution because it relied on American Indian spiritual beliefs and therefore constituted an impermissible establishment of religion. NARF's amicus brief addressed the Establishment Clause argument as well as the other American Indian cultural arguments that the mining companies raised. The amicus brief was in support of the United States, the Havasupai Tribe, and other environmental groups that intervened in the matter. Oral argument was held in September 2014, and in a comprehensive opinion, the court upheld the Northern Arizona Withdrawal, therefore preventing new future mining claims. The Court gave little attention to the Plaintiff's Establishment Clause and American Indian arguments indicating they were without merit. The mining companies are expected to appeal this decision.

In September 2014, NARF filed an amicus brief on behalf of the Blackfeet Tribe of the Blackfeet Reservation in the case of *Solonex v. Jewell.* The energy company Solonex is challenging the government's process and decision to limit oil and gas development that would threaten the Tribes' sacred sites.

Legal work continues on Native American Graves Protection and Repatriation (NAGPRA) implementation issues. When Sac and Fox Olympian, Jim Thorpe passed away in the 1950s, he was taken to Oklahoma so that traditional tribal ceremonies could be conducted and he could be buried on the Sac and Fox Reservation as was his wish. Jim Thorpe's third wife, accompanied by Oklahoma State police, interrupted the ceremony and removed his body. His wife then began to contact states and municipalities willing to pay for his body and erect memorials in his honor. Mauch Chunk and East Mauch Chunk, two old mining towns in Pennsylvania facing economic hardships agreed with her to have him buried in their respective towns on several conditions. They had to erect memorials in his name and they had to re-incorporate as the Borough of Jim Thorpe, Pennsylvania. Thus, Jim Thorpe was buried in the Borough of Jim Thorpe, Pennsylvania – a place he had never been in his life.

In 2010, Jim Thorpe's oldest son filed a federal lawsuit under the Native American Graves Protection and Repatriation Act ("NAGPRA") to

have Jim Thorpe's remains returned to the Sac and Fox Reservation in Oklahoma. The Sac and Fox Nation eventually joined the lawsuit as well as several of Jim Thorpe's other children. The Federal district court ruled that NAGPRA applied to Jim Thorpe's remains and to the Borough of Jim Thorpe. The Borough of Jim Thorpe appealed that ruling to the U.S. Court of Appeals for the Third Circuit. NARF, representing the National Congress of American Indians, filed an amicus brief in support of the Thorpe sons and the Sac and Fox Nation, and in opposition the Borough of Jim Thorpe. NARF argued that NAGPRA is constitutional on several grounds; that NAGPRA applies to the Borough of Jim Thorpe and Jim Thorpe's remains for many reasons, and that laches is inconsistent with the purpose of NAGPRA. A panel of the Third Circuit Court of Appeals ruled in October 2014 that NAGPRA as written applies to the Borough, but that applying in this case would produce an absurd result demonstrably at odds with the intentions of Congress. The panel was not exactly clear what it saw as "absurd" but also ruled that NAGPRA was only meant to apply to original burial locations or final resting places. In December 2014, the Thorpes and Sac and Fox Nation filed a petition for rehearing or rehearing en banc. Former Senator Ben Nighthorse Campbell and NCAI also filed a brief in support of a petition for rehearing or rehearing en banc. The parties argued that the Third Circuit panel opinion wrongly interpreted NAGPRA and Congress' intent, left out major procedural provisions of the statute, and created a judicial exception to its application.

The massive Chuitna Coal project in Alaska threatens to destroy a vital salmon habitat stream that the Native Village of Tyonek (NVT) utilizes for subsistence fisheries. After agreeing to assist the Tribe in protecting its subsistence fisheries resources, legal research established that much more was at stake as recent field surveys and excavations found numerous house pits, cultural features, and religious remains in the project area. Under such circumstances the National Historic Preservation Act requires that the federal agency tasked with jurisdiction immediately contact the impacted Tribe to seek consultation regarding the protection of the historic resources. Under existing law Tyonek should be granted the opportunity to identify its concerns about historic properties, advise on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, articulate its views on the undertaking's effects on such properties, and participate in the resolution of adverse effects. NARF has engaged an expert and has been working with the Tribe's Council, the State Historic Preservation Office, the National Park Service and others to effectively engage the Army Corp of Engineers on National Historic Preservation Act issues.

NARF is also actively engaged in helping the Tribe acquire 160 acres of land currently owned by the Nature Conservancy. The Nature Conservancy Board of Directors has agreed to move forward with the "Land Transfer" in order to assist NVT to protect ancient culture sites, which have been found on the land. The Alaska State Historic Preservation Office has determined that the boundary of the Chuit'na Archeological District be expanded to include the Nature Conservancy Land. An access agreement has been completed to allow NVT and the Great Land Trust in Anchorage to complete any further inspections prior to the closing date of the land transfer and the development of the conservation easement.

NARF represents the Kaibab Paiute Tribe in their dispute with the King County Water District and the Army Corps of Engineers who are preparing to build a dam over a burial ground that is known to contain the remains of almost 100 people. The Water District and the Corps have not finished their study to determine exactly how many people are still buried there, and the Kaibab do not want the dam built or the reservoir filled until the full extent of the burials are known and steps can be taken to protect the site and the people under the Native American Graves Protection and Repatriation Act.

NARF has also continued its representation of the Native American Church of North America in addressing issues concerning the sacramental use of peyote in their religious ceremonies. NARF has begun a project to research the impact of the peyote harvest decline in Texas on Native American Church members and to develop and support access to and the use of the holy sacrament, peyote, for our client, the Native American Church of North America.

Indian Education

During the 19th and into the 20th century, pursuant to federal policy, Native American children were forcibly abducted from their homes to attend

Christian and government-run boarding schools. The purpose was to "civilize" the Indian and to stamp out native culture. It was a deliberate policy of ethnocide and cultural genocide. Cut off from their families and culture, the children were punished for speaking their native language, banned from conducting traditional or cultural practices, shorn of traditional clothing and identity of their native culture, taught that their culture and traditions were evil and sinful, and that they should be ashamed of being Native American. Placed often far from home, they were frequently neglected or abused physically, sexually and psychologically. Generations of these children became the legacy of the federal Boarding School Policy. They were returned to their communities, not as the Christianized farmers that the Boarding School Policy envisioned, but as deeply scarred human beings with none of the acculturated skills – community, parenting, extended family, language, cultural practices – gained by those who are raised in their cultural context.

There has been scant recognition by the U.S. federal government that initiated and carried out this policy, and no acceptance of responsibility for the indisputable fact that its purpose was cultural genocide. There are no apparent realistic legal avenues to seek redress or healing from the deep and enduring wounds inflicted both on the individuals and communities of tribal nations. Lawsuits by individuals have been turned aside, and unlike other countries that implemented similar policies – e.g. Canada, Australia – there has been no official U.S. proposal for healing or reconciliation.

