



Legal Review

NATIVE AMERICAN RIGHTS FUND

Cobell Settlement Now Before Congress

A settlement agreement was announced on December 8, 2009 between Elouise Cobell, lead plaintiff in the *Cobell v. Salazar* class action lawsuit over federal mismanagement of individual Indian trust fund accounts, and the Obama Administration. Under the terms of the settlement, the federal government will create a \$1.4 billion Accounting/Trust Fund and a \$2 billion Trust Land Consolidation Fund. The settlement also creates an Indian Education Scholarship fund of up to \$60 million to improve access to higher education for Indians. The settlement agreement must be approved by Congress and a federal district court.

John Echohawk, Executive Director of the Native American Rights Fund, expressed support for the settlement. "We have been waiting for President Obama and his Administration to fulfill his campaign promise to settle the Indian trust fund litigation and he has met that commitment. We are very pleased," he said. The Native American Rights Fund was co-counsel for the *Cobell* plaintiffs when the case was originally filed in 1996 and participated in the case until 2006 when it undertook the filing of a similar case for Indian tribes over federal mismanagement of tribal trust fund accounts, *Nez Perce*



Tribe, et al. v. Salazar.

Echohawk said that he is hopeful that the Obama Administration can soon focus its efforts on settlements for the tribal claims. The Native American Rights Fund currently represents 42 tribes in the *Nez Perce* case. There are also about 100 other tribal cases asserting claims stemming from federal mismanagement of tribal trust fund accounts. By the government's own figures, tribal trust accounts hold five times as much money as the individual Indian trust accounts involved in the *Cobell* case.

▶ Cobell Settlement Now Before Congress	page 1
▶ NARF Addresses Climate Change Issues	page 3
▶ The Kennedy Report: Robert and Edward Kennedy Understood Trust Responsibility for Indian Education in 1969. NARF Executive Director John Echohawk Shares How Far We Have Come	page 6
▶ CASE UPDATES	
- The State of Alaska, NARF, Northern Justice Project and	

ACLU Reach Settlement in Yup'ik Language and Voter Assistance Case	page 9
- Tribal Supreme Court Project Update	page 10
▶ New Board Members	page 11
▶ National Indian Law Library	page 13
▶ CALLING TRIBES TO ACTION!	page 14
▶ NARF	page 15

On the announcement of the settlement, President Obama stated that...“As a candidate, I heard from many in Indian Country that the Cobell suit remained a stain on the Nation-to-Nation relationship I value so much. I pledged my commitment to resolving this issue, and I am proud that my Administration has taken this step today. I came to Washington with a promise to change how our government deals with difficult issues like this, and a promise that the facts and policies, and not politics, will guide our actions and decisions. But it is important to note that today’s actions are not the final step. The District Court for the District of Columbia must formally endorse the settlement, and Congress must enact legislation to authorize implementation. I urge Congress to act swiftly to correct this long-standing injustice and to remember that no special appropriations are required. I congratulate all those in Indian Country that have waited for this news, and join them in waiting for a quick conclusion to the process.”

The settlement funds will be paid out of the federal judgment fund if Congress and the federal district court approve the settlement agreement. Once Congress approves the settlement, the federal district court will begin its proceedings to determine whether it will approve the settlement. Congress had until December 31, 2009 to approve the settlement agreement under its terms, however, this was pushed back to February 28, 2010, and then to April 16, 2010. After further inaction by Congress, the date has once again been pushed to May 28, 2010.

Senior Judge James Robertson of the U.S. District Court for the District of Columbia, whose court *Cobell v. Salazar* is under, expressed concern that Congress has failed to pass legislation approving the settlement. Judge Robertson stated that the settlement is a win-win proposition for the plaintiffs and the government and that the government needs to act. If Congress fails to approve legislation approving the settlement, Robertson said that he would convene a public hearing in May to



seek an explanation as to why Congress has not acted to approve the settlement. The Interior Department reiterated the Administration’s commitment to moving the settlement forward.

The *Cobell v. Salazar* case was filed in 1996. It was brought on behalf of approximately 300,000 past and present individual Indian trust beneficiaries. The individual Indian money account holders (plaintiffs) sought a full accounting of their trust assets for the entire period that such assets have been held in trust – since 1887. Trustees, without exception, have a duty to provide accurate and complete statement of accounts to each beneficiary at regular intervals and a complete and accurate accounting upon demand. Yet, the United States has never provided an accounting to individual Indian trust beneficiaries. It has never provided beneficiaries accurate and complete statement of accounts. In addition, plaintiffs asked that the account balances be restated in accordance with the accounting. Finally, plaintiffs seek reform of the trust management and accounting system. ❄

NARF addresses climate change issues

Despite their historically low carbon footprint, Indigenous peoples throughout the world are already suffering, and will increasingly suffer, the effects of man made climate change. NARF is working with its client, the National Tribal Environmental Council (NTEC) to help ensure that tribes in the United States are treated as sovereign partners in assessing and addressing climate change at the local, regional, national, and international levels. Given the immense amount of traditional ecological knowledge of the natural world gained through millennia of stewardship, indigenous peoples have much to offer the efforts at mitigation and adaption.

