



Legal Review

NATIVE AMERICAN RIGHTS FUND

Groundwater Rights Confirmed But the Fight Continues



*Andreas Creek Indian Canyons courtesy
Kate Anderson / Agua Caliente
Band of Cahuilla Indians.*

The Agua Caliente

NARF's client, the Agua Caliente Band of Cahuilla Indians and their ancestors have been in Coachella Valley, California, since time immemorial. Deep in *Kak wa wit* (Tahquitz Canyon) north of Palm Springs, archaeologists have discovered proof of Cahuilla Indian occupation for more than 5,000 years, which echoes the Tribe's oral history. According to the migration story of the Agua Caliente, *Evon ga net* ("the Fox") was a powerful leader who traveled to the Coachella Valley from a nearby valley in the west. As he entered the valley, he recognized and marked it as a new home for his people. Soon thereafter, the leader of the Fox Clan, *Ca wis ke on ca*, saw the mark of the Fox alongside the oasis of what is now known as Palm Springs and settled his tribe deep in the canyon. For thousands of years, Agua Caliente people have not only lived but thrived in the region.

Thriving in the desert takes special knowledge and skills, which the Cahuilla gained over the millennium. Surface waters are often available only seasonally and can be unreliable. The Cahuilla ►

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Andreas Canyon.

people developed walk-in groundwater wells to provide a water source during times of drought and skillfully used water from nearby streams to irrigate their crops. The rock-lined ditches, dams, and reservoirs that they created remain as reminders of the ancient Cahuilla ways and knowledge. The Cahuilla people have long been the stewards of the surrounding land and waters.

The Cahuilla were keenly aware of the value of water and paid it great respect. The area's hot springs, originally known as *Sec-he* (boiling water) and renamed as *Agua Caliente* (hot water) by Spanish arrivals, provided the Cahuilla people with clean water for drinking and bathing as well as a spiritual connection point to the underworld of the *nukatem* (ancient spiritual beings) and a place of healing. To this day, the water is life-sustaining and sacred.

Today, Palm Springs is world-renowned, and the Agua Caliente share the beautiful Coachella Valley with visitors from around the world who are drawn to the desert oasis. What most visitors don't realize is that beneath that desert landscape there is an immense reservoir of pristine waters, the Coachella Valley Aquifer. The water in the aquifer is filtered through layers of sand and gravel as snowmelt and rainfall seep back underground to replenish the great resource. This

amazing groundwater has provided for the Cahuilla since their long-ago arrival. Not only for their irrigation and drinking, but also for their rich ceremonial and spiritual traditions.

The Water

The Coachella Valley Aquifer is large; however, even with its remarkable size, the aquifer is not infinite. It is a precious and finite resources that can be adversely impacted by ongoing pollution and depletion. The Agua Caliente understand that and have fought for over two decades to improve management of the resource.

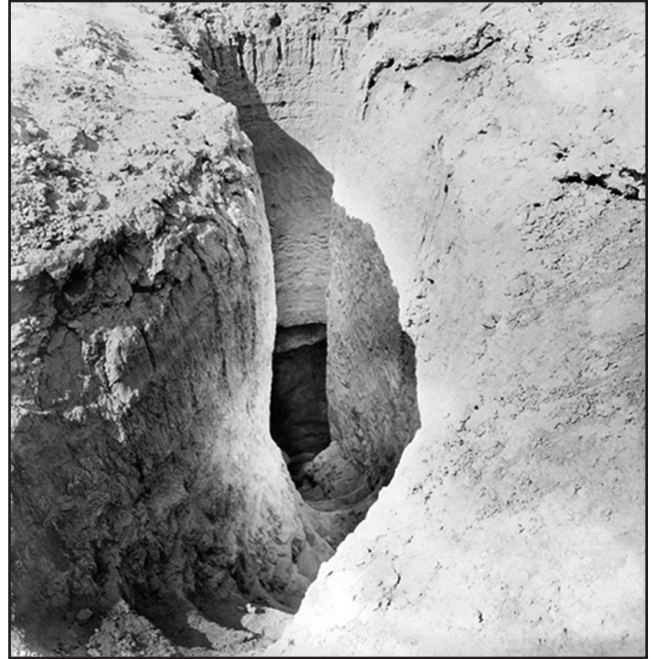
With the growing popularity of the Coachella Valley, the aquifer is being overused and abused. Water from the aquifer is being pumped out at an alarming rate to supply the growing demand. The *Palm Springs Desert Sun* reported a 34-foot drop in the aquifer's water levels between 1975 and 2015—the approximate height of a three-story building. In 2010, the Coachella Valley Water District (“CVWD”), one of the two water agencies serving the area, and one of the largest pumpers of groundwater in the Coachella Valley, estimated the cumulative overdraft of the aquifer over the years at over 5.5 million acre-feet and an average continuing annual overdraft of approximately 239,000 acre-feet per year. Besides the threat of depletion, this type of overdrafting can cause