The National Native American Boarding School Healing Coalition (NABS or the "Coalition") is primarily conducting education and outreach with three general areas of focus at this time: (1) Indian Country, (2) Congress, and (3) Churches. Outreach in Indian country has included presentations at regional tribal organization meetings, as well as working with Indian Country media whenever available. To date, 17 resolutions have been passed by tribes and tribal organizations to support the project. These can be seen on the project website at http://www.boardingschoolhealing.org/statements-resolutions . In October 2014 in Atlanta, the National Congress of American Indians adopted a resolution calling for more education about the history and current impacts of the boarding school policy, as well as healing models for addressing historical trauma. A special breakout session addressing boarding school healing took place at the session where NARF and other experts provided a briefing

to tribal leaders and other interested parties in attendance about the project, and the hopeful message that healing is possible along with a plan to move towards that healing.

NABS has shifted its emphasis for informing Congressional staff to engaging in a partnership with the National Museum of the American Indian to develop and provide a briefing to create awareness of NABS and the goals we are pursuing. We are maintaining contact with the Assistant Secretary of Indian Affairs' staff and are keeping that office informed of our work. We continue to work with representatives from the Council of Native American Ministries to raise awareness among churches working in Indian Country, and to collaborate with the Friends Committee on National Legislation to provide educational materials and raise awareness about this project.

The annual meeting of the Coalition was held at the NARF office and via teleconference, in December 2014. Task groups and subcommittees of the Board of the Coalition continue to meet regularly, via phone. Recently, groups focusing on building awareness and support among tribal leaders, on interaction with the Substance Abuse and Mental Health Agency for technical and other assistance, and on planning for a strategic planning meeting, have all met.

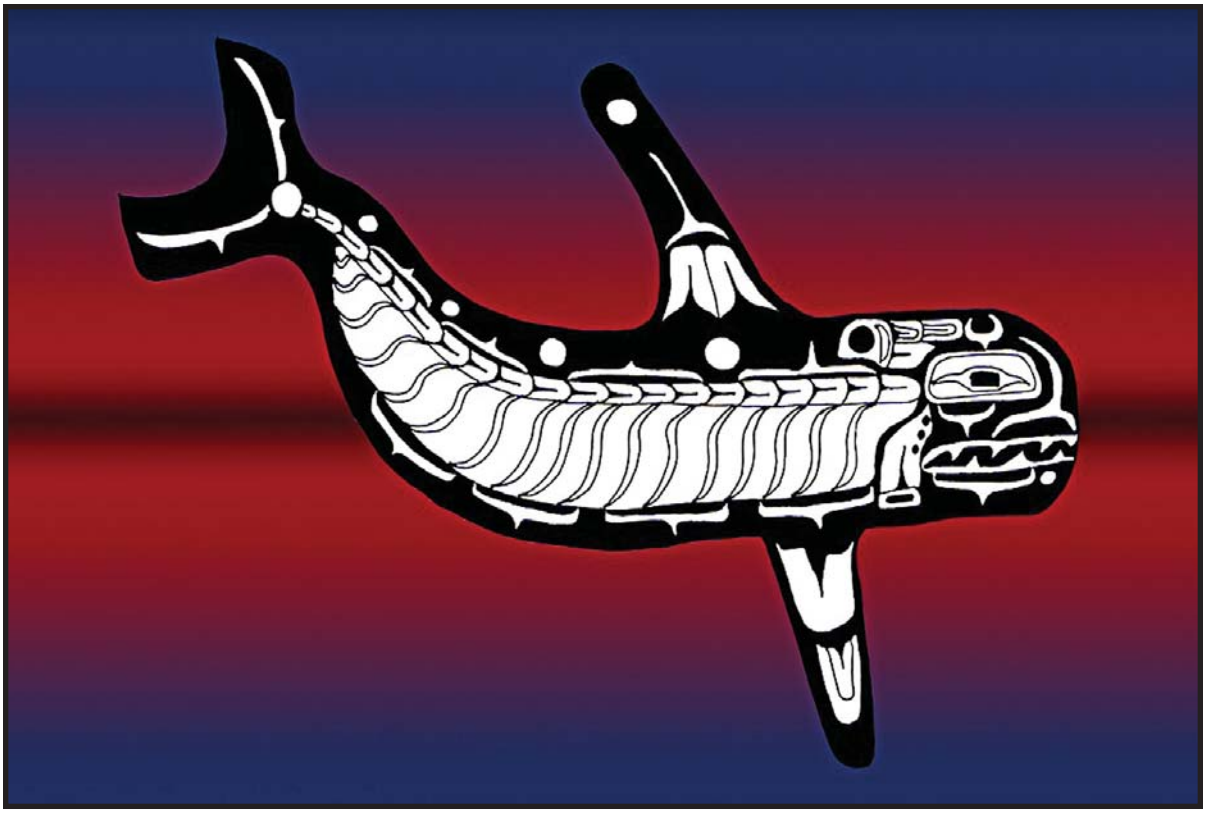
Recent developments mark a historical shift in Indian education law and policy by taking the first step in accomplishing "educational tribal sovereignty." NARF, other Indian organizations and tribes have been advocating for systemic changes to American Indian/Alaska Native (AI/AN) education. Changes that would increase involvement of tribal governments, educators, parents, and elders in what AI/AN students are taught, how they are taught, who teaches them, and where they learn. Tribal control of these core issues can amount to educational tribal sovereignty.

NARF represents the Tribal Education Departments National Assembly (TEDNA), a national advocacy organization for tribal education departments and agencies (TEDs/TEAs) that works to strengthen the legal rights of tribes to control the formal education of tribal members. NARF started TEDNA in 2003 with a group of tribal education department directors from Indian tribes across the country. After over 20 years of work, NARF and TEDNA secured the first source of direct federal funding – $ 2 million – for tribal education departments ("TEDs") in the Labor, Health, and Human Services Fiscal Year 2012 Appropriations Bill distributed by the U.S. Department of Education via a competitive grant process under a new State Tribal Education Partnerships ("STEP") Program. The STEP program authorizes eligible TEDs to participate in a pilot project that allows TEDs to operate federal education programs in schools located on Indian reservations.

In FY 2014, the Department of the Interior announced $2.5 million in competitive discretionary grants for TEDs under a similar new Sovereignty in Education (SIE) Program. TEDNA testified before the House Interior Appropriations Sub-Committee in April 2014 on TED funding through the Interior Department. SIE Program grants are to promote full tribal capacity to manage and operate tribally controlled Bureau of Indian Education (BIE)-funded schools. Grantee tribes will develop school reform plans with the goals of improved efficiencies and effectiveness in school operation and improved student educational outcomes. BIE will provide SIE grantees with technical assistance in planning and implementing assessment and implementation plans and in strengthening school processes. It also will provide a forum for grantee tribes to work collaboratively with each other to gain insights and develop or share tribal and BIE-problems solving strategies. Through NARF's and TEDNA's efforts, another $2 million for tribal departments of education has been included in the 2015 federal budget.

NARF received a sub contract from the U.S. Department of Education through the Region IX Equity Assistance Center at West Ed, which is one of ten such Centers that provide technical assistance and training in the areas of civil rights, equity and school reform. NARF reviewed and commented on West Ed's report on the Indian education laws and policies of Arizona, Nevada, and Utah. The report will soon be published.

