

# Native American Rights Fund

## Indigenous Peoples' Rights

<https://www.narf.org/cases/spirit-lake-tribe-v-jaeger/>

## Campaign and Advocacy

Consolidated with *Brakebill v. Jaeger*, this case stems from North Dakota's 2013 restrictive voter ID law and was settled in early 2020.

Status: Archived

*Despite a nationwide outcry during the 2018 election cycle, North Dakota's discriminatory voter ID law remained on the books. While the cameras turned their attention elsewhere, the fight to protect our freedom to vote continued in the courts. Finally, in February 2020, the Secretary of State agreed to settle two federal voting rights lawsuits brought by two tribes and several individual voters.*

*On April 24, 2020, the Spirit Lake Nation and Standing Rock Sioux Tribe filed a binding agreement with the state of North Dakota. The agreement will provide essential safeguards to protect Native Americans right to vote, easing the financial and logistical burdens that North Dakota's voter ID law placed on tribes.*

The Native American Rights Fund (NARF) and the Campaign Legal Center (CLC) represented the two tribes in the legal challenge, which was consolidated with [a separate suit brought by NARF in 2016](#). The two lawsuits stem from the restrictive voter ID law enacted in 2013. Collectively, the two tribes have over 7,000 residents of voting age that will benefit from the consent decree, which will be in force for the statewide primary election on June 9.

For the last four years, we have fought hard to protect the voice of Native voters in North Dakota. The ability to vote should never depend on home ownership or whether the government has assigned your home an address, said NARF [Staff Attorney Matthew Campbell](#). We are relieved that North Dakota has recognized the need to hear all of its citizens voices, and we commend the state for taking these steps to ensure that Native American voters are able participate in the political process.

One of its strongest protections in the proposed consent decree is a provision that allows Native American voters who do not have or do not know their residential street address to locate their residence on a map at the polls or when applying for an absentee ballot, be provided with their address by county officials, and have their ballots counted.

North Dakota's agreement with the two tribes will ensure that tribal IDs and tribally designated street addresses are accepted as valid. It also cements commitments made by state officials in February to seek reimbursement of the tribes expenses in producing voter IDs and to coordinate with the Department of Transportation to visit reservations prior to each election to provide access to state-issued IDs at no cost.

[\[Click here to read a joint statement on the settlement by North Dakota Secretary of State Al Jaeger, Spirit Lake Nation, and Standing Rock Sioux Tribe\]](#)

In the wake of the district courts denial of the States motion to dismiss, the Secretary of State has agreed to settle two federal voting rights lawsuits brought by two Native American Tribes and several individual voters over North Dakota's voter ID law.

The law requires voters to present identification listing their residential street address a substantial hurdle for many Native Americans living on reservations, because the state has failed to assign residential street addresses to homes on tribal reservations.

In January 2016, in [Brakebill, et al. v. Jaeger](#), eight Native Americans, represented by the Native American Rights Fund (NARF), Tom Dickson, and Rich de Bodo filed suit to block the North Dakota voter ID law, which disenfranchised Native American voters and violated both state and federal constitutions as well as the Voting Rights Act.

On October 30, 2018, NARF, Campaign Legal Center (CLC), Robins Kaplan LLP, and Cohen Milstein Sellers and Toll PLLC filed *Spirit Lake Tribe v. Jaeger*, on behalf of the Spirit Lake Tribe and six individual plaintiffs to ensure that eligible Native American voters residing on reservations in North Dakota would be able to cast a ballot in the 2018 midterm elections and in all future elections. The Standing Rock Sioux Tribe, with approximately 5,868 residents of voting-age that could be affected by the law, joined the Spirit Lake case in early 2019.

This fight has been ongoing for over four years, and we are delighted to come to an agreement that protects native voters, said NARF [Staff Attorney Matthew Campbell](#). It has always been our goal to ensure that every native person in North Dakota has an equal opportunity to vote, and we have achieved that today. We thank the Spirit Lake Nation, Standing Rock Sioux Tribe, and the individual native voters that stood up for the right to vote.