“ground subsidence” in which the pore space in the aquifer collapses and the surface above sinks. Studies indicate that areas in the southern Coachella Valley already are subsiding.

In an attempt to offset the unsustainable overdrafting of the aquifer, local water agencies began importing water from the Colorado River and artificially recharging or replenishing the water in the aquifer. This may have slowed the overdrafting of the aquifer, but it introduced an entirely new problem – declining groundwater quality. The Colorado River water has high levels of total dissolved solids and other nutrients from upriver municipal, mining, and agricultural runoff, and it is not treated before it is used for recharge. From the recharge site in the Upper Valley, the lower-quality water flows down directly toward the Agua Caliente Reservation, directly impacting the quality of water underlying the Tribe’s lands. For decades, the Tribe has advocated for reducing the over-pumping and protecting the aquifer. The Tribe well understands the essential nature of the aquifer for sustaining today’s needs as well as those of future generations. The Agua Caliente repeatedly called on the local water agencies to make the protection of the aquifer a priority. The continuing mismanagement of the area’s water resources finally led the Tribe to bring suit against the two main water agencies that serve the area.

The Litigation

On May 14, 2013, on behalf of the Agua Caliente Band of Cahuilla Indians, NARF and co-counsel filed suit against CVWD and Desert Water Agency (DWA) and their respective individual board members, in the federal district court for the Central District of California in Riverside, California. The relief requested by the Tribe in its complaint is a declaration of the Tribe’s reserved and aboriginal water rights to groundwater to satisfy the present and future needs of the Tribe and its members, as well as to protect the Tribe’s water rights from further damage by the water agencies’ overdraft and artificial recharge of the Coachella Valley groundwater aquifer with untreated, lower-quality imported Colorado River water. The defendant water agencies answered the complaint, denying that the Tribe has reserved or aboriginal rights to water, as well as asserting



Ancestral Cahuilla dug walk-in wells in the Coachella Valley.

other defenses. The case was assigned to Judge Jesus Bernal, a federal judge in the Eastern Division of the Central District.

Early in the case, the Tribe and the water agencies agreed to divide the litigation into three phases – the first phase would address whether the Tribe has a reserved right to groundwater and whether the Tribe has an aboriginal right to groundwater. The second phase encompasses whether the Tribe owns the pore space below its reservation, which is impacted by the artificial recharge of imported groundwater, whether the Tribe is entitled to fulfillment of its groundwater rights with water of a certain quality, what standard will be used to quantify the Tribe’s rights, and whether several of the equitable defenses asserted by the water agencies apply to this type of claim. The third phase encompasses the actual quantification of the Tribe’s groundwater rights and pore space, and possibly determining the standard for the quality of water required to fulfill the Tribe’s water right.

In May 2014, the United States intervened on behalf of the Tribe, supporting the Tribe’s claim for a reserved right to groundwater. Motions for summary judgment were filed by all parties on