A focus of NARF and NTEC's efforts has been the various Congressional bills introduced in Congress. Legislation introduced in previous years had little or no mention of tribes. In the Waxman-Markey Bill passed by the House last summer, there were over 200 such mentions. Much has been accomplished, but much more needs to be done, as proposed levels of funding for tribes were inadequate, and tribes were unjustifiably left out of certain programs altogether. Given the time and attention that Health Care has taken, comprehensive legislation has stalled in the Senate. It is unclear when the matter will be taken up in earnest again.

At the international level, indigenous interests are seriously implicated in the legislation that has been proposed. One of the most effective ways identified to reduce carbon emissions, and to subsidize large parts of the carbon reduction effort, is through a process known by the acronym REDD+ - Reduction of Emissions from Deforestation and Degredation (the "+" in REDD+ draws attention towards the activities



related to the conservation and enhancement of carbon stocks). Basically, money is paid to get people to stop cutting down forests. Some of this reduction would contribute to an overall decrease in carbon emissions, and some of the

reduction would result in the issuance of offset credits which could be used to pollute elsewhere. Much of the remaining forest land in the third world is located on indigenous lands and the payment of money for not cutting is

sure to increase pressure on those lands. Safeguards to date in the proposed legislation are totally inadequate to protect indigenous peoples' human rights, including their rights to their lands, territories and resources, as well as their rights to full participation at every level in decisions concerning the implementation of REDD+.

The recent meeting of heads of state in Copenhagen (COP 15) to work on post Kyoto Treaty agreements was not a success. From the standpoint of indigenous peoples, it was very frustrating. It is difficult to be heard in a forum with hundreds of nation-states and thousands of NGOs clamoring for attention. NARF and NTEC had representatives in Copenhagen working with the indigenous caucus to draw attention to indigenous issues, but the document that came out of the conference, the Copenhagen Accord, had not one reference to indigenous peoples. In two weeks of trying, indigenous representatives from the United States did not succeed in getting a meeting with the US delegation. There will be meetings throughout the year to get ready for the next meeting in Mexico City in November of 2010. Indigenous peoples need much more representation there to make an impact.

The following letter was sent to the United States Senate by NARF and thirty other national organizations urging the Senate to pass comprehensive climate and energy legislation into law.

1Sky • Alliance for Climate Protection • American Rivers • Blue Green Alliance • Center for American Progress Action Fund • Center for International Environmental Law • Clean Water Action • Climate Solutions • Conservation Law Foundation • Defenders of Wildlife • Environment America • Environmental Defense Fund • Environmental Law & Policy Center • Green For All • Interfaith Power and Light • Izaak Walton League of America • League of Conservation Voters • National Audubon Society • National Tribal Environmental Council • National Wildlife Federation • Native American Rights Fund • Natural Resources Defense Council • Ocean Conservancy • Oceana • Pew Environment Group • Rails-to-Trails Conservancy • Sierra Club • The Trust for Public Land • The Wilderness Society • Union of Concerned Scientists • World Wildlife Fund

April 27, 2010
United States Senate
Washington, DC 20510

Dear Senator:

Representing thirty-one national organizations and millions of Americans who support strong clean energy and climate change legislation, we write to urge the U.S. Senate not to squander the great promise of bi-partisan action we've witnessed over the last six months. This must be the year that the United States passes comprehensive climate and energy legislation into law in order to create jobs, strengthen our national security, and reduce carbon pollution. We can't afford to delay action any longer; we urge the Senate to take up a comprehensive energy and climate bill in June.

Special interests have fought energy reform for decades. They've kept America dependent on foreign oil and protected corporations that pollute the air our children breathe and the water they drink. It is long past time to end our reliance on old technology and dirty energy sources and put America back in control of its energy future. Every day that goes by without a comprehensive clean energy and climate policy helps our enemies, hurts our economy and puts our security at risk.

Without a bipartisan, comprehensive national clean energy and climate policy, America's businesses are hamstrung and cannot make the investments that will create millions of jobs in the new clean energy sector. Without a comprehensive policy, we cannot achieve the reductions in carbon pollution that are necessary to protect the planet. Without a comprehensive policy, we cannot end the practice of exporting \$1 billion a day for foreign oil and will remain at the whim of hostile regimes.