Facing a trial date in the *Spirit Lake* case in May of this year, the Secretary of State announced an emergency rulemaking last week in an attempt to address some of the issues raised by the lawsuit. At an in-person mediation at the North Dakota capitol on February 6, 2020 with representatives from the Spirit Lake Nation and attorneys from CLC and NARF, the Secretary agreed to take additional steps to ensure that eligible Native American voters are not disenfranchised due to the restrictive voter ID law.

Because of the states broken addressing system, many Native Americans living on reservations do not have or do not know their

residential addresses, and are therefore unable to comply with the North Dakota voter ID law. During the 2018 election, the Spirit Lake Nation and the Standing Rock Sioux tribe expended substantial resources to ensure that their tribal members would have the identification necessary to vote, including by shouldering the burden of identifying and providing residential street addresses for their members.

The unique burdens faced by Native Americans in North Dakota including a severe housing shortage mean that tribal members are much more likely to have moved in the intervening time, or to be homeless or precariously housed. As a result, determining members residential addresses and providing them with the documentation necessary to vote is an ongoing effort that requires substantial resources.

In addition to the previously announced rulemaking, which requires the state to recognize tribal IDs and supplemental documentation issued to tribal members, the Secretary has agreed to enter into a binding consent decree, enforced by a federal court order, which will ensure that Native American voters who do not have or do not know their residential street address are able to vote.

The Secretary of State also agreed to work with the Department of Transportation to develop and implement a program with tribal governments to distribute free non-driver photo IDs on every reservation statewide within 30 days of future statewide elections.

In the 2020 election, Native American voters will have the opportunity to mark their residence on a map, a process that is commonly used by voters in other states. The burden will then shift to the state to verify the residential street addresses for these voters, to provide that information to the voter and the tribe, and to ensure those voters ballots are counted.

The court-ordered consent decree will include details about what the state must do to educate the public and train poll workers on the new procedures, as well as measures designed to enable the Tribes to ensure the state is complying with its obligations under the agreement.

North Dakota has a long history of discriminating against Native Americans generally and denying Native Americans the right to vote in particular. Leading up to and during the 2018 elections, North Dakota Native voters saw an outpouring of support as they fought to be able to vote under the states recently enacted voter ID law. The law, which went into effect as the election was getting underway, required voters to have identification that included a current residential address. This requirement poses a problem unique to Native American voters because the state and counties have failed to provide basic governmental services for individuals living on rural reservations. Specifically, they have neglected to correctly and uniformly assign residential addresses for Native American residents.

The law, as applied to Native Americans living on reservations, is unconstitutional and violates the Voting Rights Act. For that reason, the Spirit Lake Tribe and Standing Rock Sioux Tribe together with individuals Dion Jackson, Kara Longie, Kim Twinn, Terry Yellow Fat, Leslie Peltier, and Clark Peltier, [filed suit asking the courts to declare the law unconstitutional and to stop the enforcement of the ID and address requirements for residents of certain affected reservations and counties](#) on February 28, 2019. According to NARF [Staff Attorney Jacqueline De Len](#), Despite significant public outrage at North Dakotas discriminatory voter ID law, that law still is on the books. Tribes continue to commit significant resources and time working to ensure that their citizens will be able to simply participate in state and federal elections as is their constitutional right. NARF is proud to stand with the Spirit Lake and Standing Rock Sioux Tribes, and our brave individual plaintiffs, as they fight to fix the states broken voter ID laws.

Many Native Americans who live in North Dakota have no residential address because the government has not assigned them one. Others have been assigned an address, but it was never communicated to them. Road signs are rare in rural areas of reservations, and many roads in North Dakota have been assigned multiple, conflicting names. Homes have been assigned multiple, conflicting numbers. Some homes have been identified as occupying two cities and zip codes. The lack of uniformity in addressing across North Dakota reservations creates a problem that could affect thousands of potential Native American voters. The state claimed that it could fairly administer the voter ID law, but the 2018 election showed otherwise. Voters with IDs listing their current addresses had their absentee ballot applications rejected as having invalid addresses.

NARF is committed to the long-term fight to protect tribal citizens voting rights. It is only with a functioning democracy that we can work towards an equitable society. The Tribes are represented by NARF and co-counsel, Campaign Legal Center and Tim Purdon.

November 1, 2018, US District Judge Daniel L. Hovland (District of North Dakota) [denied the request for relief from the voter identification law](#).