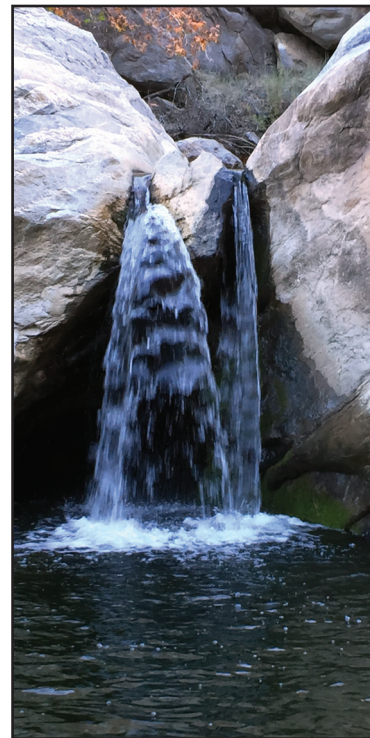


October 21, 2014, with respect to the phase one issues. The Tribe and the United States both argued that federal law controls the issues of the case and that federal law provides that the Tribe has a reserved right to enough water from any available source to fulfill its present and future needs. The water agencies argued that California state law should apply and that the Tribe and the United States should be limited to the same water rights as other landowners in the Coachella Valley, contrary to a line of cases recognizing that federally reserved water rights of Indian tribes are prior and paramount to state-law based rights and apply to groundwater resources underlying reservation lands.

Oral arguments were held on March 16, 2015, and Judge Bernal issued his order on March 20, 2015. In this ruling, the Tribe's reserved right to water was recognized and the court ruled in the Tribe's favor that a tribal reserved right can be fulfilled by groundwater. Although many courts, both federal and state, have recognized that federally reserved water rights apply to groundwater as well as to surface water, this was a significant opinion as it clearly and decisively applied the doctrine of *U.S. v. Winters*, an early case establishing the reserved water rights of Indian tribes, to groundwater. The court declined to find that the Tribe retained an aboriginal right to groundwater, ruling that previous case law limiting the rights of all California tribes applied to this case as well, and that the Tribe's aboriginal rights were extinguished by specific federal acts pertaining to the establishment of the State of California. However, the more significant ruling that the Tribe's reserved water rights apply to groundwater was a victory for Agua Caliente.

Following the District Court's ruling in favor of the Tribe's reserved right to groundwater, the water agencies petitioned for interlocutory review on that sole issue by the federal Ninth Circuit Court of Appeals. On October 18, 2016, a three-judge panel of the Ninth Circuit heard oral arguments. The Ninth Circuit Court of Appeals issued a unanimous opinion on March 7, 2017. It affirmed Judge Bernal's 2015 ruling, holding that the *Winters* doctrine applies, and that the Tribe "has a reserved right to groundwater underlying

its reservation as a result of the purpose for which the reservation was established." The Court also broadly construed the original purposes for the creation of the reservation. The ruling is a significant victory for the Tribe and the Coachella Valley. Most recently, the defendant water districts have indicated they will not seek rehearing in the Ninth Circuit, but will petition the U.S. Supreme Court for a *writ of certiorari*.



Tahquitz Canyon.

A denial of certiorari by the Supreme Court would be a logical result, given that the Court ordinarily does not grant review of cases that do not raise significant splits of opinion amongst the various state supreme courts or federal appellate circuits. Irrespective of the outcome, groundwater will continue to be an increasingly important resource for Indian tribes, especially in the arid western states. The combination of growing populations in the West coupled with the effects of climate change producing shrinking water supplies mean an even more uncertain water supply picture for tribes. Tribes' ability to ensure the availability of enough clean water and to plan a responsible water future for themselves and future generations will continue to be a fundamental challenge for decades to come. The ability of tribal governments to work collaboratively as partners with decision makers in neighboring communities will be vital to effective planning and the efficient use of everyone's resources. This will only be possible when the existence of tribal rights are recognized and respected by surrounding communities. 🌵

CASE UPDATES

ND Ignores Federal Judge in Developing New Voter ID Law

Since 2004, North Dakota has had a voter ID law on the books. Until recently, the law allowed a voter without ID to cast a ballot if either a poll worker could vouch for the voter's identity as a qualified voter or the voter signed an affidavit under penalty of perjury that he or she was qualified to vote. In 2013, the North Dakota legislature narrowed the forms of ID that were acceptable and eliminated the voucher and affidavit fail-safes.

The legislature cited the need to eliminate voter fraud, but illegal voting has never been a problem in the state. In fact, Secretary of State Alvin Jaeger declared in a 2006 letter to a researcher, "during my fourteen years as Secretary of State and the state's chief election officer, my office has not referred any cases of voter fraud to the United States Attorney, the North Dakota Attorney General, or to local prosecutors. We haven't had any to refer." However, in 2015, the legislature again amended the election law to further restrict the forms of acceptable ID.