On behalf of a student who was affected by a change in Haskell Indian Nations University's admissions policy, NARF made a Freedom of Information Act request to the Bureau of Indian Education (BIE) for the agency's legal and decision-making documentation supporting its policy. The BIE responded and NARF is reviewing the response.



Civil and Cultural Rights

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

In order to address these problems facing tribes as a result of the loss of their children, the Indian Child Welfare Act (ICWA) was enacted by Congress in 1978. It established minimum federal jurisdictional, procedural and substantive standards aimed to achieve the dual purposes of protecting the right of an Indian child to live with an Indian family and to stabilize and foster continued tribal existence. Since that time, there have been misinterpretations and, in some cases, outright refusal to follow the intent of the law by state agencies and courts.

State services frequently do not reach village Alaska. Tribal courts must therefore handle most cases involving the welfare of village children. State recognition of those tribal court proceedings is therefore critical to assure that proceedings which occur in tribal court are then respected by other state agencies. Otherwise, adoptive parents may not be able to participate in state-funded assistance programs, to secure substitute birth certificates necessary to travel out of state, to enroll children in school, or to secure medical care.

In January 2005, NARF filed a complaint on behalf of the Villages of Tanana, Nulato, Akiak, Kalskag, Lower Kalskag, and Kenaitze along with Theresa and Dan Schwietert against the State of Alaska, then-Attorney General Greg Renkes, and various state agencies challenging a policy opining that state courts have exclusive jurisdiction over child custody proceedings involving Alaska Native

children. The policy as implemented instructed state employees to stop recognizing tribal court decrees on the alleged basis that Tribes in Alaska do not have concurrent jurisdiction to hear children's cases unless (1) the child's Tribe has successfully petitioned the Department of Interior to reassume exclusive or concurrent jurisdiction under the Indian Child Welfare Act (ICWA), or (2) a state superior court had transferred jurisdiction of the child's case to a tribal court in accordance with 26 U.S.C. § 1911(b). Plaintiffs sought a declaration that Tribes have inherent jurisdiction to initiate Tribe member children's proceedings without first filing a petition to reassume jurisdiction under ICWA. In May 2007, the state superior court issued an opinion in the Tribes' favor rejecting all of the State of Alaska's arguments. After extensive briefing on the form of relief, judgment was entered. The State appealed to the Alaska Supreme Court and oral argument was heard in December 2009.

In March 2011, the Alaska Supreme Court published its decision in *State of Alaska v. Native Village of Tanana* and reaffirmed that (1) Alaska Tribes had not been divested of their jurisdiction to adjudicate children's custody cases, and (2) Alaska's tribes have concurrent jurisdiction with the State. The court further held that tribes that had not reassumed exclusive jurisdiction under ICWA nonetheless had concurrent jurisdiction to initiate ICWA-defined child custody proceedings, regardless of the presence of Indian country and that as such, the decisions of tribal courts in these cases were due full faith and credit under ICWA.

Following the Alaska Supreme Court's decision upholding tribal authority to initiate children's proceedings, NARF has been working with the Alaska State Attorney General's office to formalize policies and protocol to implement the Tanana decision.

In April 2014, nine years after the Renkes Opinion was issued, and three years after the Alaska Supreme Court issued *State v. Native Village of Tanana,* Attorney General Michael Geraghty finally withdrew the Renkes Opinion as "superseded" by the Tanana decision. In October 2014, the State Rules Committee adopted Supreme Court Opinion (SCO) 1784 to provide a mechanism for the registration, confirmation, and enforcement of tribal court orders entered in ICWA-defined child custody proceedings. This rule change became effective in October 2014.

SCO 1784 adds a new PART XI and new Child in Need of Aid (CINA) Rules 24 and 25 that provide a mechanism for the registration, confirmation, and enforcement of tribal court orders entered in child custody proceedings as defined by ICWA. In *State of Alaska v. Native Village of Tanana,* the court held that such orders are entitled to full faith and credit to the same extent as other states' and foreign

orders. These new rules will make that decision more effective in practice by providing clear procedures. The new CINA Rule 24 addresses the registration, confirmation and enforcement of tribal court child custody orders, and the new CINA Rule 25 provides for expedited enforcement of such orders.

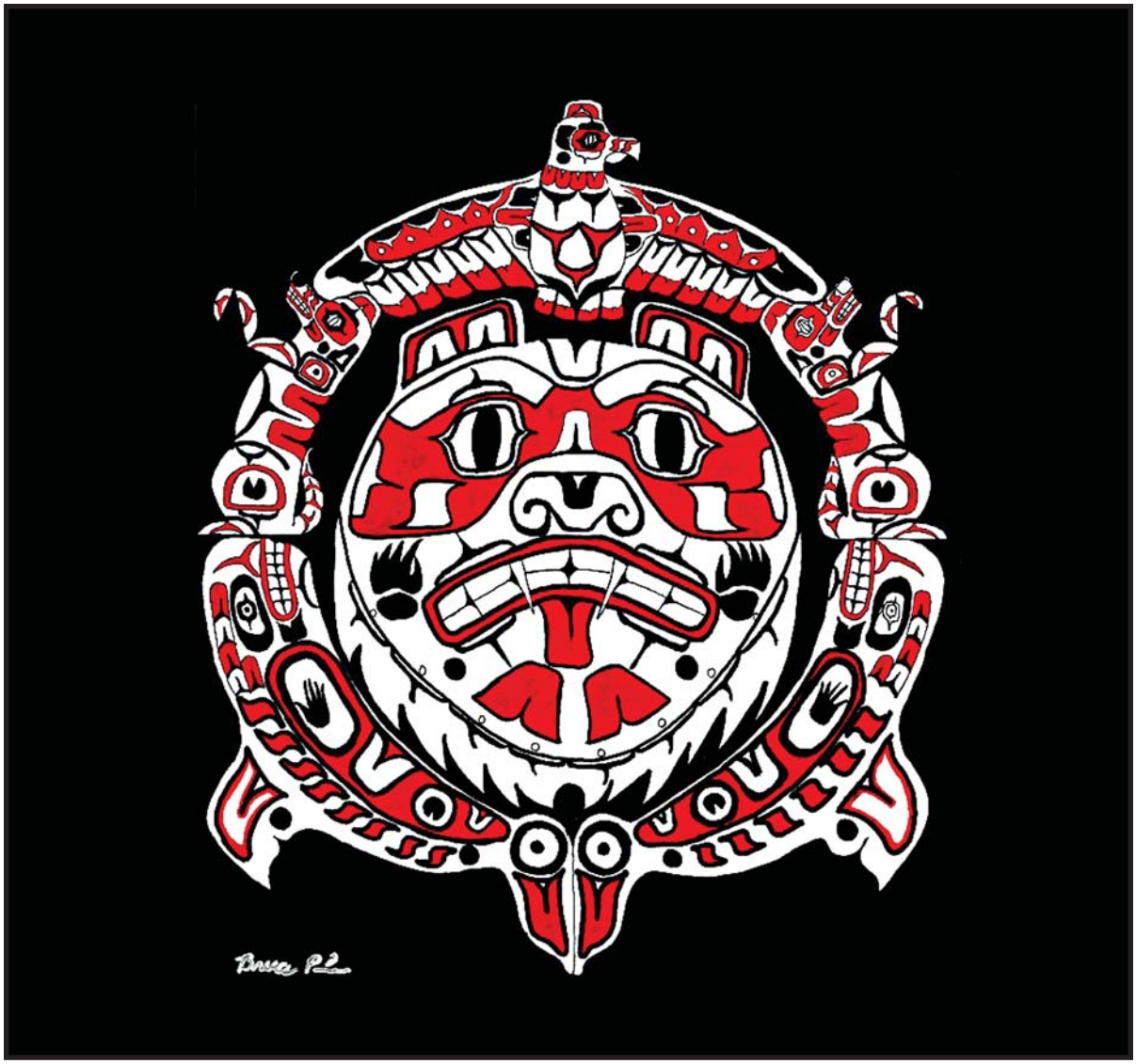
The Indian Child Welfare Act (ICWA) establishes adoptive placement preferences for placing an Indian child with a member of the child's extended family, other members of the child's tribe, or with other Indian families. A court may deviate from these preferences only upon a showing of good cause. NARF has worked with tribes on the issue of ensuring that state courts abide by a tribe's adoptive placement preference. In Alaska, courts had been applying the incorrect standard – the preponderance of the evidence standard – instead of the clear and convincing standard of proof. At issue in *Native Village of Tununak v. State of Alaska* was this proper burden of proof that the Alaska Office of Children's Services must meet in order to move a child from one placement to another. NARF authored an amicus brief in the case on behalf of the Native Village of Kotzebue.