The United States Senate stands at a moment in history in which decisions made today will have a lasting impact on generations of Americans to come. The Senate faces a choice between leading America forward in a new clean energy economy or holding America back by preserving the failed energy policies of the past. The Senate has a profound responsibility to future generations to enact policies that enhance our economic, environmental and national security. Now is the time to pass a strong comprehensive clean energy and climate bill. It is up to you to ensure that it happens this year.

Sincerely,

Gillian Caldwell,
Campaign Director
1Sky

Rodger Schlickeisen,
President & CEO
Defenders of Wildlife

Frank Gill, President
National Audubon
Society

Keith Laughlin,
President
Rails-to-Trails
Conservancy

Maggie L. Fox,
President & CEO
Alliance for Climate
Protection

Margie Alt,
Executive Director
Environment America

Jerry Pardilla,
Executive Director
National Tribal
Environmental Council

Michael Brune,
Executive Director
Sierra Club

Rebecca Wodder,
President
American Rivers

Fred Krupp, President
Environmental Defense
Fund

Larry Schweiger,
President
National Wildlife
Federation

Will Rogers,
President
The Trust for Public
Land

David Foster, Executive
Director
Blue Green Alliance

Howard A. Learner,
Executive Director
Environmental Law &
Policy Center

John Echohawk,
Executive Director
Native American Rights
Fund

William Meadows,
President
The Wilderness Society

John D. Podesta,
President & CEO
Center for American
Progress Action Fund

Phaedra Ellis-Lamkins,
Chief Executive Officer
Green For All

Frances Beinecke,
President & CEO
Natural Resources
Defense Council

Kevin Knobloch,
President
Union of Concerned
Scientists

Daniel Magraw,
President
Center for International
Environmental Law

The Rev. Canon Sally G.
Bingham, President
Interfaith Power and
Light

Vikki Spruill,
President & CEO
Ocean Conservancy

Carter Roberts,
President & CEO
World Wildlife Fund

John DeCock, President
Clean Water Action

David Hoskins,
Executive Director
Izaak Walton League of
America

Andrew Sharpless,
Chief Executive Officer
Oceana

Gregg Small, Executive
Director
Climate Solutions

Gene Karpinski,
President
League of Conservation
Voters

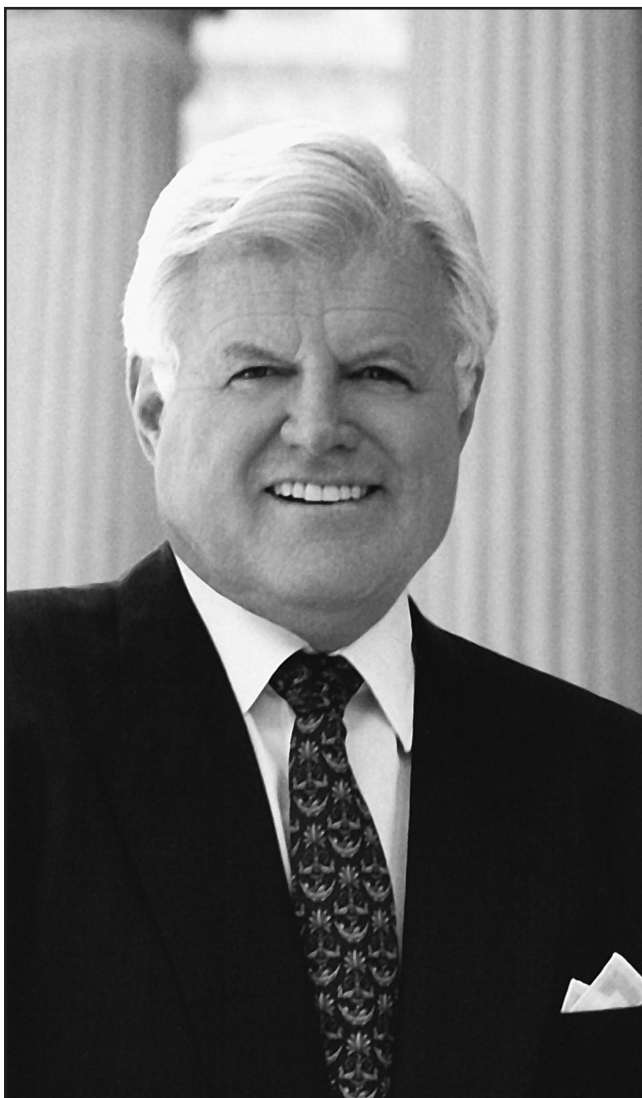
Joshua Reichert,
Managing Director
Pew Environment
Group

John Kassel, President
Conservation Law
Foundation

NATIVE AMERICAN RIGHTS FUND

The Kennedy Report: Robert and Edward Kennedy Understood Trust Responsibility for Indian Education in 1969.

NARF Executive Director John Echohawk Shares How Far We Have Come



I am proud of the amazing amount of hard work undertaken on behalf of tribal students at all levels by federal, state, and tribal officials, administrators, teachers, parents, families, communities, and organizations.