The voter ID law required qualified electors to submit one of four forms of ID, which must contain a qualified elector's name, residential address, and date of birth. Due to reasons rooted in the discriminatory treatment of Native Americans, many living on Indian reservations in North Dakota do not have a qualifying ID, such as a driver's license or state ID card. While North Dakota claims that tribal IDs qualify under its law, most tribal IDs do not have a residential address printed on them. This is due, in part, to the fact that the U.S. postal service does not provide residential delivery in these rural Indian communities. Thus, most tribal members use a PO Box and, if a tribal ID has an address, it is typically the PO Box address, which does not satisfy North Dakota's restrictive voter ID law. In both the primary and general election in 2014, many qualified North Dakota tribal electors were disenfranchised because they only had a tribal ID.

In 2016, on behalf of eight Native Americans, NARF and co-counsel filed suit to block North Dakota's voter ID law, alleging that it disenfranchised Native American voters,



thus violating the state and federal constitutions as well as the Voting Rights Act. Weeks before the November 2016 election, Judge Hovland of the United States District Court for the District of North Dakota found the law violated the U.S. Constitution and issued a preliminary injunction, which required the state to provide a fail-safe mechanism for those voters without qualifying ID. In a lengthy opinion, Judge Daniel L. Hovland wrote, "[I]t is clear that a safety net is needed for those voters who simply cannot obtain a qualifying voter ID with reasonable effort."

Judge Hovland wrote, "[t]he record is replete with concrete evidence of significant burdens imposed on Native American voters attempting to exercise their right to vote in North Dakota." Although the state argued that the law was necessary to prevent voter fraud, the court found that there "is a total lack of any evidence to show voter fraud has ever been a problem in North Dakota." The court concluded that it "is a minimal burden for the State to conduct this year's election in the same manner it successfully administered elections for decades before the enactment of the new voter ID laws." Accordingly, the Court required North Dakota to permit voters without a qualifying ID to vote if they signed an affidavit swearing to their qualifications.

More recently, on April 24, 2017, Governor Burgum signed H.B. 1369 into law. The newly



minted voter ID law completely ignores Judge Hovland's directive. NARF is preparing to challenge the new law in court. Some legislators supporting the bill have described it as a way to cure the problems identified by the federal court; however, H.B. 1369 does not contain any fail-safe mechanisms like the one required by the court. H.B. 1369 does allow for provisional balloting, but it requires each voter to present a qualifying

ID to an election official within six days in order for his or her vote to be counted. In this way, the law makes allowance for voters who left their IDs at home, but it does not address the problem of voters who, although qualified to vote, cannot obtain one of the narrow set of permitted IDs because of financial or other circumstances. Under the new law, those qualified electors are not allowed to vote.

Trump Orders Review of Bears Ears Designation

Last December, President Obama designated an area of great importance in southeastern Utah as a national monument known as "Bears Ears." In April, President Trump signed an executive order directing Interior Secretary Ryan Zinke to conduct a two-part review, aimed first at the Bears Ears National Monument in Southeastern Utah and then at other post-1995 monument designations made pursuant to the Antiquities Act.

The stated policy of the order is to review all monuments created since 1996 to determine if they were created without "public outreach and proper coordination." However, the Bears Ears National Monument was created after decades of advocacy and many public meetings in the region and in Washington, DC, over the past two years. The effort to protect Bears Ears was very long, very public, and very robust. To say that it needs review to determine if the proper outreach was conducted is an outrage and nothing more than pretext to withdraw Bears Ears from monument protection altogether.

Bears Ears is a homeland to five tribes (Navajo, Ute Mountain Ute, Uintah and Ouray Ute, Hopi, and Zuni) as well as other Southwestern tribes. Like countless other tribes across the United States, Native people were removed from Bears Ears by threat and coercion and forced onto reservations. However, the threats of a hostile government could not keep people away from the place they called home since time immemorial. Bears Ears is an area filled with sacred sites, hunting grounds, and medicines that are all still utilized today, and it is a place where Native ancestors are buried and to be honored.



Bears Ears photo courtesy Tim Peterson.