In June 2013 the Alaska Supreme Court issued an important ruling in the case which held that ICWA implicitly mandates that good cause to deviate from ICWA's adoptive placement preferences be proved by clear and convincing evidence, not the weaker preponderance of the evidence standard. This is an important decision because Alaska had been the only state where courts applied the preponderance of the evidence burden of proof to findings of good cause to deviate from ICWA's adoption preferences. In addition, the court's opinion also includes important language on the need for trial courts to evaluate the suitability of placements not under "white, middle class standards" but under "the prevailing social and cultural standards of the Indian community." Unfortunately, the ruling did not end the status of the appeal as the adoptive parents asked the Court to revise its ruling in light of the United States Supreme Court's decision in *Adoptive Couple v. Baby Girl(Baby Veronica).* The Alaska Court has asked the parties to brief the effect, if any of *Baby Veronica* on the pending adoption case. NARF submitted an amicus brief in November 2013 in support of the tribal placement preference. Oral argument was heard in January 2014 and in September 2014, the Alaska Supreme Court issued its decision. The Alaska Supreme Court ruled that, in order to be considered as an adoptive placement option for children in the custody of the State, family members, and other Native families must file formal adoption cases. The Court held that the United States Supreme Court's decision last year in the *Baby Veronica* case required this new rule.

Because filing a formal petition for adoption is a very complicated process that requires the assistance of a lawyer and the vast majority of Alaska Native families (especially those in rural Alaska) lack access to or resources for an attorney, this new requirement will be an insurmountable hurdle for most families and will prevent them from asserting their rights under ICWA. It also means that grandparents, rather than encouraging their children's efforts to reunite with their children, will have to file adoption cases seeking to terminate their own children's parental rights. The Native Village of Tununak is asking the Court to reconsider its decision.

In another Alaska ICWA case, after numerous hearings in *Parks v. Simmonds,* the Minto Tribal Court terminated the parental rights of Mr. Parks and Ms. Stearman and granted permanent custody of a child to the Simmonds. Mr. Parks sued in state court, claiming, among other things, that the tribal court has no jurisdiction over him and that his right to due process was violated when the Minto Court – in accordance with its traditional practices and procedures – did not permit Mr. Parks' attorney to present oral argument. Based on these arguments, Mr. Parks claims that the tribal court termination order is not entitled to full faith and credit under ICWA. The Simmonds argued that the termination order is entitled to full faith and credit and they moved to dismiss the state court action, but this motion was denied by the state court in November 2010. The state court reasoned that failure to allow an attorney to present oral argument did violate Mr. Parks' due process rights.

The Simmonds petitioned the Alaska Supreme Court for review. The petition was granted in March 2011 and the case was remanded to the trial court for it to make specific factual findings and legal conclusions. Briefing on remand was concluded in May 2011 and oral argument was held in December 2011. The trial court issued findings and concluded in part that tribal courts may not have jurisdiction over nonmembers outside of Indian Country, and also suggested that tribal



courts must permit oral argument. The Simmonds filed another petition for review with the Alaska Supreme Court asking that numerous aspects of this decision be overturned. In July 2012, the Alaska Supreme Court granted the petition. Oral argument was delivered in March 2014 and in July 2014, the Alaska Supreme Court issued a unanimous decision affirming full faith and credit for the Minto Tribal Court's order and dismissing the case. The court's opinion was notable in that it affirmed the tribal exhaustion doctrine and reiterated that litigants must exhaust a tribal court's appellate process before approaching state courts.

After transferring her Child in Need of Aid case from the Alaska court system to the Nulato Tribal Court in *Brasket v. Frankson,* a birth mother worked with tribal social services for nearly two years toward reunification with her daughter. These efforts were not successful, however, and the Tribal Court eventually decided to terminate the birth mother's parental rights. The Tribal Court provided the birth mother written and oral notice of the termination hearing, but she did not attend. At the conclusion of the hearing, the Tribal Court held it was in the best interests of the child to terminate the birth mother's parental rights and place the child for adoption. The Tribal Court chose the Franksons, a Native family from a neighboring village, as adoptive placement.

The birth mother filed a child custody suit against the Franksons in state court. The lawsuit claimed that the Tribal Court's rulings should not be accorded full faith and credit under the Indian Child Welfare Act (ICWA) because: 1) the Tribal Court's notice did not comply with due process and 2) the Tribal Court violated ICWA's placement

preferences by placing the child with a non-relative Indian family. As her ultimate remedy, the birth mother requested the state court assume jurisdiction over the tribal custody case.

The Franksons and the Nulato Tribe, represented by NARF, sought to dismiss the suit. Over the course of two hearings, the Tribe argued that not only did it provide adequate notice of the termination hearing, but that the birth mother's claims based on ICWA's placement preferences were inapplicable, as the adoptive placement was made in tribal—not state court. The Tribe also argued that under ICWA, the Tribal Court had exclusive jurisdiction over the ultimate placement of the child, as she is legally a ward of the Tribal Court.

In August 2014, the court issued an order according the Tribal Court's ruling full faith and credit and dismissing the birth mother's case. The court dismissed the birth mother's challenge on the basis that she failed to exhaust her tribal court remedies and that the Tribal Court fully notified her of the proceedings. In addition, the court held as a matter of law that the Tribal Court's placement of the child with Frankson's did not violate ICWA's placement preferences because the preferences apply only to adoptions made under state law. A request for reconsideration was denied and an appeal to the Alaska Supreme Court is expected.