As you know, in federal law and policy, American Indian and Alaska Native tribes are sovereign governments. Under the great leadership of Native and non-Native people in this country, for the last fifty years or so, the exercise of tribal sovereign governance has been steadfastly increasing in many areas, such as law enforcement, natural resources protection, and economic development.

In education we also see some progress, with an increasing number of Tribal Education Departments, more state education laws recognizing tribal sovereignty, and Executive Orders from the past two Presidents that affirmatively acknowledge the government-to-government relationship between the United States and tribal nations in education.

Robert and Ted Kennedy understood and embraced Tribal Sovereignty completely in Education. Today, we strive to make tribal sovereignty in education the law as the reauthorization of the Elementary and Secondary Education Act (ESEA) and in amending part of enacting other federal education legislation.

In 1969, after a two-year study by a Special Senate Subcommittee on Indian Education led by Senators Robert and Ted Kennedy, the historic Kennedy Report was released. The Kennedy Report spoke aptly about both the failures and the potential of Indian education. It noted that, at that time, of about 160,000 elementary and secondary tribal students nationwide, one third were in schools run by the Bureau of Indian Affairs (BIA), and two-thirds were in the state public schools. Neither school

system was doing a good job; problems included poor facilities, irrelevant curricula, and indifferent or hostile teachers. Indians were prohibited from serving on many state public school boards, and most of the BIA schools didn't even have school boards.

The Kennedy Report made 60 specific suggestions for improvement.

Many were quite similar to those made 40 years before, in the previous most comprehensive Indian education study, The Meriam Report of 1928. This in itself suggested the difficulty or failure of the federal government and the states to improve Indian education. Thus, the primary recommendation of The Kennedy Report was "increased Indian participation in and control over their own education programs and schools."

Congress responded to The Kennedy Report in 1972 by enacting the Indian Education Act (IEA). The IEA authorized new supplemental education programs for Indian students, including a formula grant program to meet the "unique educational and culturally relevant academic needs of Indian students" that requires open consultation by state public schools with Indian parents. I remind you, the vast majority – today over 90% – of the over 500,000 elementary and secondary tribal students attend state public schools; so, the IEA programs are not and never have been administered by the BIA (or, currently, the Bureau of Indian Education (BIE)); they are now administered by the Department of Education and they primarily serve tribal students in the state public schools.

Over the years the IEA's formula grant program, along with IEA discretionary grants, teacher training programs, graduate school fellowships, and national activities grants have helped tribal students. Precisely how many students wouldn't be where they are today without the IEA we may never know. Yet every time the ESEA gets reauthorized, there are those in



NATIVE AMERICAN RIGHTS FUND

Congress that would eliminate some or all of the IEA programs. In fact some of the programs (like the graduate fellowships and adult literacy programs) have been de-funded by Congress now for years; others, like funding for Tribal Education Departments, the authorization for which came in the ESEA reauthorization of 1994, never have been funded. But the original basis of the IEA – that the federal government has a moral obligation to help remedy the past injustices it caused to American Indians – remains intact; it is the law.

All these good things can be attributed to Robert and Ted Kennedy.

Now, in this 21st century, we need another individual or individuals to champion Indian education.

The IEA is almost 40 years old. The current incarnation of the ESEA, including the IEA, known as the No Child Left Behind (NCLB) Act, is again up for reauthorization. And what we need now is not just an IEA, but a “Tribal Sovereignty Education Act.”

Notwithstanding all of its good provisions, the IEA simply doesn’t recognize tribal sovereignty as much as it could. The IEA pre-dates the Indian Self-Determination and Education Assistance Act of 1975 and all the other modern laws that more fully recognize tribal sovereignty. The IEA pre-dates contemporary Executive Branch policy strongly affirming the government-to-government relationship between the United States and Native nations.

Congress can and should align education legislation with these other federal laws and policies. Significantly, NCLB took some important steps in this direction by adding to the IEA policy provisions the recognition of the federal government’s trust relationship in Indian education, and its commitment to work in education with Indian tribes. NCLB added specific provisions to help enhance the exercise of tribal sovereignty over the BIE-funded schools, including options for tribal accreditation and tribal AYP standards. In this upcoming ESEA reauthorization, we urge Congress to take these kinds of next steps with respect to the state public schools, which most tribal students attend.

Some states already are moving in this direction on their own – without any federal mandate to do so. At least a dozen states now have comprehensive Indian education laws. Some of these laws recognize tribal sovereignty not just in terms of public school tribal language courses and teacher certification – though these are extremely important matters – but with respect to general education requirements and programs. And five states – California, Maine, Montana, Oregon, and Wisconsin – now mandate the teaching of tribal sovereignty itself in their public school curricula. Congress needs to

support these growing tribal-state efforts that acknowledge the role of tribal sovereignty in public school education by authorizing and funding inter-governmental options for tribes and states (or local education agencies), perhaps starting with existing programs and funding like the IEA grants, Title I, and Impact Aid. Congress needs to fund Tribal Education Departments

– these authorizations are now 20 and 15 years old and never have been funded.

