

The

NARF LEGAL REVIEW

Native American Rights Fund

Fall 1984

The Kootenai: A Traditional Religion is Threatened

This issue of the NARF Legal Review features photographs of the Denver March Pow Wow, taken by John Youngblut.

The aboriginal territory of the Kootenai Tribe of Indians covered portions of Idaho, Montana, and Canada with the center being Kootenai Falls on the Kootenai River and the area around Libby, Montana. It was rich in wildlife and other subsistence resources. The Kootenai harvested great quantities of fish including several types of salmon, whitefish, and trout. Throughout the year they hunted a number of large game found in their area, including Big Horn sheep, Rocky Mountain goat, grizzly, brown and black bear, moose, elk, white tail, black tail and mule deer; and woodland caribou. Birds were also plentiful and the spruce grouse, ptarmigan, and several types of ducks and geese constituted an important part of their subsistence diet.

Yet amid this lush and plentiful landscape there was another side of Kootenai life which was as important as obtaining food — this was their religion. The spiritual aspects of hunting and fishing were undertaken only with the most thorough spiritual preparation. Religion for the Kootenai was interwoven with the most mundane and ordinary aspects of life. Visions and the seeking of visions played a fundamental role in the Kootenai religion. And those visions were quite often sought at the Kootenai Falls — the spiritual focus of the entire Kootenai religion. It was at this site that members of the aboriginal Kootenai bands sought communion with their gods. And it is at this same site, Kootenai Falls, that now, centuries later, the Kootenai continue to seek communion with their gods. Kootenai Falls for the Kootenai people is comparable to other master shrines in other religions such as Mecca in Islam or the Vatican in Christianity. Destruction of Kootenai Falls would be equivalent to the destruction of Mecca or the Vatican.

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The Kootenai came into contact with Europeans shortly after 1800. During the period of early, direct contact with Europeans, Catholic missionaries, traders, and government agents caused many changes that altered the lives of the Kootenai. By 1855 the United States government began negotiating treaties that initiated the present reservation system and paved the way for extensive white settlements in the area.

The technology of the new settlers was immediately attractive to the Kootenai who quickly became involved in the inter-tribal competition for hunting and trapping territories. European religions were also introduced to and initially accepted by some tribal members. But soon thereafter, epidemics swept through the area and left the bands decimated. The Kootenai, to this day, have not fully recovered the numbers lost by 1855. The epidemics in particular caused a strong rejection of European religions and a return to the traditions of their ancestors. This helped seal the pattern of Kootenai resistance to acculturation and assimilation that so typifies them today.

In the times since the reservations were established, the Kootenai have seen major portions of their land base pass into non-Indian hands. They have seen their fish and game decimated and their lakes and rivers dammed and polluted. From the Kootenai point of view, the proposed

construction of a dam at Kootenai Falls is merely another step in a steadily intensifying process which threatens their very survival.

The Kootenai are presently faced with the possible loss of Kootenai Falls through the proposed construction of a dam and hydroelectric facility at the crest of the Falls. Northern Lights, Inc. at Sandpoint, Idaho and seven other rural electric cooperatives from Western Montana applied for a construction license from the Federal Energy Regulatory Commission in 1978; a final decision on the license is pending. The project has the potential to generate up to 144 megawatts of power, with an average output of 58 megawatts. In order to produce this power, the utilities would like to build a dam just above the Falls, a reservoir would be created behind the dam, and the water diverted around the Falls into a hydroelectric facility. So far the utilities have spent a reported \$6 million over the past several years on studies and an application to the Federal Energy Regulatory Commission. Because the Kootenai Falls lie just outside the Reservation, they are very vulnerable.

In order for this consortium of utilities to be awarded such a license from FERC, they must show that the project will benefit the public. The test of public benefit requires a determination that the project will serve not only the



narrower needs of the Applicant but, more importantly, the broader interests of the public at large. A multitude of relevant issues, including impact on fishery resources and destruction of scenic and recreational values associated with the last major water fall in the Pacific Northwest must be considered.

NARF, representing the Kootenai people of Montana, Idaho, and British Columbia, has contended that the license application of Northern Lights should be denied for two closely related reasons. First, NARF asserted that the project would not serve the public interest under the Federal Power Act. And secondly, it was contended that this license would seriously impair the free exercise of Kootenai religion and consequently cannot be justified under the First Amendment to the United States Constitution and the American Indian Religious Freedom Act of 1978.

The record indicates that the project is a marginal one. The evidence showed that the project is not the best adapted for beneficial uses of the Kootenai River, and will seriously impair many public interests in the waterway. Of course, NARF's prime interest was in protecting Kootenai Indian religious worship in the Kootenai Falls area. Through enactment of the American Indian Religious





Freedom Act, Congress has found worship at sacred sites to be within the scope of Indian free exercise of religion. It has also found Indian religion to be an indispensable and irreplaceable part of the nation's heritage and declared a national policy of preserving the free exercise of Indian religion.