Voting Rights

NARF brought a lawsuit to enforce Section 203 of the Voting Rights Act in 2007 called *Nick v. Bethel.* The plaintiffs were four tribal councils and four individual elders in the Bethel Census Area. A huge swath of Alaska is not organized into any boroughs or counties so the census had made its coverage determinations based on federal census areas. In the Bethel Census Area, the first language spoken in 75 percent of homes was Yup'ik and the illiteracy rate was 17 times the national average. NARF won a preliminary injunction in July 2008 mandating relief for the 2008 election cycle, including sample ballots written in Yup'ik. The case was settled in January 2010 when the Alaska Department of Elections (DOE) agreed to provide some election materials in Yup'ik as well as provide increased training for poll workers, among other relief. Because the census areas above and below Bethel, the Wade Hampton and Dillingham Census Areas respectively, spoke the same language and had nearly identical statistics and needs, the *Nick* Plaintiffs assumed that the same relief would be afforded to them even though they were not in the actual lawsuit.

Beginning with the 2012 election cycle, NARF began to receive complaints from the adjacent Wade Hampton and Dillingham Census Areas that they were receiving none of the benefits from the *Nick* case and indeed almost no language assistance at all. In fact, the DOE appears to have been distributing sample ballots in Yup'ik in all three census areas, but restricting all other Yup'ik election materials to the Bethel Census Area. NARF sued the DOE again in July 2013. This time the Plaintiffs from the adjacent census areas added Fourteenth and Fifteen Amendment claims under the U.S. Constitution because if you know there are language problems and you have materials you use elsewhere but refuse to provide, you are discriminating.

This second case, called *Toyukak v. Treadwell,* did something very unusual for a Section 203 case: it went all the way through trial. This is not very common for cases brought under this law because jurisdictions usually do not fight their voters on something so simple all the way to the bitter end. It is also generally easy to prove Section 203 cases in that the evidence consists of the materials made available in English and the materials made available in the relevant language. If they do not match one to one, there is liability. However, what made this case drag on through trial was not just the DOE's recalcitrance to change – they wanted a rule of law established that, because of the Stevens Proviso, they just did not have to translate everything. In other words, Native language speaking voters get *less* voting information than other voters.

During the two-week trial from June 23 – July 3, 2014, it became very clear what the electoral system looked like if you are a Yup'ik speaking voter. Almost no pre-election information was translated. The "outreach workers" in the villages were supposed to be bilingual and they were asked to translate a brief set of facts on a sheet of paper called a "certificate of outreach": the date and time of the election, the location of the polling place, and the fact that language assistance was available. That's it. In contrast, English-speaking voters receive in the mail an Official Election Pamphlet (called the OEP) that consists of more than 100 pages of information about the candidates and all ballot measures. So this case boiled down one comparison: the

certificate of outreach versus the OEP, and the result was that Native language speakers were receiving less than *one percent* of the information English speaking voters were receiving.

In September 2014 the federal district court in Anchorage found that the Plaintiffs had established violations of Section 203. The Court then asked for a schedule for the parties to file briefs setting forth what remedies they wanted the Court to order. The Defendant (DOE) actually rose in Court and suggested there be no changes ordered for this election because there simply wasn't time to do anything. The Court set a briefing schedule anyway and issued a list of remedies to be implemented in the 2014 cycle. It contains 21 items and is eight pages long. Although limited by what could reasonably be completed before the election, it nonetheless orders some highly significant changes: (1) all translated materials must account for dialect variations and understandable to people in the different census areas; (2) translated public service announcements must be made available on a variety of topics including the deadline to register to vote, the deadline to request absentee ballots, the availability of early voting, and specifically listing the name of the person in each village assigned to provide voters with translated materials; (3) posters in the Native language have to be posted both in public places like schools and stores but also in the polling place telling voters they can receive language assistance either from a poll worker or someone of their own choice; (5) the entire OEP had to be translated into the Native languages, and (6) the Court required post-election reporting on how the DOE did in its efforts to meet the terms of the order.

The goal of this case (and the one before it), and the goal of the Court's interim order is equality — a level playing field. Native voters should not be receiving less than their English-speaking counterparts. The whole point of the 1975 Amendments – and the whole point of the 14th and 15th Amendments to the Constitution – is equality. This is especially critical when the subject is voting, because voting is the core right in a democracy and preservative of all other rights. These changes are way overdue.

Last year, the U. S. Supreme Court in the Shelby County case invalidated Section 4 of the Voting Rights Act which required preclearance by the Justice Department of changes in state voting laws in certain states with histories of discrimination. On behalf of Bristol Bay Native Corporation and the Alaska Federation of Natives, NARF is currently working on a Congressional amendment to the Voting Rights Act that would protect Alaska Natives and American Indians from the kinds of voting discrimination they face across the country.

The NatiVRA (S.2399) was introduced in the Senate in an attempt to remedy some of the long-standing issues such as the lack of language assistance, lack of polling places, and lack of early voting. Despite significant efforts, a large coalition of civil rights groups were unable to get a broader "Shelby Fix" through this Congress. Our efforts will now focus on the next Congress. This work will become increasingly important as states and local governments nationwide pass new and more stringent laws to restrict access to the polls.

International Recognition of Indigenous Peoples

The development of international laws and standards to protect the rights of indigenous peoples greatly benefits Native American peoples. NARF and the National Congress of American Indians (NCAI) entered into an attorney-client relationship over a decade ago for the purpose of working in the international arena to protect indigenous rights.

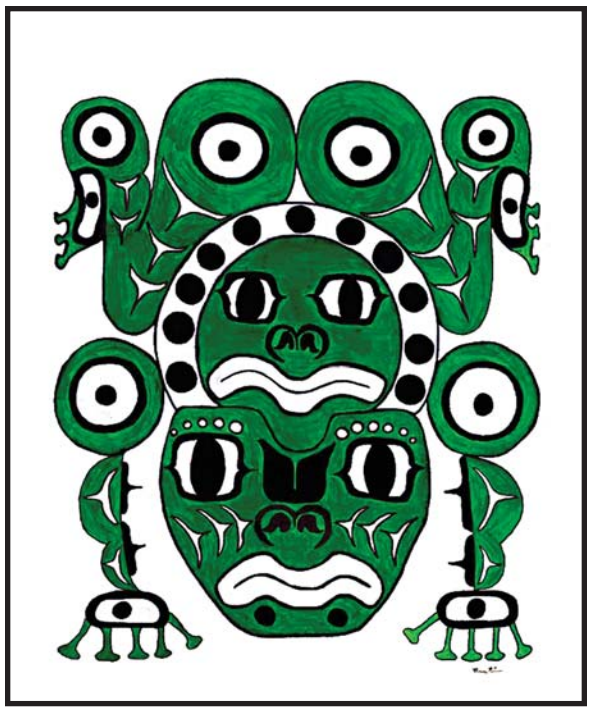
In September 2007, the United Nations General Assembly overwhelmingly adopted the Declaration on the Rights of Indigenous Peoples (U.N. DRIP). The vote was 143 in favor, 4 opposed, and 11 abstaining. The votes in opposition were Canada, Australia, New Zealand, and the United States. This historic vote came after 30 years of worldwide indigenous efforts. NARF has represented NCAI in this matter since 1999. The U.N. DRIP recognizes that indigenous peoples have important collective human rights in a multitude of areas, including self determination, spirituality, and lands, territories and natural resources. The U.N. DRIP sets out minimum standards for the treatment of indigenous peoples and can serve as the basis for the development of customary international law.