Monument management is to be guided in part by a Bears Ears Commission made up of commissioners from five tribes whose members continue to use the Monument for cultural and religious purposes to this day: Navajo Nation, Hopi Tribe, Zuni Tribe, Uintah and Ouray Ute, and Ute Mountain Ute Tribe.

"The Trump administration's review of Bears Ears is extremely disappointing because Bears Ears is one of the most important places to Indian Country and the Tribes fought hard to ensure that this sacred area was protected," said NARF Executive Director John Echohawk.

"Make no mistake, this order has nothing to do with asking for public input. They got that in creating the Bears Ears Monument. They just don't like the result. This order is about taking away public lands from the American people in order to free them up for resource exploitation," said NARF Staff Attorney Natalie Landreth.

The Native American Rights Fund represents the Hopi Tribe, Pueblo of Zuni, and Ute Mountain Ute Tribe and will fight to protect the Bears Ears National Monument.

Tribal Supreme Court Project

The Tribal Supreme Court Project is part of the Tribal Sovereignty Protection Initiative and is staffed by the National Congress of American Indians and the Native American Rights Fund. The Project was formed in 2001 at the request of a number of tribes, in response to a series of U.S. Supreme Court cases that negatively affected tribal sovereignty. The purpose of the Project is to promote greater coordination and to improve strategy on litigation that may affect the rights of all Indian tribes. We encourage Indian tribes and their attorneys to contact us in our effort to coordinate resources, develop strategy, and prepare briefs, especially at the time of the petition for a *writ of certiorari*, prior to the Supreme Court accepting a case for review. You can find copies of briefs and opinions on the major cases we track on our website (<http://sct.narf.org>).

Indian Law Cases Decided by the Court

Lewis v. Clarke – On April 25, 2017, the Court issued its opinion, reversing the Connecticut Supreme Court and holding that, “in a suit brought against a tribal employee in his individual capacity, the employee, not the tribe, is the real party in interest and the tribe’s sovereign immunity is not implicated.” Further, the Court held that “an indemnification provision does not extend a tribe’s sovereign immunity where it otherwise would not reach.” This case involved Mr. Clarke, a limousine driver employed by the Mohegan Tribal Gaming Authority, who rear-ended and injured the Lewises on an interstate highway outside the tribe’s reservation in Connecticut. The Connecticut Supreme Court had held that the doctrine of tribal sovereign immunity extends to Mr. Clarke as an employee of a tribe who was acting within the scope of his employment when the accident occurred.

Writing for a unanimous Court, Justice Sotomayor observed that a government employee who is acting within the scope of his employment at the time a tort is committed is not—by itself—sufficient to bar suit against that employee on the basis of sovereign immunity. The opinion makes clear that this common law principle applies regardless of whether the employee works for the



National
Congress of
American
Indians

federal government, a state government, or a tribal government. The Court also points to the distinction drawn from its legal precedent between individual- and official-capacity suits. In an official-capacity suit, the relief sought is only nominally against the government official and is—in fact—against the official’s office and thus the sovereign itself. On the other hand, an individual-capacity suit seeks to impose personal liability upon the government official for their tortious actions. Accordingly, it is the identity of the “real party in interest” which dictates what immunities may be available. In applying these principles to this case, the result was apparent to the Court:

This is a negligence action arising from a tort committed by Clarke on an interstate highway within the State of Connecticut. The suit is brought against a tribal employee operating a vehicle within the scope of his employment but on state lands, and the judgment will not operate against the Tribe. This is not a suit against Clarke in his official capacity. It is simply a suit against Clarke to recover for his personal actions, which ‘will not require action by the sovereign or disturb the sovereign’s property.’”

The Court rejected Mr. Clarke’s argument that the Mohegan Tribal Gaming Authority is the real party in interest here because it is required by tribal law to indemnify tribal employees for any adverse judgment under these circumstances. The Court observed that it has never before had occasion to decide the question of whether an indemnification clause is sufficient to extend a sovereign immunity defense to a suit against an employee in his individual capacity. Based on

the same general principles outlined above, the Court held that “an indemnification provision cannot, as a matter of law, extend sovereign immunity to individual employees who would otherwise not fall under its protective cloak.” Once again, the Court made it clear that this principle will apply equally regardless of whether it is the immunity of the federal government, a state government, or a tribal government, at issue.