The religious beliefs and practices of Native Americans, and all Americans, are supposedly protected by the First Amendment to the United States Constitution. Yet the unique qualities of many traditional Indian religions, such as the Kootenai, have made traditional First Amendment arguments often ineffective in preventing religious infringement.

On April 23, 1984, an administrative law judge for the Federal Energy Regulatory Commission (FERC) issued an initial decision recommending the denial of the license to Northern Lights to construct the dam and hydroelectric project at Kootenai Falls. In this April 23 ruling, presiding Judge Miller cited a failure by Northern Lights to show a clear need for the power to be produced by the Kootenai project before 1995, at which time several other larger projects in the Pacific Northwest are expected to be under construction or on line. According to Judge Miller, "there

is a real likelihood that if the Kootenai project were built it would result in a surplus of power and this surplus would have been achieved by the sacrifice of unique values associated with the Falls." Those unique values include the religious value to the Kootenai people, the scenic values of the Falls area, and a stretch of the Kootenai River regarded to have one of the best rainbow trout fisheries in Montana.

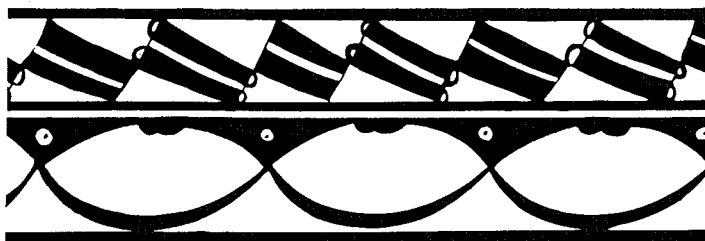
Regarding the Kootenai religious values associated with the Falls area, Judge Miller held that the Kootenai project would impermissibly infringe upon religious beliefs and practices protected by the First Amendment to the Constitution of the United States. The case is viewed as an important precedent from that perspective.

This initial decision was appealed by the Applicants. This appeal was briefed this Summer and a final decision is expected in early 1985.

The Kootenai still view themselves as dependent on nature and on the same spirit guides who protected and instructed their ancestors. Their spirit guides are respected and contacted regularly through vision quests and the various ceremonies conducted by their traditional religious leaders. The presence of young Kootenai medicine



men is an indication of the vigor of the traditional religion. The continued vision questing, healing ceremonies, and the regularity with which the various traditional rituals of the older system are performed all attest to its vitality. In fact, the persecution of Kootenai for practicing their religion, their early alienation from missionaries due to epidemics, and their punishment by school authorities for practicing their culture has strengthened the religion. For a time it was even practiced in secret. Needless to say, the Kootenai have objective proof that the non-Indian society continues to be committed to goals which threaten their very existence as a distinct people.



NARF LEGAL DEVELOPMENTS

SUPREME COURT RULES THAT CHEYENNE RIVER SIOUX RESERVATION IS NOT DISESTABLISHED

In a decision announced on February 22, the Supreme Court unanimously agreed that the Cheyenne River Sioux Reservation in South Dakota was not disestablished by a 1908 Act of Congress. The 1908 Act opened an area encompassing over 1.6 million acres of land to settlement by non-Indians, but did not remove the land from reservation status.

The case, *Solem v. Bartlett*, involved a crime committed in Eagle Butte, South Dakota by a member of the Tribe. Eagle Butte is part of the large area within the Cheyenne River Reservation opened to settlement by non-Indians under the 1908 Act. The State of South Dakota attempted to exercise jurisdiction over the area, and specifically in this case, the State attempted to exercise criminal jurisdiction over a tribal member. The Supreme Court's decision means that the disputed area is still a part of the reservation and is to be treated as Indian country for jurisdictional purposes. The case also has implications for several other Indian reservations opened to settlement under similar acts of Congress.

Arlinda Locklear, who argued the case for NARF, is a Lumbee Indian from North Carolina. Ms. Locklear is the first Indian woman to appear before the United States Supreme Court and the first Indian attorney from NARF to do so. She is the directing attorney of NARF's Washington D.C. office and has been with NARF since 1976 when she graduated from Duke University. Besides the *Solem v. Bartlett* case, Ms. Locklear is involved in several other major Indian legal cases.



Arlinda Locklear (Lumbee), NARF Attorney and the first Indian woman to argue in the Supreme Court.



A Special Thanks To . . .

Due to an oversight, the McGraw-Hill Foundation's name was omitted as a contributor in NARF's 1983 annual report. The grant, however, was included in our 1983 financial statement.

We wish to thank the McGraw-Hill Foundation for their ongoing support to the Native American Rights Fund, including their grant to us during 1983.