Judge Hovland agreed with the plaintiffs about the disarray of the current system, and expressed grave concern about the issues of voter disenfranchisement raised in the Spirit Lake Tribes complaint saying, The litany of problems identified in this new lawsuit were clearly predictable and certain to occur as the Court noted in its previous orders in *Brakebill v. Jaeger*. ([Read more about the Brakebill case.](#))

However, despite these concerns, Judge Hovland declined to take action in the case with the election less than a week away fearing that any court order at this time would create even more confusion and chaos on the eve of the election.

While todays decision is disappointing, NARF and CLC are considering the available options and will continue working to ensure all natives in North Dakota have proper documentation and the ability to exercise their right to vote.

On October 30, 2018, the Native American Rights Fund (NARF), Campaign Legal Center (CLC), Robins Kaplan LLP, and Cohen Milstein Sellers and Toll PLLC filed a lawsuit, *Spirit Lake Tribe v. Jaeger*, on behalf of the Spirit Lake Tribe and six individual plaintiffs (see [the complaint](#) and [the plaintiffs memo in support of a temporary restraining order](#)) to ensure that eligible Native American voters residing on reservations in North Dakota will be able to cast a ballot in the 2018 midterm elections and in all future elections.

Under current law, North Dakotans cant vote unless they have identification that shows their name, birth date, and residential address. Recent investigations demonstrate that the law threatens to disenfranchise not only those who do not have street addresses or access to the necessary ID but also those whose addresses the state deems invalid. The states own addressing system appears to be incomplete, contradictory, and prone to error on reservations.

North Dakota tribal communities have been mobilizing to provide the necessary IDs to those living on reservations, with no help from the state of North Dakota. Despite their efforts, North Dakotas voter ID law could prevent many eligible Native Americans from casting a ballot in the upcoming election on November 6. The lawsuit asks the court to provide targeted relief for affected voters in time for Tuesdays election.

NARF Staff Attorney Matthew Campbell stated, The state has pushed through a voter identification system that is confusing and in disarray. And people living on reservations are being most affected. Reservation addresses in the states database are inconsistent, inaccurate, and uncertain. Homes are listed on streets identified as unknown and in towns that are off the reservations. Figuring out the states peculiar listings for residential addresses on reservations should NOT be a pre-requisite to voting, and the Native American Rights Fund is committed to fighting these discriminatory policies.

State policies should be designed to make it easier for all citizens to vote, but North Dakotas voter ID law disenfranchises Native Americans living on reservations, said Danielle Lang, senior legal counsel, voting rights and redistricting at CLC. We have a choice between a democracy that includes all eligible voters and a system that excludes people based on their circumstances or backgrounds. Unless the court steps in, eligible Native American voters including our clients may be denied the right to vote next week due to the states deeply flawed system of assigning and verifying voters residential addresses.

Many streets on the Spirit Lake Reservation do not have marked signs, and many houses are not labeled with numbers. The State of North Dakota has not provided the Spirit Lake Tribe with any resources to assist members in obtaining IDs with residential street addresses, as is now required by state law to cast a regular ballot. Many voters living on reservations may be at risk even though they have no reason to think that their IDs are insufficient due to the fact that their county through an inconsistent 911-emergency addressing system that omits some residences has assigned them a different address. Denied absentee ballot applications have been the warning sign for additional disenfranchisement to come if the court does not step in.

As if the address situation were not confusing enough, Secretary of State Alvin Jaeger has taken steps to worsen the situation, refusing to provide public comment on whether poll workers will accept addresses printed on newly issued IDs, while simultaneously warning that residential street addresses on IDs must not be incorrect, which creates a particular chill for Native American voters in light of the uncertainty caused by the response to the newly effective law.

On October 9, 2018, the U.S. Supreme Court declined to reinstate the statewide ban on enforcing the voter ID requirement, forcing Native Americans to work around the clock to comply with the law in the final month before the midterm elections. Todays filing asks for more targeted relief based on evidence related to Secretary of State Jaegers enforcement of the law and is with the U.S. District Court of North Dakota Western Division, the same court that issued the April ban that ordered the state to accept otherwise valid forms of identification that listed either a current residential street address or mailing address.

[Read about related case \*Brakebill v. Jaeger\*](#), which also was filed in response to North Dakotas voter ID law.

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