The implications of this decision are unclear at this point, but should begin to be clarified through pending and future litigation. The Court has laid down a bright-line rule that tribal sovereign immunity does not extend to suits brought against tribal employees or officials in their individual capacity – unless there is a determination that the tribe is the “real party in interest.” In addition, the Court left open the question of whether tribal employees and officials are entitled to “official immunity” – immunity for actions taken within the scope of their employment – on a similar basis as state and federal employees and officials.

Petitions for a Writ of Certiorari Granted

Patchak v. Zinke – On May 1, 2017, the Court granted review of a petition filed by David Patchak, a non-Indian landowner seeking review of a decision by the U.S. Court of Appeals for the D.C. Circuit which held that the Gun Lake Trust Land Reaffirmation of 2014, a standalone statute reaffirming the Department of the Interior’s decision to take the land in question into trust for the Gun Lake Tribe, was constitutionally sound and removed jurisdiction from the federal courts over any actions relating to that property. Mr. Patchak

had successfully argued before the Supreme Court in 2012 that he had prudential standing to bring an Administrative Procedure Act action and *Carcieri* challenge to the acquisition of trust land for the benefit of the Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians/Gun Lake Tribe. The Court has granted review of Question 1 presented in the petition for cert:

Petitioner filed a lawsuit challenging the Department of Interior’s authority to take into trust a tract of land (“the Bradley Property”) near Petitioner’s home. In 2009, the District Court dismissed his lawsuit on the ground that Petitioner lacked prudential standing. After the Court of Appeals reversed the District Court, this Court granted review and held that Petitioner has standing, sovereign immunity was waived, and his “suit may proceed.” *Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians v. Patchak*, 132 S.Ct. at 2199, 2203 (2012) (“Patchak I”). While summary judgment briefing was underway in the District Court following remand from this Court, Congress enacted the Gun Lake Act—a standalone statute which directed that any pending (or future) case “relating to” the Bradley Property “shall be promptly dismissed,” but did not amend any underlying substantive or procedural laws. Following the statute’s directive, the District Court entered summary judgment for Defendant, and the Court of Appeals affirmed.

1. Does a statute directing the federal courts to “promptly dismiss” a pending lawsuit following substantive determinations by the courts (including this Court’s determination that the “suit may proceed”)—without amending underlying substantive or procedural laws—violate the Constitution’s separation of powers principles?

Unless extensions are requested, the petitioner’s opening brief is due on June 15, 2017. The United States’ and the Tribe’s briefs in response are due on July 17, 2017. The case will not be argued until after the Court returns from its summer recess on October 2, 2017. 🍷



National Indian Law Library

Justice Through Knowledge!

Indian Law Updates now Include Tribal Court Opinions

Each week, the National Indian Law Library (NILL) provides free updates on Indian law through the Indian Law Bulletins. For over a decade, the library has offered access to federal and state court cases, legal news and scholarship, federal legislation, and regulatory action from agencies and departments like the Environmental Protection Agency and the Bureau of Indian Affairs. In 2017, the library added a bulletin covering tribal court opinions. Free access to tribal court opinion research has been a challenge to Indian law researchers, but now subscribers to the Indian Law Bulletins can learn about selected opinions published by tribal courts, some of which are found only on the NILL website. Bulletin updates are free, distributed via email, and available on our website. Find the Indian Law Bulletins at <http://www.narf.org/nill/bulletins/>

Free Searchable Database of Indian Law and News

Besides the weekly updates and emails, content from the Indian Law Bulletins is archived on the NILL website. The archived collection, effectively creates a searchable database of Native American law and legal news. To begin researching a topic, type your search term into the Google Search box on the right side of the Indian Law Bulletins page. You can search by Indian law topic or case name, just as you would in Google. Your search results will be organized under nine tabs that represent each of the individual bulletins.

Many of the materials that are covered in the bulletins are available online. If the item you would like to see is not available online, you can contact the library (<http://www.narf.org/nill/asknill.html>) to request a copy.