VOTING RIGHTS CASE FILED IN SOUTH DAKOTA

NARF recently filed a class-action suit, on behalf of several Sisseton-Wahpeton Sioux voters, which asserts violations of the 1965 Voting Rights Act. The suit, which was filed in U.S. District Court, charges that the at-large system of voting for school board members in the Sisseton, South Dakota school district, which includes the Sisseton-Wahpeton Reservation, prevents Indians from being elected to the school board.

The Sisseton school district occupies a rural area of approximately 436 square miles in the northeastern corner of South Dakota. The total population of this school district is approximately 5,436 of which 1,782 or 32.7 percent are Indians. Only 3 of 20 Indians over the past fifteen years have won a seat on the Board, while Indian children comprise 45% of the student population.

NARF's suit asserts that the present at-large voting system results in the denial or abridgement of the right of Indians to vote on account of race or color, and as a result, Indian citizens have less opportunity than whites to participate in the political process and to elect candidates of their

choice, all in violation of rights secured by Section 2 of the Voting Rights Act of 1965. As part of the suit plaintiffs claim that the State of South Dakota and the School District have a long history of discrimination against Indians which has denied this minority the opportunity to register, to vote and otherwise to participate in the democratic process. This history combined with the lower education and socio-economic conditions of Indians has effectively disenfranchised Indian voters.

A temporary restraining order was issued and final briefs requesting a preliminary injunction against holding further school board elections were filed on July 9, 1984. NARF attorney, Jeanette Wolfley, who is handling the case, expects a decision this summer.

Plaintiffs have requested the court to redistrict the School District into nine single-member districts (the School District has a nine-member board). Such a plan would enable Indian voters to elect one or more candidates of their choice.

SUPREME COURT DECIDES SAN LUIS REY FERC CASE

A Supreme Court decision was rendered in *Escondido Mutual Water Co. v. FERC* in June 1984. The case, in which NARF serves as co-counsel, involves a water project located on the San Luis Rey River which affects southern California Bands of Mission Indians.

The Bands received a favorable ruling on one of the three issues up for decision. That issue concerned the authority of a Departmental Secretary to impose mandatory conditions on FERC licenses for the protection of reservations upon which hydroelectric projects are located. Justice White's opinion for the court held that FERC must accept conditions without modification when offered by a Secretary having jurisdiction over an affected reservation. As a result, FERC must accept conditions imposed by the Secretary of the Interior to protect the Indians.

The Court held, however, that the Secretary has authority to protect only those reservations within whose geographical boundaries the licensed facilities are actually located.

The Secretary of the Interior had put forth conditions to protect the La Jolla, Rincon and San Pasqual Reservations where the project works are physically located, and to protect the Pala, Pauma and Yuima Reservations whose reserved water rights are affected by the project.

Thus, FERC is not required to include in the license those conditions intended to protect the Pala, Pauma and Yuima Reservations. The Court felt it important that FERC is without power to adjudicate water rights and that the Commission may condition a grant of a license upon permitting the Bands to make use of water rights owned by the licensee "if that use constitutes an overriding beneficial public use."

The Court also rejected the Bands' position that the Mission Indian Relief Act requires that the licensees obtain the consent of the Bands before they operate a project on reservation lands. Had the Bands prevailed on this argument they would have been in a position to guarantee that the license be awarded to a tribal entity, rather than to anyone else.

ALABAMA-COUSHATTA TRIBE SUES ATTORNEY GENERAL OF TEXAS

On July 13, 1984, NARF filed *Alabama-Coushatta Indian Tribe v. Mattox* in the United States District Court for the Western District of Texas. The suit challenges a recent opinion by Texas Attorney General, Jim Mattox, in which he ruled that the State can enforce its hunting and fishing laws

against members of the Tribe who hunt and fish on the Reservation, because the Alabama-Coushatta Tribe is no longer a Tribe and that it is unconstitutional for the State of Texas to hold the lands of the Tribe's Reservation in trust. Shortly after the opinion was issued, an assistant attorney general was quoted in the press as saying that, under Texas law, the Tribe is no different than the Elks Club.

In April of 1984, the Texas State Comptroller, relying on the Attorney General's opinion, ruled that the State will collect severance taxes on the Tribe's oil and gas royalties. Taxes for the three months since that ruling have totaled more than \$17,000. But an even more serious ramification is the extension of taxation beyond oil and gas production to the land itself. This would threaten the actual survival of the Tribe.

The Alabama-Coushatta Reservation consists of two tracts of land: (1) a 1,280-acre tract purchased by the State of Texas for the Tribe in 1854, and (2) a 3,071-acre tract purchased by the Secretary of the Interior in 1928. The legal title to one portion of the Reservation (the 1,280 acres) is held by the Tribe itself. It is on this tract that the taxation of oil and gas production takes place and where wider taxation is feared. Title to the other tract (the 3,071 acres) is held in trust by the State for the benefit of the Tribe.