Also, Congress very much needs to put tribal education agencies on a par with state education agencies regarding public school data collection, reporting, and analysis. Many of these recommendations are in or follow from existing federal reports, like the Indian Nations at Risk Report (1991), and the annual reports to Congress of the National Advisory Council on Indian Education (NACIE), an under-utilized entity created by the IEA. Over the years tribes and national organizations like NIEA, the National Congress of American Indians, and the Tribal Education Departments National Assembly have made other helpful recommendations for federal education law and policy. Very useful federal-tribal collaborative work led to the two Executive Orders on Indian Education signed by Presidents Clinton and Bush. A tremendous amount of reason and wisdom lies behind the many new state Indian education laws, and in state public education organizations working with tribes to help Native students like the Council of Chief State School Officers. The partnerships are there, and with the leadership and action of individuals and collective bodies like NIEA, we can put together a Tribal Sovereignty Education Act. 🌟



John E. Echohawk
Executive Director
**Native American
Rights Fund**

CASE UPDATES

The State of Alaska, NARF, Northern Justice Project and ACLU Reach Settlement In Yup'ik Language and Voter Assistance Case

Alaska state officials along with Native American Rights Fund (NARF), the American Civil Liberties Union, the Northern Justice Project, four Alaska Native elders and four tribal governments today jointly announced a settlement of *Nick, et al. v. Bethel, et al.* According to the settlement, the state of Alaska will make enhancements to language assistance for Yup'ik-speaking voters available at elections in the Bethel area.

The resolution of the case, originally filed in June 2007 on behalf of Alaska Native elders Anna Nick, Billy McCann, Arthur Nelson and David O. David and the tribal governments of Kasigluk, Kwigillingok, Tuluksak and Tuntutuliak was hailed by all parties involved.

"This settlement recognizes improvements to language-assistance protocols implemented by the state during the 2008 and 2009 elections, while providing for enhancements to ensure that limited-English-proficient voters receive effective assistance," said Alaska Attorney General Dan Sullivan. "We support fair voting practices and effective access to the voting booth for all Alaskans, and we will vigorously implement the terms of this settlement."

"We are extremely pleased the state of Alaska will provide Yup'ik-speaking voters in the Bethel area with the tools they need to fully participate in the political process," said Natalie Landreth of Native American Rights Fund (NARF). "That is what this case was all about – equal access to the polls."

"Our right to vote is one of the most important that we as Americans possess," said Alaska Lieutenant Governor Craig Campbell, who oversees the Division of Elections. "Here in Alaska, we want all our citizens to exercise that right, regardless of where they live or the language

they speak. We are pleased to have come together to ensure that this case is a win-win for Yup'ik-speaking voters and the State of Alaska."

"Every American deserves an equal voice in the political process," said Laughlin McDonald, Director of the ACLU Voting Rights Project. "The Constitution protects all Alaskans' right to vote regardless of what language they speak."



Key protocols for the Division of Election include:

- Training bilingual poll workers to provide language and voter assistance to voters;
- Coordinating language assistance through a bilingual staff person with a toll-free number;
- Relying on Yup'ik language experts to translate election materials, including information on ballot measures, candidates, absentee and special-needs voting and voter registration;
- Preparation of a Yup'ik-English glossary of election terms and phrases to guide bilingual poll workers providing language assistance;
- Providing sample ballots in Yup'ik;
- Pre-election publicity in Yup'ik through radio ads, television programs, public service announcements and announcements over VHF radios in villages that do not receive local radio stations;

- Undertaking outreach to the villages in the census area.

"I have said all along that all we wanted was to be able to understand what we are voting for. Now that will happen, and I am very, very happy," said Billy McCann, a plaintiff in the case. Being a Plaintiff is not easy but when you come together to fix a problem like this, it is worth it."

Tribal Supreme Court Project Update

The U.S. Supreme Court granted review in *United States v. Tohono O'odham Nation*, a case seeking review of a decision by the U.S. Court of Appeals for the Federal Circuit that 28 U.S.C. § 1500 does not preclude jurisdiction in the Court of Federal Claims when a Indian tribe has also filed an action in Federal District Court seeking different relief (e.g. money damages versus historical accounting). A number of Indian tribes have filed identical claims for breach of fiduciary duties in both the Court of Federal Claims and the Federal District Court seeking separate relief.