Free Access to Tribal Codes and Constitutions at our Tribal Law Gateway

Over 100 tribal codes and constitutions are available in full-text at our Tribal Law Gateway at <http://www.narf.org/nill/triballaw/>. Researchers can find tribal law by name of tribe or search the Gateway for specific terms or topics. In addition to full-text materials, our website provides the tables of contents for about 200 documents that we have in our collection, but that are not available online. You can browse the table



Library Director David Selden.

of contents provided and contact the library (link above) to obtain the content you need. The Tribal Law Gateway is constantly being updated and improved and is the best place to start if you are looking for tribal law. In an effort to make the Gateway more practical, we continue to add audio clips to help with tribal name pronunciation.

Support the National Indian Law Library

Your contributions help ensure that the library can continue to supply free access to Indian law resources and that it has the financial means necessary to pursue innovative and groundbreaking projects to serve you better. We are not tax-supported and rely on individual contributions to fund our services. Please visit <http://www.narf.org/nill/donate.html> for more information on how you can support this mission. ☀

CALL 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 Alaska tribal sovereignty issues is 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 and Native organizations is crucial in NARF's struggle to ensure the freedoms and rights of all Native Americans. These contributions should be an example for all. We encourage other tribes and organizations 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 for the 2017 fiscal year so far – October 1, 2016 to May 15, 2017:

Aleut Community of St. Paul Island
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 Choctaw Nation of Oklahoma
 Comanche Nation
 Confederated Tribes of Siletz Indians
 Confederated Tribes of the Umatilla
 Indian Reservation
 Gila River Indian Community
 Kenaitze Indian Tribe
 National Indian Gaming Association
 Nottawaseppi Huron Band of Potawatomi
 Pechanga Band of Luiseño Indians
 Penobscot Indian Nation
 Poarch Band of Creek Indians

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 Southern Ute Indian Tribe
 Tulalip Tribes
 White Earth Nation
 Yocha Dehe Wintun Nation



THE NATIVE AMERICAN RIGHTS FUND

The Native American Rights Fund (NARF) is the oldest and largest nonprofit law firm defending and promoting the legal rights of Indian people on issues essential to their tribal sovereignty, their natural resources, and their human rights. NARF empowers individuals and communities whose rights, economic self-sufficiency, and political participation have been eroded or undermined.

The United States has tried to subjugate and dominate Native peoples, yet we still exist today as independent quasi-sovereign nations, each having a unique relationship with the federal government. Tribes today are governed 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.

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 great strides achieving justice on behalf of Native American people, perhaps NARF's greatest distinguishing attribute has been its ability to bring high quality, highly ethical legal representation to dispossessed tribes. This legal advocacy 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 responsibilities of NARF's first Board of Directors was to develop priorities to guide the organization in its mission to preserve and enforce the legal rights of Native Americans. The committee developed five priorities that continue to lead NARF today:

- Preserve tribal existence
- Protect tribal natural resources
- Promote Native American human rights
- Hold governments accountable to Native Americans
- Develop Indian law and educate the public about Indian rights, laws, and issues

Under the priority to preserve 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.

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.

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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.

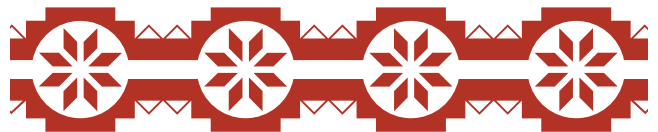
Throughout the process of European conquest and colonization of North America, Indian tribes experienced a steady diminishment of their land base to a mere 2.3 percent of its original size. An adequate land base and control over natural resources are central components of economic self-sufficiency and self-determination, and are vital to the very existence of tribes. Thus, much of NARF's work involves protecting tribal natural resources.

Although basic human rights are considered a universal and inalienable entitlement, Native Americans face the 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 promoting 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 holding governments accountable to Native Americans.

A commitment to develop Indian law and educate 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.

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



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Tex G. Hall Three Affiliated Tribes
Gary Hayes Ute Mountain Ute Tribe
Julie Roberts-Hyslop..... Native Village of Tanana
Jefferson Keel Chickasaw Nation
Stephen Lewis Gila River Indian Community
Anita Mitchell..... Muckleshoot Tribe
Larry N. Olinger Agua Caliente Band of Cahuilla Indians
Richard Peterson Tlingit & Haida Indian Tribes
Peter Pino Zia Pueblo
Michael Smith Chickasaw Nation
Executive Director: John E. Echohawk Pawnee

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