In 2009 Australia and New Zealand reversed their positions and now support the U.N. DRIP. Canada endorsed the U.N. DRIP in November 2010 and in December 2010, President Obama made the historic announcement that the U.S. was reversing its negative vote and now endorses the U.N. DRIP.

In January 2011, NARF participated in a brainstorming session with tribal leaders, Indian law practitioners and scholars on implementation of the U.N. DRIP hosted by the Yocha Dehe Wintun Tribe in California. In June 2011 the Senate Committee on Indian Affairs held a hearing on U.N. DRIP's implementation at which NARF and its client NCAI submitted written testimony. NARF moderated a panel on implementation of the Declaration at NCAI's Annual Convention in Portland, Oregon in November 2011. In March 2012 NARF participated in a presentation to California Indian leaders on implementation of the Declaration at Yocha Dehe Wintun. In September 2012, NARF spoke on implementation of the Declaration at a Conference at the University of California at Berkeley.

In February and March, 2013, NARF, on behalf of NCAI, participated in a meeting of the North American Indigenous Peoples caucus to prepare for the High Level Plenary Meeting (HLPM) to be known as the World Conference on Indigenous People (WCIP) to be held in New York City in September 2014 and for the Indigenous preparatory meeting in Alta, Norway in June 2013. This meeting produced an outcome document which will be used by indigenous peoples to lobby states in advance of the WCIP.

NARF and NCAI, along with other indigenous organizations and tribal governments participated in interactive hearings with states during the summer of 2014 as part of the United Nations World Conference on Indigenous Peoples (WCIP) in September 2014 in New York City. A statement signed on by NARF, the National Congress of American Indians, 72 tribes and other non-governmental organizations was presented at the WCIP. The Statement highlighted those issues deemed most important to be dealt with at the WCIP: 1) establishment of a body at the United Nations to monitor the implementation of the United Nations Declaration on the Rights of Indigenous Peoples; 2) creation of a permanent, dignified and appropriate status for Indigenous Peoples at the United Nations; 3) address violence against Indigenous women; and 4) protections of sacred sites. The outcome document was adopted by the General Assembly and includes all of the elements proposed by NARF, NCAI, and the other indigenous organizations and tribal governments.



The adoption of the U.N. DRIP has impacted the Organization of American States (OAS) process. NARF also represents NCAI in this process. In November 2007 it was agreed that the U.N. DRIP would be used as the foundation for an OAS document, in that all the terms of the OAS document would be consistent with, or more favorable to, Indigenous rights than the U.N. DRIP. It was further agreed that the terms of the OAS declaration would be agreed upon through a consensus based decision making process which includes Indigenous representatives. The United States and Canada, who at the time opposed the U.N. DRIP, nevertheless agreed they would not oppose the process moving forward in the OAS.

The most recent OAS negotiation session was held April 2012 in Washington, D.C. Disappointingly the U.S. and Canada did not actively participate even though they both now support the U.N. DRIP. The session lasted only three days and progress was hampered by the lack of funding to enable the Indigenous caucus to meet ahead of time and work on its proposals. There was one highlight, however, with the approval of a treaty provision supporting the understanding of the indigenous peoples involved in any given treaty. No additional negotiation sessions were held in 2013 and 2014. A three day negotiating session has been set in Washington, D.C. for February 2015.

The Accountability Governments

"We also recommit to supporting tribal self-determination, security, and prosperity for all Native Americans. While we cannot erase the scourges or broken promises of our past, we will move ahead together in writing a new, brighter chapter in our joint history." — President Barack Obama

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 *accountability of governments* to Native Americans.

In *Pembina Chippewa v. U.S.,* NARF represents the Turtle Mountain Chippewa, Chippewa Cree, White Earth Band of Minnesota Chippewa, and Little Shell Chippewa Tribes in this case against the federal government for misaccounting and mismanagement of their tribal trust fund, the Pembina Judgment Fund (PJF), since the inception of the fund in 1964. In 2006 the Tribes defeated the United States' motion to have the case dismissed. Since August 2007, the parties have been trying to resolve the Tribes' claims primarily through alternative dispute resolution proceedings before a Settlement Judge of the Court of Federal Claims. In August 2009, the parties reached agreement at least for settlement negotiations purposes on the population of "baseline" (non-investment) transactions in the PJF. Since that time the parties have been negotiating the Pembinas' claims of the government's investment mismanagement of the PJF and discussing numerous procedural matters in the event that agreement is reached on a settlement amount.

In *Nez Perce v. Jewell,* NARF represented forty one plaintiffs: the Nez Perce Tribe; the Mescalero Apache Tribe; the Tule River Indian Tribe; the Hualapai Tribe; the Klamath Tribes; the Yurok

Tribe; the Cheyenne Arapaho Tribe; the Pawnee Nation of Oklahoma; the Sac and Fox Nation; the Santee Sioux Tribe of Nebraska; the Tlingit and Haida Indian Tribes of Alaska; Aleut Community of St. Paul Island; Bad River Band of Lake Superior Chippewa Indians; Bois Forte Band of Chippewa; Cachil Dehe Band of Wintun Indians of Colusa Rancheria; Confederated Salish & Kootenai Tribes; Confederated Tribes of Siletz Indians; Grand Traverse Band of Ottawa and Chippewa Indians; Kaibab Paiute Tribe; Kenaitze Indian Tribe; Kickapoo Tribe in Kansas; Lac Courte Oreilles Band of Ojibwe; Lac Du Flambeau Band of Lake Superior Chippewa; Leech Lake Band of Ojibwe; Minnesota Chippewa Tribe; Native Village of Atka; Nooksack Indian Tribe; Prairie Island Indian Community; Pueblo of Zia; Qawalangin Tribe; Rincon Luiseno Band of Indians; Samish Indian Nation; San Luis Rey Indian Water Authority; Sault Ste. Marie Tribe of Chippewa; Shoalwater Bay Tribe; Skokomish Tribe; Spirit Lake Dakotah Nation; Spokane Tribe; Summit Lake Paiute Tribe; Tulalip Tribes; and, Ute Mountain Ute Tribe, in this action filed in the federal district court for the District of Columbia in December 2006 seeking full and accurate accountings of their trust funds. Such accountings never have been provided by the federal government which is the trustee for the funds.

Pending before the Court is the government's motion to dismiss the action for lack of jurisdiction, which the Tribes have opposed. In 2009 the Tribes represented by NARF in this case were among the over 90 Tribes who wrote President Obama regarding his campaign promise to resolve equitably all Indian trust fund mismanagement litigation against the federal government, by beginning settlement negotiations in this case and other tribal trust cases. In 2010 and 2011 NARF attorneys along with the attorneys for dozens of other Tribes litigating trust accounting and mismanagement claims coordinated and attended many meetings hosted by the President's appointees in Washington, D.C. in preparation for settlement negotiations. In December 2011 active claims settlement negotiations on a tribe-by-tribe basis began for many Tribes. To date, 35 of NARF's client Tribes in this case have reached settlement agreements or other resolution of their claims with the United States. The settlement agreements have been filed in, and approved by, the Court. Per the settlement agreements, once the Tribes have received their settlement payments their claims are dismissed with prejudice. NARF continues to represent its remaining client Tribes in this case in their on-going settlement negotiations.