At present, most of the resources of the Tribal Supreme Court Project have been focused on litigation pending in the lower courts. Project attorneys are tracking lower court litigation based on subject matter area to allow the Project an opportunity to assist in earlier stages of litigation. For example, the Project has been monitoring five cases involving challenges to Reservation status of certain lands (diminishment) or challenges to the continuing existence of an entire Reservation (disestablishment). Currently, in *Osage Nation v. Irby (Oklahoma Tax Commission)*, the Project worked diligently with the attorneys representing the Osage Nation in developing an amicus strategy and preparing amicus briefs in support of their petition for rehearing of a Tenth Circuit decision which held that the legislative history and subsequent events to the Osage Allotment Act evidence Congress' intent to disestablish the Osage Reservation.

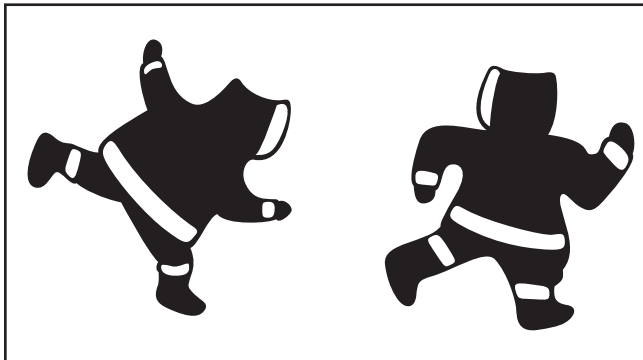
In similar fashion, the Project has been moni-



toring 11 cases involving challenges to the authority of the Secretary to take land in trust for tribes based on the Supreme Court's decision last year in *Carcieri v. Salazar*. Currently, the Project is preparing materials and developing strategy in anticipation of amicus support for the tribes and the United States as the Carcieri-related litigation works its way through the courts. The Project is also tracking litigation involving challenges to the doctrine of tribal sovereign immunity; challenges to the authority of Tribes to regulate the activities of non-Indians on-reservation or adjudicate disputes involving non-Indians; attempts to undermine tribal cultural values and laws protecting Native religious freedom; and attacks against the authority of tribal courts to impose consecutive sentences of more than one-year for violent crimes committed by Indians on the reservation.

Copies of briefs and other materials for each of the cases are available on the NARF website at <http://www.narf.org/sct/index.html>. 🌟

NEW BOARD MEMBERS



Enoch Adams, Chairman of the Kivalina IRA Council in the State of Alaska, was elected to the Native American Rights Fund Board of Directors in November 2009. Chairman Adams holds a Bachelor of Sciences in History Education from Liberty University, Lynchburg, Virginia. Upon graduation from Liberty, Enoch was hired by the Northwest Arctic Borough School District as a secondary teacher, spending his first year at the Noorvik School, Noorvik, Alaska, teaching math to the middle and high school students. The next school year, a position became open at Kivalina and Enoch moved to his hometown to teach for the next 15 years. Because of the nature of the rural schools in Alaska, secondary teachers become general practitioners for middle and high school students. Over those years, Enoch has had to teach math, science, social studies, health/PE, English and history, until resigning from the district in 2001.

In 1994, with the guidance and counseling from the Center on Race, Poverty, and the Environment's chief counsel, Luke Cole, members of the KRPC sued the Red Dog Mine for its countless violations against the Clean Water Act, after being denied standing as a viable committee of the community. Stemming from that successful litigation, in *Adams, et.al. vs. Tech Cominco*, the Red Dog Mine producer was forced to settle with the plaintiffs to respond in favor of the community its ongoing violations that were flowing into the Wulik River, Kivalina's drinking

water source, promising to build a pipeline from its outfall directly to the ocean and in the meantime, provide reverse osmosis units to each home that wants one until the pipeline is built and operating.

For a brief time, 2005-2006, Enoch became a city council member. Then successfully ran for the IRA council in 2008 and has been re-elected in 2009.

Virginia Cross is an Elder of Puget Sound's Muckleshoot Indian Tribe and currently serves as Chairman of the Tribal Council. Virginia was elected to the Native American Rights Fund Board of Directors in November 2009. She has devoted her lifetime to public service, especially in the field of education. She served for 22 years as Director of Indian Education for the Auburn, Washington public school district and played an active role in shaping many of today's programs for Native American students in the State of Washington. The Virginia Cross Native Education Center, operated by the Auburn School District in conjunction with the Tribe, was named in her honor. Education continues to be Virginia's top priority today as she chairs the



Tribe's Executive Committee for Education.

In the three decades Virginia has served on its Tribal Council, the Muckleshoot Tribe has become one of the most progressive and prosperous tribes in the Pacific Northwest. She was serving as Tribal Council Chair a quarter-century ago when NARF joined the Tribe's legal staff in litigating a key case involving the diversion of water from the White River to generate power for a utility company. This case was resolved in the Tribe's favor, and in the years that have passed since then, enormous progress has been made in restoring the White River's salmon runs.

