



Legal Review

NATIVE AMERICAN RIGHTS FUND

THE NEW TRIBAL WATER INSTITUTE AT THE NATIVE AMERICAN RIGHTS FUND



For decades, Tribal Nations have fought to secure their water rights. In 1908, the U.S. Supreme Court affirmed that Indian Tribes are entitled to enough water to sustain their homelands. Yet, in state after state, non-Indian interests have claimed and developed water resources, often leaving Tribes without the water necessary for survival. Federal inaction and policies favoring non-Tribal development have only deepened these injustices.

The Native American Rights Fund (NARF) is a long-time defender of Tribal water and aquatic-based rights and has stood at the center of seminal water victories such as the Boldt Decision (stemming from the *U.S. v. Washington* litigation) and representing Tribes in nine of the 35 Tribal water rights settlements approved by Congress since 1978.

With growing populations, shrinking water supplies, and the accelerating effects of climate change, Tribal water

rights are more critical than ever. Further, unresolved Tribal water rights create uncertainty for non-Tribal water users and limit a Tribal Nation's ability to manage and protect its water supplies. The importance of water to Tribal Nations, therefore, has never been more apparent. This is especially true in the Colorado, Klamath, and Columbia River Basins, as well as in the Great Lakes region. Meanwhile, sustainable water management requires recognition, respect, and collaboration with Tribal governments, yet Tribal Nations are underrepresented in management discussions, and federal and state policy proposals consistently ignore Tribal needs.

A VISION FOR A TRIBAL WATER INSTITUTE

In response, in early 2024, NARF launched the Tribal Water Institute (TWI), *a first-of-its-kind project designed to increase the capacity of Tribal Nations to engage in water law issues and policy reform*. The TWI meets the water priorities of Tribal Nations through four approaches:

1. **Building capacity** by increasing the number of Tribal water lawyers through training early-career attorneys to support Tribal Nations;
2. **Educating Tribal leadership and the public** on water law and policy;

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3. **Developing effective water policy and legal reform** in collaboration with Tribal Nations, academic institutions, NGOs, federal and state governments, and other entities; and
4. **Providing legal representation.**

BUILDING CAPACITY

The laws that implicate Tribal water rights are more far-reaching than ever, are quickly evolving, and require a diverse legal skill set to navigate in order to ensure Tribal sovereignty and resource protection. Tribal water rights can significantly affect traditional water rights adjudications and settlements, hydropower relicensing, infrastructure development, Endangered Species Act issues, water quality protection and jurisdiction, and policy reform. Tribal Nations require specialized legal assistance to navigate this complex legal landscape.

Training attorneys to represent and advocate for Tribal water law solutions is critical to developing Tribal Nations' legal capacity. An essential part of the TWI is training early-career attorneys in Tribal water law issues. In its first year, the institute hired four legal fellows for two-year fellowships; NARF recently brought on its fifth legal fellow. They support NARF's water casework and research initiatives while gaining the unique skills needed to serve Indian Country in the future. These fellowships

immediately provide additional capacity while seeding the next generation of Tribal water law attorneys. The commitment to training attorneys on Tribal water issues will deliver benefits to Indian Country for decades to come.

EDUCATING TRIBAL LEADERSHIP AND THE PUBLIC

Early in 2025, NARF announced the launch of The Headwaters Report, a periodic online publication detailing water-related legal information and opportunities to better inform Tribal water managers and leadership. It includes water rights information such as case summaries, pending legislation, rulemakings, public comment opportunities, successful settlements, and related commentary. This one-of-a-kind, free online publication provides essential legal and policy insights to advance Tribal water sovereignty, offering Tribes the tools needed to secure and safeguard their water resources.

"We developed The Headwaters Report to help educate Indian Country and water practitioners about Tribal water issues. With this knowledge, Tribal Nations can make informed decisions to protect and assert their water rights," said NARF Staff Attorney and Tribal Water Institute lead Daniel Cordalis. "Tribal Nations face more water challenges than ever before, and the Report is a tool

to help make sense of and meet those challenges."

DEVELOPING WATER POLICY AND REFORM

As the body of water law grows, so too does the need for ongoing collaboration and advocacy for Tribal rights and water sovereignty. Another TWI goal is to facilitate the broadening and deepening of NARF's partnerships to support Tribal Nations on water issues.

To that end, TWI:

- Co-hosted a webinar on drinking water infrastructure funding,
- Hosted a water panel discussion at the National Congress of American Indians (NCAI) annual convention,
- Spoke about the Clean Water Act at a Pacific Northwest intertribal conference,

Find *The Headwaters Report* at narf.org/headwaters/.