The 1954 Act of Congress that terminated the trust relationship between the Tribe and the United States authorized the Secretary of the Interior to transfer the 3,071-acre tract to the State in trust for the Tribe. The same 1954 Act also authorized the Tribe to transfer the 1,280-acre tract to the State in trust. The Secretary conveyed the lands to which he held title to the State, but the Tribe did not. Nevertheless, both tracts have been treated the same, as a single Reservation, until recently. Because the Comptroller based his severance tax ruling in large part on the fact that the Tribe, rather than the State, held the legal title to the 1854 tract, the Tribe requested the Texas Indian Commission to accept title as authorized by the 1954 Act of Congress. When the Commission refused, basing reasons solely on the Attorney General's opinion, the Tribe filed suit.

Noting that the members of the Tribe are all full-blooded Indians who speak, as their first language, the Alabama and Coushatta dialects of the Creek language, NARF attorney Don Miller stated: "Mattox's opinion is particularly offensive because it renounces solemn obligations made by Texas to the Tribe in 1854 and reaffirmed by Texas to both the Tribe and Congress in 1954."

Morris Bullock, Chairman of the Alabama-Coushatta Tribe, issued the accompanying statement at the July 13 filing.

STATEMENT OF MORRIS BULLOCK CHAIRMAN, ALABAMA-COUSHATTA INDIAN TRIBE

Today the Alabama-Coushatta Tribe of Texas will file a lawsuit in federal court to contest a decision made by the Texas Attorney General—a decision that directly threatens our traditional way of life and our Reservation homeland that has been recognized by the State of Texas for more than a century.

Since the days when Texas was a Republic, the Alabama-Coushatta Tribe has lived in peace and harmony with the State and our non-Indian neighbors. Although in the 100 years between 1836 and 1936 we saw our tribal land holdings fall from over 9 million acres to 1,200 acres, we remained at peace. When Texas fought for its independence from Mexico, our Tribe assisted Sam Houston in Texas' war for independence. And in return in 1854, Sam Houston and the Texas Legislature set aside a small tract of land in Polk County as our Reservation, to ensure we would always have a home and could preserve our Indian ways.

For 130 years Texas has protected our small Reservation and assisted our people in attaining some measure of economic and social self-sufficiency. But last year Attorney General Jim Mattox said that our 130-year-old relationship with the State of Texas was illegal. In a formal opinion he said that we were no longer an Indian Tribe and our lands were no longer an Indian Reservation. And although he later promised us that he would reconsider, over 15 months have passed and the Attorney General's opinion has not been withdrawn or revised.

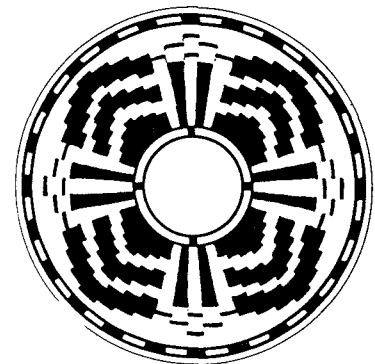
As a result of this opinion, the Minerals Tax Division of the State Comptroller's office has ruled that state severance taxes apply to oil and gas production on the Reservation. This is a tax which no city, county or agency of the State has to pay. This is the first time in history that the State of Texas has ever taxed the Reservation. The tax ruling presents

other, more serious problems, however. Because oil and gas are treated as part of the land, if the oil and gas estate is taxable, then the land itself could also be taxed. If our land can be taxed then it might be subject to other claims, and the promise of a permanent home for our Tribe would be broken.

So, in an effort to protect our Reservation, we asked the State to accept title to the lands of our 1854 Reservation and hold it in trust for the benefit of the Tribe. Currently, the State holds title to all other Reservation lands in Texas in this manner—including a different portion of our own Reservation—and it does not tax oil and gas production on those lands.

But once again State officials have relied on Attorney General Mattox's opinion rather than on state and federal laws. On June 26th the Texas Indian Commission refused the Tribe's request. And it is apparent to the Tribe that more and more State officials, and perhaps even State legislators, will rely on Opinion No. JM-17 in the future when they make decisions that affect the welfare and security of the Tribe and its Reservation. Attorney General Opinion No. JM-17 hangs like a sword over the Tribe and its ancestral Reservation. It threatens our very existence.

Thus, we are today filing in federal court a lawsuit that we hope will resolve the questions raised by the Attorney General. We ask only that the court determine our legal rights and status and declare that there is no legal obstacle to the State of Texas standing in the protective role as trustee to the Tribe. We regret that we have been forced to resort to litigation, but 15 months is too long to wait. We are confident that the very existence of a people, as well as 130 years of Texas history, cannot be eradicated by a stroke of the Attorney General's pen.