In *Sisseton Wahpeton Oyate v Jewell,* NARF represents 10 tribes – Sisseton Wahpeton Oyate; Quinault Indian Nation; White Earth Chippewa Nation; Oklahoma Kickapoo Tribe; Comanche Nation; Penobscot Indian Nation; Pueblo of Acoma; Seminole Tribe of Florida; Southern Ute Indian Tribe; and Confederated Tribes of the Umatilla Indian Reservation – in this case filed in April 2013 in the Federal District Court for the District of Columbia seeking historical accountings of the Tribes' trust accounts, funds, and resources. In November 2013 the government filed a Motion to Dismiss the case for lack of jurisdiction. The Tribes' opposed dismissal. The dismissal motion is now fully briefed and is pending before the Court. We also hope to engage in settlement negotiations at the political level with the Obama Administration regarding the Tribes' trust accounting and mismanagement claims.

In January 2014 in *Muscogee (Creek) Nation v. Jewell,* the Muscogee Creek Nation retained NARF to represent it in its pending action in the federal district court for the District of Columbia for historical accounting of its trust funds and assets. NARF and experts retained by NARF have been reviewing the Nation's trust account data provided by the government in the context of political negotiated settlements by the Obama Administration, and are working with the Nation in on-going settlement discussions with the government.

NARF is also preparing a legal opinion for the Intertribal Council of Arizona on its rights and possible claims under a 1988 statute establishing its education trust funds.

The Development of Indian Law

"The work that we have is for all of us to do. We do this for our grandchildren." — Vickie Downey, Clan Mother, Tesuque Pueblo

The coordinated *development of Indian law* and educating the public about Indian rights, laws and issues is essential for the continued protection of Indian rights. This primarily involves establishing favorable court precedents, distributing information and law materials, encouraging and fostering Indian legal education, and forming alliances with Indian law practitioners and other Indian organizations. NARF has three ongoing projects which are aimed at achieving this goal: the Indigenous Peacemaking Initiative; the National Indian Law Library; and the Indian Law Support Center.

Indigenous Peacemaking Initiative

The mission of the Indigenous Peacemaking Initiative (IPI) is to promote and support Native peoples in restoring sustainable peacemaking practices. This project provides NARF with an opportunity to support traditional peacemaking and community building practices as an extension of Indian law and sovereign rights. The project is guided by an Advisory Committee consisting of traditional peacemaking experts and practitioners.

Peacemaking is a community-directed process to develop consensus on a conflict resolution plan that addresses the concerns of all interested parties. The peacemaking process uses traditional rituals such as the group circle, and Clan structures, to involve the parties to a conflict, their supporters, elders and interested community members. Within the circle, people can speak from the heart in a shared search for understanding of the conflict, and together identify the steps necessary to assist in healing all affected parties and to prevent future occurrences and conflicts.

The most significant activity of the IPI during the last year is a training the IPI cooperatively developed and provided with Columbia Law School.

The training was conceived in response to a request for proposals for training services issued by the National American Indian Court Judges Association, and took place in October 2014 in Catoosa, Oklahoma. About 45 people attended the training, and feedback from those who attended has been excellent. IPI personnel also administered a new survey to gather further direction and data to advocate for increased support for peacemaking, with participation from training attendees. Analysis of the new survey results began in November 2014.

NARF's National Indian Law Library (NILL) staff have developed a draft web page and continue integrating that page with the electronic versions of resources on Peacemaking in the NILL catalog. The webpage will serve as a basis for outreach and provide easy access to resources gathered for the project. The project also continues to grow and strengthen its networks, as part of raising awareness and also recruiting additional expert resources. The project has also been working closely with Columbia Law School to complement each other's work, and the Colorado University Indian Law Clinic has placed an intern to help in development and analysis of the catalog of resources for the project.

The National Indian Law Library

The National Indian Law Library (NILL) is the only law library in the United States devoted to Indian law. The library serves both NARF and members of the public. Since it was started as a NARF project in 1972, NILL has collected nearly 9,000 resource materials that relate to federal Indian and tribal law. The Library's holdings include the largest collection of tribal codes, ordinances and constitutions; legal pleadings from major Indian cases; and often hard to find reports and historical legal information. In addition to making its catalog and extensive collection available to the public, NILL provides reference and research assistance relating to Indian law and tribal law and its professional staff answers over 2,000 questions each year. In addition, the Library has created and maintains a huge web site that provides access to thousands of full-text sources to help the researcher. NARF's website has recorded over 200,000 visits each year. See www.narf/org/nill/index.htm.

The Access to Tribal Law Project continues to be an invaluable resource for researchers and practitioners in tribal law. In the last fiscal year, we received updates to 71 Constitutions or Codes from 39 tribes. NILL has developed good relationships with a number of tribes who regularly send updates to their laws as changes are made and we are working to develop relationships with others who have expressed interest. NILL is also working to move tribal law pages from our old tribal law index to our new Tribal Law Gateway. NILL has received several enthusiastic compliments on the new platform, with researchers saying it is helpful and easy to navigate.

The website for the Indigenous Peacemaking Initiative has been launched as NILL worked closely with IPI attorneys, the IPI Advisory Committee and other NARF staff members to create the new IPI website, which is available at http://narf.org/peacemaking. The website provides resources to help visitors learn about peacemaking as well as tools to help practitioners implement peacemaking in their community. Many of the resources highlighted are available online and NILL has obtained permission to post some resources that were not already available online.

In providing access to law review articles on Indian law, each week when the Indian Law Bulletin is published, NILL indexes the law review articles from the bulletin and puts them in our online catalog. By including a table of contents and subject headings for each article, we have created a searchable database of articles on Indian law for our patrons. Whenever an article is available for free online, we add a link, making it easy for researchers to access the article quickly. In the event an article is not available online, patrons can contact the library to request a copy of the article. Because NILL has been indexing articles for over 10 years, our online catalog is a useful place to start research on Indian law for attorneys and academics alike.

In providing for a Tribal Nation Pronunciation Guide, NILL is actively seeking funds as well as volunteers and/or interns to help develop and publish an audio index of tribal nations. We believe this unique guide will be a valuable resource for those who need to communicate with tribes. The guide will allow people to address a tribe in a respectful manner. This project would involve developing and implementing a plan to: 1) find authoritative pronunciations for each Indian nation's name; 2) lease/purchase proper recording equipment/technology to capture the correct pronunciation of each Indian nation's name for publication on the

Internet; and 3) capture and publish the recorded names on the National Indian Law Library website.