- Helped sponsor a New Mexico-focused seminar on the Clean Water Act and post-Sackett strategies,
- Co-hosted a biennial national symposium to discuss the settlement of Indian water rights claims,
- Continues work with national organizations on Clean Water Act and other broad water issues,
- Hosted a meeting with Tribal water program managers and legal and policy experts to develop a Tribal Clean Water Act strategy, and
- Maintains close conversations with NCAI and other organizations on Tribal water issues.

PROVIDING LEGAL REPRESENTATION

Since launching the TWI and increasing dedicated staff, NARF has doubled its water casework. The institute has sought opportunities to support Tribal Nations in diverse water-related issues, and casework has grown in many directions while staying true to our mission. We have taken on representation involving the Clean Water Act, hydropower licensing, water rights protection, fishery protection, general stream adjudications, and amicus briefing opportunities.

THE FUTURE OF TRIBAL WATER RIGHTS

By all measures, the TWI has been extremely successful. Today, it is the most well-staffed, Tribally focused water law group in the United States.

Through this work, NARF also has gained deeper insight into the water needs of Tribal Nations and how best to meet them. Tribal Nations urgently need to assert their water rights and challenge the status quo, especially in situations where they lack adjudicated water rights and regulatory authority. There is also a tremendous opportunity to support Tribes that want to assert jurisdiction over water through water rights determinations, water codes, and water quality standards. This is foundational nation-building work that will strengthen Tribal water governance and enhance the role of Tribal governments in broader watershed governance.

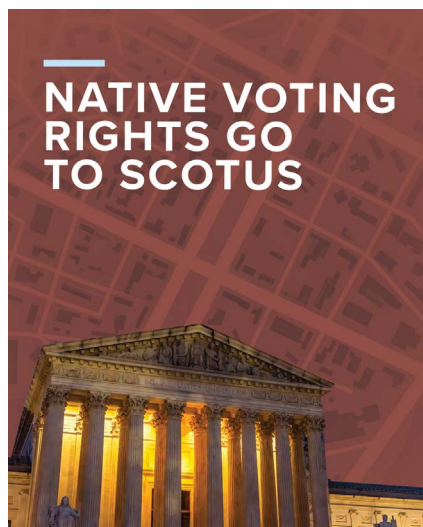
Because there is no organization dedicated to national Tribal water policy and legal development, TWI is a critical NARF asset to convene and assert Tribal water priorities. To meet pressing Tribal needs, TWI and NARF will continue to increase and stabilize not only casework but also educational and policy development efforts to support Tribal Nations' ability to engage in water issues and assert sovereignty over water resources. 🏞️

If your Tribal Nation would like to learn more about working with the Tribal Water Institute, we invite you to contact us at water@narf.org.



CASE UPDATES

NATIVE VOTERS AND TRIBES ASK SUPREME COURT TO PROTECT FAIR REPRESENTATION



NATIVE VOTING
RIGHTS GO
TO SCOTUS

“For years, Native voters in North Dakota have been fighting for adequate representation. It affects our day-to-day lives, our communities, and our well-being when we can’t elect a candidate to represent our interests. We deserve representation just like other communities around the state.”

-SPIRIT LAKE TRIBE CHAIR LONNA JACKSON-STREET

The Spirit Lake Tribe, the Turtle Mountain Band of Chippewa Indians, and Native voters have asked the U.S. Supreme Court to review their challenge to North Dakota’s legislative map. Represented by NARF, Campaign Legal Center, the Law Office of Bryan L. Sells, LLC, and Robins Kaplan LLP, the plaintiffs are fighting for fair representation for Native voters and defending the Voting Rights Act (VRA).

Following a trial victory that secured a fair map, the Eighth Circuit issued a sweeping ruling blocking private citizens and Tribal Nations from suing to enforce Section 2 of the VRA—the key federal safeguard against racial voting discrimination. If upheld, that decision would strip voters’ ability to challenge discriminatory maps and leave enforcement solely to the U.S. Department of Justice. In July, the Court temporarily stayed the Eighth Circuit’s decision, allowing the fair map to remain in effect. The plaintiffs now ask the Court to hear the case and permanently protect Native voters’ right to fair representation.



A WIN FOR
TRIBAL
SOVEREIGNTY

SUPREME COURT UPHOLDS TRIBAL SOVEREIGNTY IN *RUNITONETIME V. UNITED STATES*

In a major win for Tribal sovereignty, the U.S. Supreme Court denied *certiorari* in *RunItOneTime LLC v. United States*, leaving in place lower court rulings that protect Tribal gaming rights. The case, brought by RunItOneTime (formerly Maverick Gaming), challenged the constitutionality of the Indian Gaming Regulatory Act (IGRA) and sought to invalidate all Tribal gaming compacts in Washington state.