SUPREME COURT GRANTS REVIEW OF ONEIDA LAND CLAIM

The United States Supreme Court, on March 19, granted review in *Oneida Indian Nation v. Oneida and Madison Counties*. This case involves a claim on behalf of three Oneida tribes to 1700 acres of land invalidly conveyed under a post-1790 Oneida treaty. This claim serves as a test case for a larger, 250,000 acre, Oneida land claim. NARF represents the Oneida Tribe of Wisconsin in the case.

The lower district court had found that the land was indeed invalidly conveyed and that Oneida and Madison Counties were liable for damages. The liability and damage issues were appealed to the Second Circuit Court of Appeals. In September, 1983, the Court affirmed the liability of the Counties for the invalid conveyance as well as damages for two years in the amount of \$16,694. The Second Circuit also upheld a federal common law right of action to maintain the suit and the private enforcement of the Trade and Intercourse Acts.

Oral argument in the Supreme Court is scheduled for the first part of October, 1984. A decision is usually delivered three to five months after the argument. The case is expected to affect other Eastern Indian land claims.



BLACKFEET ROYALTIES FROM OIL AND GAS LEASES ARE TAX-EXEMPT

On April 7, the United States Court of Appeals for the Ninth Circuit decided that the State of Montana cannot tax the Blackfeet Tribe's royalty interests from mineral leases made after 1983. An *en banc* 11-judge panel reversed an earlier district court decision in the case, *Blackfeet Tribe v. Groff*. The *en banc* decision represents an unusual rehearing of a three-judge panel decision in the same case, which had earlier ruled against the Tribe.

In 1938, the Indian Mineral Leasing Act was passed and effectively made all such leases exempt from state taxation from that day forward. However, for leases made before 1938, the Court held that a 1924 Act of Congress, which expressly consented to state taxation, was not repealed by the 1938 Indian Mineral Leasing Act. For years the State of Montana has held all of the Blackfeet's royalty interests from its 125 existing leases subject to taxation. In 1978, the Tribe filed this action in federal court seeking to prevent Montana's taxation of tribal royalty interests from 125 existing leases; all but 12 of the Tribe's oil and gas leases were signed after 1938. Other leases of other tribes under the Act are expected to be affected as well.

The case has been sent back to the district court for a determination of whether the specific Montana taxes actually fall on the Tribe or the oil and gas producer. If the taxes fall on the royalty interest, they are invalid under the Ninth Circuit's decision. If the taxes fall on the producer, the Ninth Circuit directed the district court to determine whether the tax is preempted by federal law.

KLAMATH TRIBE'S HUNTING AND FISHING RIGHTS UPHELD ON CEDED LANDS

The Klamath Tribe's right to hunt, fish and trap on almost 700,000 acres of land in Oregon, which was ceded to the United States over 80 years ago, was upheld by the United States Court of Appeals for the Ninth Circuit on March 27. Affirming a federal district court decision in *Klamath Indian Tribe v. Oregon Department of Fish and Wildlife*, the Court held that the Tribe's 1901 cession agreement with the United States did not abrogate the tribe's treaty rights to hunt, fish and trap free of state regulation. The ceded area had been erroneously excluded from the reservation boundaries due to survey errors. This case is unique because most courts have been reluctant to find that hunting and fishing rights continue to exist on ceded or off-reservation lands without an express statement to that effect.

In its appeal, the State of Oregon contended (1) that ceded lands were never a part of the reservation, and (2) that when the Tribe ceded its occupancy rights, it also gave up its right to hunt, fish and trap on those lands. However, in its March 27th decision, the Ninth Circuit concluded that the Tribe and the United States government understood the treaty to include the land erroneously excluded, saying survey errors cannot diminish a reservation's boundaries.