Tribal Chairman Marshall McKay, Yocha Dehe Wintun Nation, was elected to the Native American Rights Fund Board of Directors in November 2009. Chairman McKay was born in Colusa, California and grew up in Brooks, California near his present-day home in the Yocha Dehe's tribal community. He began his successful career in tribal government in 1984, culminating in his election as Chairman in 2006, and re-election in 2009.

Chairman McKay leads Yocha Dehe's elected tribal council, governing body of the sovereign tribal nation, and oversees operations for the Tribe and its business enterprises. A cornerstone of Chairman McKay's leadership is his commitment to cultural renewal and preservation, and his focus on economic development, which helps to secure the independence of the Tribe. McKay oversees the day-to-day operations of the tribal government and the Tribe's business enterprises, including the Cache Creek Casino Resort and the Yocha Dehe Farm and Ranch operations. Chairman McKay also serves as Chair of the Yocha Dehe Wintun Academy Board, and as a member of the Yocha Dehe Fire Commission, the Cultural Renewal Committee and the Health and Wellness Committee. He previously served as Tribal Treasurer and Tribal Secretary.

Chairman McKay currently sits on the



University of California Davis Foundation Board, the Board of the Autry National Center and the Smithsonian's National Museum of American the Indian (NMAI). In 2009, Chairman McKay was appointed to the Board of Trustees for the Smithsonian's National Museum of the American Indian. NMAI is dedicated to the preservation, study, and exhibition of the life, languages, literature, history, and arts of Native Americans. He also serves as a founding member of the Native Arts and Cultures Foundation and in November 2007, was appointed to the Native American Heritage Commission Board by Governor Arnold Schwarzenegger.

The Native American Rights Fund Board and staff look forward to working with Enoch Adams, Virginia Cross and Marshall McKay. They bring a wealth of knowledge and experience to our Board and our organization. 🌟

National Indian Law Library

Justice Through Knowledge!

About the Library

The National Indian Law Library (NILL) located at the Native American Rights Fund in Boulder, Colorado is a national public library serving the Indian law information needs of people across the United States. Since 1972 NILL has collected nearly 10,000 resource materials that relate to federal Indian and tribal law. The Library's holdings include the largest collection of tribal codes, ordinances and constitutions in the United States and hard to find reports, handbooks and conference proceedings. We believe the real value of NILL is the professional staff that responds to about 150 questions from the public each month – providing copies of documents in a timely way. In addition, the free Indian Law Bulletin Service helps keep the legal

professional, student and general public informed on weekly developments in Indian law. Visit the NILL web site to learn more and to register for the free Indian Law Bulletin alerts. www.narf.org/nill/index.htm

Support the Library

The National Indian Law Library is unique in that it serves the public but is not supported by local or federal tax revenue. NILL is a project of the Native American Rights Fund and relies on private contributions from people like you. For information on how you can support the library or become a sponsor of a special project, please contact David Selden, the Law Librarian at 303-447-8760, dselden@narf.org or visit us in Boulder, Colorado. 🌻

NATIVE AMERICAN RIGHTS FUND



CALLING TRIBES TO ACTION!

It has been made abundantly clear that non-Indian philanthropy can no longer sustain NARF's work. Federal funds for specific projects have also been reduced. Our ability to provide legal advocacy in a wide variety of areas such as religious freedom, the Tribal Supreme Court Project, tribal recognition, human rights, trust responsibility, tribal water rights, Indian Child Welfare Act, and on Alaska tribal sovereignty issues has been compromised. NARF is now turning to the tribes to provide this crucial funding to continue our legal advocacy on behalf of Indian Country. It is an honor to list those Tribes and Native organizations who have chosen to share their good fortunes with the Native American Rights Fund and the thousands of Indian clients we have served. The generosity of Tribes is crucial in NARF's struggle to ensure the future of all Native Americans.

Yocha Dehe Wintun Nation grants \$1.5 million to NARF

NARF has received a \$1.5 million grant from the Yocha Dehe Wintun Nation of Brooks, Calif., to be distributed in \$500,000 allotments over three years and used for general operating expenses and special projects.

"This generous grant provides the Native American Rights Fund fiscal security for the next three years, enabling us to focus on legal advocacy and insuring the survival of tribes and their ways of life," said Executive Director John E. Echohawk. "Our deepest

thanks go to the Yocha Dehe Wintun Nation and their dedication to the legal rights of Indian Country."

Tribal contributions are extremely important to help underwrite NARF's vital work. This gift from the Yocha Dehe Wintun Nation—one of the largest tribal contributions ever bestowed on NARF—not only sets an example for other tribes, but also is a testament to the value and impact of the organization's work.