The Shoalwater Bay Tribe, whose compact was directly targeted, successfully argued that the lawsuit could not proceed without the involvement of the Tribes whose agreements were at stake. Both the district court and the Ninth Circuit agreed, dismissing the case on that basis. By declining to review, SCOTUS ensured those rulings stand — ending the challenge while affirming the strength of Tribal sovereignty.

NARF represented the Shoalwater Bay Tribe before the Supreme Court, alongside Jenner & Block LLP, Crowell Law Offices, and MThirtySix, PLLC. As NARF Staff Attorney Lenny Powell noted, “The Supreme Court has once again rejected a meritless suit that sought to attack the very heart of Tribal rights. We stand ready to defend against these attacks wherever they arise.”

Tribal Supreme Court Project



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 (NCAI) and NARF. In 2026, the Project will commemorate 25 years of service furthering the interests of Tribal Nations and Native American people as they appear before the U.S. Supreme Court. The Project was formed in 2001 in response to a series of U.S. Supreme Court cases that negatively affected Tribal sovereignty. The Project's purpose is to promote greater coordination and to improve strategy on litigation that may affect the rights of all Tribes. We encourage Tribal Nations and their attorneys to contact us to coordinate resources, develop strategy, and prepare briefs, especially at the time of the petition for a writ of certiorari.

As of this writing, during its October Term 2025, the U.S. Supreme Court has heard no oral arguments in Indian law cases. Among pending petitions, the Project currently is tracking:

TURTLE MOUNTAIN BAND OF CHIPPEWA INDIANS V. HOWE (25-253)

The Turtle Mountain Band of Chippewa Indians, the Spirit Lake Tribe, and individual voters sued North Dakota, alleging that the state's redistricting violated the Voting Rights Act Section 2, which bans voting discrimination on the basis of race, color, or language-minority membership. The district court ruled for plaintiffs. A majority of a three-judge panel of the U.S. Court of Appeals for the Eighth Circuit reversed, holding that Section 2 is not enforceable by private plaintiffs.

ALASKA V. UNITED STATES (25-320)

The U.S. sued Alaska seeking declaratory and injunctive relief regarding the state's orders restricting fishing in the Kuskokwim River due to a projected low supply of salmon. The U.S. argued that the state's orders interfered with federal orders under the Alaska National Interest Lands Conservation Act of 1980. The Kuskokwim River Inter-Tribal Fish Commission, the Association of Village Council

Presidents, Ahtna, Inc., the Alaska Federation of Natives, and individuals intervened as plaintiffs. The district court granted summary judgment to the plaintiff. The Ninth Circuit affirmed.

STROBLE V. OKLAHOMA TAX COMMISSION (25-382)

Stroble is an enrolled citizen of the Muscogee (Creek) Nation. She works for the Nation on land owned by the Nation. She lives on privately owned fee land within the boundaries of the Nation's Reservation, as upheld in *McGirt v. Oklahoma*. The Oklahoma Tax Commission denied her request for exemption from state income taxation on the ground that where she lived was not Indian Country. Six justices of the Oklahoma Supreme Court affirmed in a per curiam opinion, with three Justices dissenting.

CHINOOK INDIAN NATION V. BURGUM (25-313)

The Chinook Indian Nation sued the U.S. Department of the Interior for federal recognition. The district court granted Interior's motion to dismiss on the ground that federal recognition of an Indian tribe is a non-justiciable political question. The Ninth Circuit affirmed.

SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS V. MICHIGAN (25-165)

The Sault Ste. Marie Tribe of Chippewa Indians objected in federal district court to the court's authority to enter a proposed multi-Tribe consent decree for treaty fishing rights. The district court approved the proposed decree over the Tribe's objections primarily on the ground that the proposed decree was not a consent decree but a judicial decree of a negotiated decree. The Sixth Circuit affirmed.



If you'd like to learn more or donate to the Tribal Supreme Court Project, visit: sct.narf.org.

NEW BLUEBOOK EDITION UPDATES: CITING THE LAWS AND TREATIES OF TRIBAL NATIONS

The 22nd Edition of the Bluebook is now available, and this long-awaited update includes specific information on citing the laws and treaties of Tribal Nations. Drafted with the careful attention and assistance of many members of the legal community including the National Indian Law Library's Rachel Nelson, Rule 22 establishes clear guidance and standards for legal writing that cites Tribal law. Other relevant updates to the Bluebook include the addition of more inclusive examples and an updated source for citing individual Tribes.