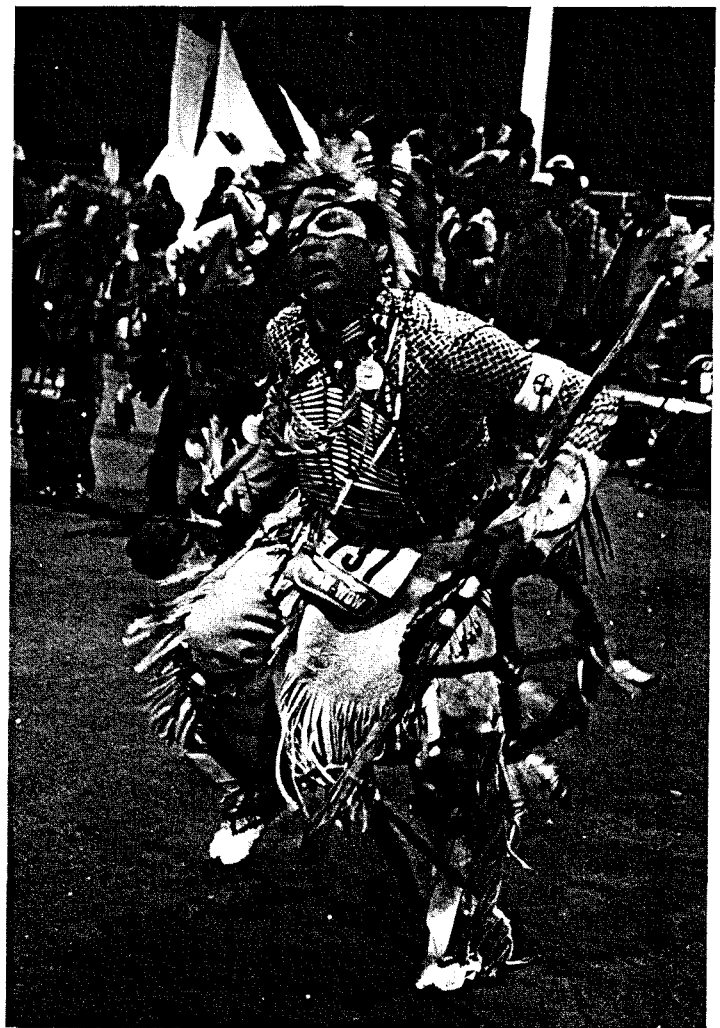
In addition, the Court said the treaty rights to hunt and fish are not necessarily incident to ownership of the land, and that such rights can continue to exist despite loss of title. The Court reiterated that a tribe retains all rights not expressly ceded in the treaty so long as the rights are consistent with the tribe's sovereign status.

NARF attorney Don Miller noted that the Tribe had enjoyed the exclusive rights to hunting and fishing for nearly 100 years with the consent of the state. Miller added that "this decision by the Ninth Circuit reaffirms the principle that all rights not expressly granted by tribes are reserved by them. For the Klamaths specifically, it means the ability to continue to hunt and fish on the original lands under tribal law without harassment by state officials."

LEGISLATION IS INTRODUCED TO SETTLE GAY HEAD LAND CLAIM

Legislation to settle the Gay Head Wampanoag land claim at Martha's Vineyard in Massachusetts was introduced in the House of Representatives on April 12, 1984 by Massachusetts Representative Gerry E. Studds. The bill provides for: (1) a \$1 million settlement area by the Secretary of the Interior; (2) that the Secretary has no further responsibility in connection with the lands except that Gay Head may petition for federal recognition as an Indian tribe; and (3) state laws apply to the settlement lands. State legislative approval is also required and state legislation for that purpose is pending.

Hearings on the bill were held in the House of Representatives in June and hearings in the Senate are scheduled for September.





MOTIONS TO DISMISS FT. McDOWELL MOHAVE-APACHE WATER CASE DENIED

An Arizona state court recently denied a motion to dismiss the State of Arizona's water case against the Ft. McDowell Mohave-Apache Indian Community. The motion was filed by the United States on behalf of the Tribe after the Supreme Court's June 1983 decision on jurisdiction in the Arizona and Montana water cases. NARF had filed an *amicus* brief on behalf of the Tribe in the state court because the Tribe is not party to the state court proceedings since it has not submitted to the jurisdiction of the court. The motions to dismiss raised the issues of whether the state constitutional disclaimer of jurisdiction over Indian property rights and the state proceedings are adequate to adjudicate Indian water rights. The court's decision is expected to be appealed.

DECISION ISSUED IN ROSEBUD SIOUX AUDIT CASE

An Administrative Law Judge (ALJ) from the Department of Labor recently issued a decision in the Rosebud Sioux Tribe's challenge to an audit of the Tribe's Comprehensive Employment and Training Act (CETA) program. Essentially, the ALJ allowed considerable costs which had been disallowed by the audit. The original disallowed costs of almost \$1 million were reduced to about \$300,000. In addition, the ALJ held that the Department of Labor has authority to collect disallowed costs and the Tribe's inability to pay was not a basis on which to excuse the costs. NARF expects to appeal these issues on behalf of the Tribe.

Native American Rights Fund

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

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

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

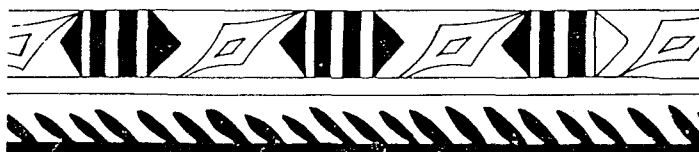
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TAX STATUS. The Native American Rights Fund is a nonprofit, charitable organization incorporated in 1971 under the laws of the District of Columbia. NARF is exempt from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code, and 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 PUBLICATIONS AND RESOURCES

The National Indian Law Library

The National Indian Law Library (NILL) is a resource center and clearinghouse for Indian law materials. Founded in 1972, NILL fulfills the needs not only of NARF but of people throughout the country who are involved in Indian law. NILL's services to its constituents throughout the country comprise a major segment of meeting NARF's commitment to the development of Indian law.