"The Tribal Council of Yocha Dehe Wintun Nation is committed to Native rights and the preservation of tribal sovereignty," said Yocha Dehe Tribal Chairman Marshall McKay. "This grant to the Native American Rights Fund tangibly expresses our belief in the importance of the outstanding work that they do."

"The generosity of tribes is crucial in NARF's struggle to ensure the freedoms and rights of all Native Americans," said Echohawk. "The history of Yocha Dehe's giving should be an example for every Native American Tribe and organization. We hope others will follow with their support of our organization and other Native organizations across the country."

We encourage other Tribes to become contributors and partners with NARF in fighting for justice for our people and in keeping the vision of our ancestors alive. We thank the following tribes and Native organizations for their generous support of NARF thus far for our 2010 fiscal year – October 1, 2009 to September 30, 2010:

- Akiak Native Community
- Cow Creek Band of Umpqua Indians
- Lummi Commercial Company
- Nome Eskimo Community
- Saginaw Chippewa Indian Tribe of Michigan
- San Manuel Band of Mission Indians
- Shakopee Mdewakanton Sioux Community
- Sitka Tribe of Alaska
- Yocha Dehe Wintun Nation

THE NATIVE AMERICAN RIGHTS FUND

NATIVE AMERICAN RIGHTS FUND

The Native American Rights Fund (NARF) was founded in 1970 to address the need for legal assistance on the major issues facing Indian country. The critical Indian issues of survival of the tribes and Native American people are not new, but are the same issues of survival that have merely evolved over the centuries. As NARF is in its fortieth year of existence, it can be acknowledged that many of the gains achieved in Indian country over those years are directly attributable to the efforts and commitment of the present and past clients and members of NARF's Board and staff. However, no matter how many gains have been achieved, NARF is still addressing the same basic issues that caused NARF to be founded originally. Since the inception of this Nation, there has been a systematic attack on tribal rights that continues to this day. For every victory, a new challenge to tribal sovereignty arises from state and local governments, Congress, or the courts. The continuing lack of understanding, and in some cases lack of respect, for the sovereign attributes of Indian nations has made it necessary for NARF to continue fighting.

NARF strives to protect the most important rights of Indian people within the limit of available resources. To achieve this goal, NARF's Board of Directors defined five priority areas for NARF's work: (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 and educating the public about Indian rights, laws, and issues.

Requests for legal assistance should be addressed to the Litigation Management Committee at NARF's main office, 1506 Broadway, Boulder, Colorado 80302. NARF's clients are expected to pay whatever they can toward the costs of legal representation.

NARF's success could not have been achieved without the financial support that we have received from throughout the nation. Your participation makes a big difference in our ability to continue to meet ever-increasing needs of impoverished Indian tribes, groups and individuals. The support needed to sustain our nationwide program requires your continued assistance.



NARF Annual Report. This is NARF's major report on its programs 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. Ray Ramirez Editor, ramirez@narf.org.

The NARF Legal Review is published biannually by the Native American Rights Fund. Third class postage paid at Boulder, Colorado. Ray Ramirez, Editor, ramirez@narf.org. There is no charge for subscriptions, however, contributions are appreciated.

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.

Main Office:

Native American Rights Fund
1506 Broadway, Boulder, Colorado 80302
(303-447-8760) (FAX 303-443-7776).
<http://www.narf.org>

Washington, D.C. Office:

Native American Rights Fund
1514 P Street, NW (Rear) Suite D, Washington, D.C. 20005
(202-785-4166) (FAX 202-822-0068).

Alaska Office:

Native American Rights Fund
801 B Street, Suite 401, Anchorage, Alaska 99501
(907-276-0680) (FAX 907-276-2466).

Native American Rights Fund

1506 Broadway
Boulder, CO 80302

Non-Profit Org.

U.S. Postage

PAID

Boulder, Colorado

Permit No. 589



PRINTED ON RECYCLED PAPER




NATIVE AMERICAN RIGHTS FUND BOARD OF DIRECTORS

Delia Carlyle, Chairwoman Ak Chin Indian Community
 Kunani Nhipali, Vice-Chairman Native Hawaiian
 Enoch Adams Native Village of Kivalina
 Alfred Berryhill Muscogee (Creek) Nation
 Virginia Cross Muckleshoot Tribe
 Gerald Danforth Wisconsin Oneida
 Beasley Denson Mississippi Band of Choctaw Indians
 Richard Luarkie Pueblo of Laguna
 Marshall McKay Yocha Dehe Wintun Nation
 Lydia Olympic Yupik/Aleut
 Barbara Anne Smith Chickasaw Nation
 Ron His Horse Is Thunder Standing Rock Sioux
 Executive Director: John E. Echohawk Pawnee

NARF LEGAL REVIEW • VOLUME 35, NO.1 • WINTER/SPRING 2010