The newly added Rule 22 features 22.1: Tribal Nations with an Established Citation Format, 22.2: Tribal Nations Without an Established Citation Format, and 22.3: Short Citation Form. Rule 22.1 specifies to defer to a Tribal Nation's established citation format if one exists and advises writers to reach out to the Tribal Nation itself for any clarification if needed.

Rule 22.2 outlines citation formats for the law of Tribal Nations in circumstances where the cited nation does not already have an established

standard. This rule is broken down into standards for Tribal constitutions; codes; orders, ordinances, and resolutions; and cases; with a reference to the updated Rule 21.4 for information on treaties.

Another important 22nd Edition update includes additions to Rule 21.4: Treaties and Other International Agreements. This rule now features multiple citation examples of treaties with Tribal Nations. The inclusion of these examples both recognizes the sovereignty of Tribal Nations as well as clarifies specifics for writers and researchers citing treaties between the United States and Tribes.

Additionally, a new table has been added under T1: United States Jurisdictions titled T1.5: Tribal Nations. This table features all 574 federally recognized Tribal Nations.

These updates in the newest edition of the Bluebook are a long overdue and much appreciated step toward recognizing the sovereignty of Tribal Nations. 🏞️

CALL TO ACTION

NARF looks to Tribal Nations to provide crucial funding to continue our advocacy on behalf of Indian Country. It is an honor to list here the Tribes and Native organizations that have chosen to share their good fortunes with NARF and the Native clients that we serve during the 2025 fiscal year (Oct. 2024 to Sep. 2025). To join these Tribes and organizations as contributors and partners in fighting for justice for our people and in keeping with the vision of our ancestors, contact Dallin Maybee at dmaybee@narf.org

Amerind Risk

Bay Mills Indian Community

Chickasaw Nation

Chicken Ranch Rancheria of Me-Wuk Indian

Colusa Indian Community Council

Confederated Tribes of Siletz Indians

Cow Creek Band of Umpqua Tribe

Cowlitz Indian Tribe

Delaware Nation of Oklahoma

Habematolel Pomo of Upper Lake

Jamestown S'Klallam Tribe

Muckleshoot Indian Tribe

Native Village of Napakiak

Oneida Nation

Poarch Band of Creek Indians

Pokagon Band of Potawatomi Indians

Samish Indian Nation

Seminole Tribe of Florida

Shakopee Mdewakanton Sioux Community

Tanana Chiefs Conference

Wilton Rancheria

Yavapai-Prescott Indian Tribe

Yocha Dehe Wintun Nation

The Native American Rights Fund

The Native American Rights Fund (NARF) is a Native-led, nonprofit legal organization defending and promoting the legal rights of Native American people on issues essential to our Tribal sovereignty, natural resource protections, and human rights.

Since 1970, we have provided legal advice and representation to Native American Tribal Nations, individuals, and organizations on high impact issues. Our early work was instrumental in establishing the field of Indian law. NARF—when very few would—steadfastly stood for religious freedoms and sacred places, subsistence hunting and fishing rights, as well as basic human and civil rights. We continue to take on complex, time-consuming cases that others avoid, such as government accountability, climate change, voting rights, and the education of our children. We have assisted more than 300 Tribal Nations with critical issues that go to the heart of who we are as sovereign nations.

NARF's first Board of Directors developed five priorities to guide the organization. Those priorities 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 constructs the foundations to empower Tribes to live according to their traditions, enforce their treaty rights, ensure their independence on reservations, and protect their sovereignty.

An adequate land base and control over natural resources are central to economic self-sufficiency and self-determination. They are vital to the very existence of Tribes. Thus, much of NARF's work aims to **protect Tribal natural resources**.

In order to **promote human rights**, NARF strives to enforce and strengthen laws that protect the rights of Native Americans to exercise their civil rights, practice their traditional religion, use their languages, and enjoy their culture.

Contained within the unique trust relationship between the United States and Tribal Nations is the inherent duty for all levels of government to recognize and responsibly enforce the laws and regulations applicable to Native people. NARF will **hold governments accountable** to Native Americans.

For the continued protection of Indian rights, we must **develop Indian law and educate the public** about Indian rights, laws, and issues. This priority includes establishing favorable court precedents, distributing information and law materials, fostering relevant legal education, and forming alliances with Indian Law practitioners and other organizations.

Requests for legal assistance should be addressed to NARF's main office at 250 Arapahoe Ave, Boulder, CO, 80302. NARF's clients are expected to pay what they can toward the costs of legal representation.

NARF Legal Review is published biannually by the Native American Rights Fund. There is no charge for subscriptions, however, contributions are appreciated.

narf.org

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