The NILL Catalogue

NILL disseminates information on its holdings primarily through its National Indian Law Library Catalogue: An Index to Indian Legal Materials and Resources. The NILL Catalogue lists all of NILL's holdings and includes a subject index, an author-title table, a plaintiff-defendant table, and a numerical listing. It is supplemented periodically and is designed for those who want to know what is available in any particular area of Indian law (1,000+ pgs. Price: \$75).

Expanded and Revised Bibliography on Indian Economic Development

Designed to provide aids for the development of essential legal tools for the protection and regulation of commercial activities on Indian reservations. The enlarged edition includes, in addition to all previously published material, many recently published articles, books, tribal codes, ordinances, conference materials, sample contracts and agreements, and titles of newsletters.

The format has been completely revised for use by those with both legal and nonlegal backgrounds. Material has been arranged into chapters which reflect major interests such as:

1. Business organization, planning and implementation of goals and programs;
2. Financial concerns, credit and loans;
3. Natural resources, taxation and zoning;
4. governmental-tribal relations and tribal administration and regulation of reservation development;
5. Cultural and socioeconomic considerations of reservation development.

Annotations have been expanded and updated, references to the implications of recently enacted legislation such as the Indian Mineral Development Act of 1982 and the Indian Tribal Governmental Tax Status Act of 1982 are also made. (200 pgs. Price: \$30)

Indian Claims Commission Decisions

This 43-volume set reports all of the Indian Claims Commission decisions. An index through volume 38 is also available, with an update through volume 43 in process. The index contains subject, tribal, and docket number listings. (43 volumes. Price: \$820) (Index price: \$25)

Indian Rights Manuals

A Manual On Tribal Regulatory Systems. Focusing on the unique problems faced by Indian tribes in designing civil regulatory ordinances which comport with federal and tribal law, this manual provides an introduction to the law of civil regulation and a checklist of general considerations in developing and implementing tribal regulatory schemes. It highlights those laws, legal principles, and unsettled issues which should be considered by tribes and their attorneys in developing civil ordinances, irrespective of the particular subject matter to be regulated (110 pgs. Price: \$25).

A Manual For Protecting Indian Natural Resources. Designed for lawyers who represent Indian tribes or tribal members in natural resource protection matters, the focus of this manual is on the protection of fish, game, water, timber, minerals, grazing lands, and archeological and religious sites. Part I discusses the application of federal and common law to protect Indian natural resources. Part II consists of practice pointers: questions to ask when analyzing resource protection issues; strategy considerations; and the effective use of law advocates in resource protection (151 pgs. Price: \$25).

A Self-Help Manual For Indian Economic Development. This manual is designed to help Indian tribes and organizations on approaches to economic development which can ensure participation, control, ownership, and benefits to Indians. Emphasizing the differences between tribal economic development and private business development, the manual discusses the task of developing reservation economies from the Indian perspective. It focuses on some of the major issues that need to be resolved in economic development and identifies options available to tribes. The manual begins with a general economic development perspective for Indian reservations: how to identify opportunities, and how to organize the internal tribal structure to best plan and pursue economic development of the reservation. Other chapters deal with more specific issues that relate to the development of businesses undertaken by tribal government, tribal members, and by these groups with outsiders (Approx. 300 pgs. Price \$35).

Handbook of Federal Indian Education Laws. This handbook discusses provisions of major federal Indian education programs in terms of the legislative history, historic problems in implementation, and current issues in this radically-changing field (130 pgs. Price: \$15).

Films and Reports

"Indian Rights, Indian Law." This is a film documentary, produced by the Ford Foundation, focusing on NARF, its staff, and certain NARF casework. The hour-long film is rented from: Association Films, Ford Foundation Film, 866 Third Ave., New York, New York 10022 (212-935-4210). (16mm, FF110 -\$50.00).

ANNUAL REPORT. This is NARF's major report on its program and activities. The Annual Report is distributed to foundations, major contributors, certain federal and state agencies, tribal clients, Native American organizations, and to others upon request.

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The NARF Legal Review, Summer 1984

Staff Changes

NARF is pleased to announce the recent addition of two attorneys and four summer law clerks to our staff.

Bob Peregoy, a member of the Flathead Tribe, recently joined NARF's attorney staff. Bob graduated from the Boalt School of Law at the University of California at Berkeley this year. Prior to law school, he had been a tenured associate professor at Montana State University with his Ed.D. from Montana State University and his M.P.A. and B.A. from the University of California. Bob has served as a law clerk and legal intern with the law firm of Baenen, Timme, DeReitzes and Middleton in Washington, D.C. He also has several publications to his credit and was chosen as a Ford Foundation Fellow in 1977.