Indian Law Support Center

NARF continues to perform Indian Law Support Center duties by sending regular electronic mail outs nationwide to the 25 Indian Legal Services (ILS) programs, hosting a national listserv, handling requests for assistance, and working with ILS programs to secure a more stable funding base from Congress. The Indian Tribal Justice and Legal Assistance Act of 2000 authorizes the U.S. Department of Justice to provide supplemental funding to Indian legal services programs for their representation of Indian people and Tribes which fall below federal poverty guidelines. After funding in 2003, 2004, and 2005, funding in 2006 - 2009 was unsuccessful. In 2010 we secured a line item appropriation of $2.35 million from Congress. In FY 2011 Congress appropriated $2.49 million for civil and criminal assistance in tribal courts. In FY 2012 both civil and criminal tribal court assistance grants were awarded to NARF in the amounts of $850,659 and $875,000 respectively, and NARF was awarded civil and criminal grants in the amounts of $715,000 and $515,000, respectively from the FY 2013 federal budget. Funding amounts were reduced due to the effects of budget cuts and sequestration. NARF was recently successful in being awarded supplemental funding in the amounts of $597,000 for the criminal grant and $527,000 for the civil grant.

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.

FY 2014 Financial Report

Based on our audited financial statements for the fiscal year ending September 30, 2014, the Native American Rights Fund reports **unrestricted** revenues of $9,595,558 against total expenditures of $10,098,690. **Total** revenue and net assets at the end of the year came to $6,729,288 and $15,718,340, respectively. Due to presentation requirements of the audited financial statements in terms of recognizing the timing of certain revenues and expenses, they do not reflect the fact that, based on NARF's internal reporting, expenses and other cash outlays exceeded revenue resulting in a decrease of $146,464 to NARF's reserve fund. When compared to fiscal year 2013: the decrease in Public Contributions is mostly due to receiving approximately $500,000 less in bequests (this area can vary widely from one year to the next). The decrease in Tribal Contributions is due to the difference in contributions from our *Nez Perce v. Salazar* clients (who received settlement awards from the federal government in fiscal year 2012). Federal Awards relate to our Bureau of Justice Assistance (BJA) contracts (the majority of which is also included in expenses since it is paid-out to sub-recipients) and, although we continue to be awarded new contracts, the amounts vary from year to year. We received new Foundation Grants that were restricted to our work in Alaska. Legal Fees held steady. Some of NARF's investment holdings did not perform as well as they did in the prior year.

Unrestricted Revenue and Expense comparisons between fiscal year 2014 and fiscal year 2013 are shown below (not including contributed services).

UNRESTRICTED SUPPORT AND REVENUE COMPARISON

	2014		2013	
	dollars	percents	dollars	percents
Public Contributions	$ 1,417,397	14.8%	$ 1,901,958	16.3%
Tribal Contributions	3,355,204	35.0%	4,512,844	38.6%
Federal Awards	1,467,829	15.3%	1, 744,556	14.9%
Foundation Grants	1,410,689	14.7%	1,227,729	10.5%
Legal Fees	1,306,465	13.6%	1, 277,395	10.9%
Return on Investments	609,308	6.3%	1,006,879	8.6%
Other	28,666	0.3%	21,254	0.2%
TOTALS	**$ 9,595,558**	**100%**	**$ 11,692,615**	**100%**

EXPENSE COMPARISON

	2014		2013	
	dollars	percents	dollars	percents
Litigation and Client Services	$ 7,598,844	75.2%	$ 6,904,183	73.6%
National Indian Law Library	389,780	3.9%	306,352	3.3%
Total Program Services	**7,988,624**	**79.1%**	**7,210,535**	**76.9%**
Management and General	860,765	8.5%	871,821	9.3%
Fund Raising	1,249,301	12.4%	1,290,092	13.8%
Total Support Services	**2,110,066**	**20.9%**	**2,161,913**	**23.1%**
TOTALS	**$ 10,098,690**	**100%**	**$ 9,372,448**	**100%**

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

NARF Acknowledgment of Contributions:

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. NARF receives contributions from foundations, corporations, tribes and Native organizations, bequests and trusts, benefactors, private donations, and in-kind contributions. We gratefully acknowledge these gifts received for fiscal year 2014 (October 1, 2013 through September 30, 2014).

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Comanche Nation of Oklahoma

Confederated Salish & Kootenai Tribes

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Lummi Indian Business Council

Modoc Tribe of Oklahoma

Muckleshoot Tribe

Native Village of Fort Yukon

Native Village of Port Lions

Nome Eskimo Community

Nottawaseppi Huron Band of Potawatomi

Oneida Tribe of Indians of Wisconsin

Organized Village of Saxman

Pechanga Band of Luiseño Mission Indians

Poarch Band of Creek Indians

San Manuel Band of Mission Indians

Seminole Tribe of Florida

Seven Cedars Casino/Jamestown S'Klallam

Shakopee Mdewakanton Sioux Community

Spirit Lake Dakotah Nation

Sycuan Band of Kumeyaay

Three Affiliated Tribes of Fort Berthold Reservation

Tonkawa Tribe

Tulalip Tribes

Twenty-Nine Palms Band of Mission Indians

Yocha Dehe Wintun Nation

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In-Kind Donations

There are many ways to support the Native American Rights Fund, in addition to cash gifts. People who volunteer their time and talents, or donate valuable goods and services, provide crucial support for the NARF mission. We would like to expressly thank the following individuals and organizations for their generosity:

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Native Ways Federation – The Native Ways Federation (Native Ways) is the only workplace giving program in the United States to exclusively fund Native nonprofits that serve people and communities in Indian Country. Learn how your company can support Indian Country through workplace giving. Please visit www.nativewaysfederation.org. Your business can make a difference!

Boulder-Denver Advisory Committee – Lucille A. Echohawk, Thomas W. Fredericks, Ava Hamilton, Jeanne Whiteing, Charles Wilkinson.

Show Your Support in NARF's programs – *NARF receives contributions from many sources and for many purposes. Below are descriptions of NARF's donor programs and additional ways you can get involved.*

Peta Uha Membership – Peta Uha in the Lakota (Sioux) language means firekeeper – an individual who made a solemn commitment to ensure that the sacred flame, source of light, heat and energy for his people, would 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 our Development Department, 303.447.8760.

Tsanáhwit Circle – Tsanáhwit is a Nez Perce word meaning equal justice. Tsanáhwit Circle members recognize the constant need to stand firm for justice by pledging and making monthly contributions. Monthly contributions add up over the years to make a real difference for the tribes we serve.

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 donors 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 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.

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, #10350 on the Combined Federal Campaign (CFC) pledge form authorizing automatic payroll deduction.

Matching Gifts – Currently, 14 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-News – Sign up at www.narf.org for our e-news 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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The "Native American Rights Fund Statement on Environmental Sustainability."

"It is clear that our natural world is undergoing severe, unsustainable and catastrophic climate change that adversely impacts the lives of people and ecosystems worldwide. Native Americans are especially vulnerable and are experiencing disproportionate negative impacts on their cultures, health and food systems. In response, the Native American Rights Fund (NARF) is committed to environmental sustainability through its mission, work and organizational values. Native Americans and other indigenous peoples have a long tradition of living sustainably with the natural world by understanding the importance of preserving natural resources and respecting the interdependence of all living things. NARF embraces this tradition through its work and by instituting sustainable office practices that reduce our negative impact on our climate and environment. NARF is engaged in environmental work and has established a Green Office Committee whose responsibility is to lead and coordinate staff participation in establishing and implementing policies and procedures to minimize waste, reduce energy consumption and pollution and create a healthful work environment."

Native American
Rights Fund

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