Jerilyn Decoteau, a 1983 graduate of the University of Oregon and a Turtle Mountain Chippewa, will be joining NARF's attorney staff later this fall. Jerilyn is currently clerking for Judge James Burns, Chief Judge for the Federal District Court for the District of Oregon. Ms. Decoteau received an M.A. from the University of North Dakota and a B.S. from Mayville State College. As an undergraduate, Jerilyn was listed in the "Who's Who in American Colleges" and received her undergraduate degree Summa Cum Laude.

As in previous years, NARF has hired four second-year law students to work in our offices as summer law clerks. These law clerks gain an invaluable exposure to Indian legal issues of national significance. In turn, these clerks provide NARF attorneys with much needed research assistance. The three clerks working in NARF's main office in Boulder, Colorado are: Patterson Joe, a Navajo, who is attending Arizona State University; Ronald Johnny, of Northern Paiute-Western Shoshone descent, who attends the University of Denver, College of Law; and Mona Bearskin, a Winnebago-Sioux who attends the University of Nebraska. In NARF's Washington, D.C. office is Nancy Schadler, who attends the Washington, College of Law at the American University in Washington, D.C.

Thanks for Your Assistance

Recently NARF mailed a survey to thousands of our donors in an effort to better understand who donates to NARF and why. The results of the returns will be compiled for a summary report to our LEGAL REVIEW readers later this year. Our special thanks to each of you who took the time to complete and return the survey form to us.

OF GIFTS AND GIVING

INDIVIDUAL CONTRIBUTORS TO NARF INCREASE FROM 17,000 TO 27,000

In 1980 there were 17,000 individual donors who contributed to the Native American Rights Fund. By the end of 1983 that number had increased by almost 60% to more than 27,000 members. The additional income we have received from contributors throughout the United States these past three years had made the critical difference in our ability to maintain our level of services, despite federal budget cuts to our program, especially in 1981 and 1982. Contributions from donors are especially important to us as they provide the necessary flexibility to act quickly when needed. Very importantly, our donors provide us a very valuable constituency of citizens who are informed on the issues in which we are involved. At times, that backing is as important as the financial support provided.

In time NARF hopes to be supported to a much greater extent by individuals. Not only will more donor support guarantee even greater flexibility, it will also help assure our goals are endorsed by a far greater number of people throughout the United States, a situation we believe is essential if we are to be successful. Most importantly, increased donor support will help assure our continued efforts to so many Native Americans.

Your continued generous support to the Native American Rights Fund will help us make that much more progress toward cementing the notion of justice and equality for all America's people—including Native Americans. Send your tax-deductible contribution today in the return envelope to the Native American Rights Fund. Donors contributing \$25 or more will automatically receive the quarterly NARF LEGAL REVIEW at no charge. Major contributors (\$500 or more) receive special donor benefits, including exclusive publications, articles and other NARF in-house resources.

Otu-han

Otu'han, a Lakota word meaning "give-away," describes the age-old Sioux custom of giving gifts in the names of those they wish to honor. The Native American Rights Fund has developed the Otu'han memorial and tribute program to encourage our donors to continue this fine tradition by recognizing and honoring friends and loved ones through gifts to NARF.

We have received recent contributions in memory of:

Mary Virginia Dellinger—from Kay Dellinger

Minnie Daniels—from June Dugiulio

Tom W. Echohawk—from Tenaya Torres

Norbert S. Hill, Sr.—from Norbert S. Hill, Jr.

for the Dr. Rosa Minoka Hill Fund

Harriet Knudsen Chisholm—from Anthony & Betty Duvall,

Lillian J. Laughlin &

Laurie A. Starrett

Gertrude Hoppe Ascher—Mr. & Mrs. William Brown,

Ron & Barbara Fogerson,

Mr. & Mrs. Kendrick French &

friends of Sherry Self at the

Social Security Admin. Offc.

Concetta Bernstein—from Leon Bernstein

Hall Doherty—from Mrs. Adam F. Eby

Mildred Garrison—from Pauline K. Pumphrey, M.D.

& Mr. & Mrs. Louis Kaplan

Richard Prosser, Jr.—from Mary L. Hanewall

NARF has received several gifts in honor of friends or relatives on birthdays and special anniversaries, and a gift in honor of a recent marriage.

A very special gift was made in honor of Ms. Helene Leo, by Uwe and Anita Radok, in honor of her birthday. Ms. Leo has been a friend and supporter of the Native American Rights Fund since 1974. We are pleased that friends of Ms. Leo's have chosen to honor her through our Otu'han program.

For further information on the Otu'han memorial and tribute program contact Marilyn Pourier or return the attached business reply envelope with the appropriate box checked.

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