

How a Tribal Rights Lawyer Is Winning Back the Rights of Nature

[Aric Sleeper](#)

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The United States was founded on the [declaration](#) that all people are inherently endowed by their Creator with the rights to life, liberty, and the pursuit of happiness, but what about the rest of life on the planet?

With climate-change-fueled droughts and environmental exploitation in the form of oil pipelines causing the [depletion](#) and [contamination](#) of watersheds and endangering plant and animal species, some in the legal community have decided to swim against the current of conventional law. They are fighting not only for the inalienable rights of humans but for the legal protection of nature.

Proponents of the Rights of Nature movement, which has been gaining momentum [since 2006](#), believe that legal systems should ensure the rights of Earth's natural environment, which includes all the flora and fauna in any given ecosystem, and put an emphasis on protection, restoration, and stewardship of nature instead of exploitation.

"Rights of Nature is cutting edge," says tribal rights attorney Frank Bibeau. "It's not the old paradigm, and people aren't prepared for it."

Bibeau, a member of the [Anishinaabe](#) or Ojibwe people, based in the White Earth Indian Reservation of northern Minnesota, has become an effective champion for the Rights of Nature because the concept is also a tenet of the Anishinaabe's spiritual beliefs.

"When we were spiritual beings, the Creator petitioned all of the living creatures—the plants, animals, birds, and fish—and

asked if they would be willing to give us substance and flesh, and they agreed," says Bibeau. "So we have a covenant to watch out for each other because they make sure that we have everything that we need, so in turn, we watch out for them."

After serving as a journalist for nearly two decades, Bibeau was encouraged by his friends to switch gears and attend law school.

"Sometimes your friends can see the logic better than you can see it yourself," says Bibeau. "I had so many questions when I went to law school, and I found out that those professors did not know the answers."

His legal questions centered not around constitutional law but Indian law, which serves as a way for Native Americans to govern themselves and interact legally with the U.S. government on a federal and state level.

Bibeau points out that although his people are the Anishinaabe, "Indian" is still the catch-all title used in the U.S. legal system for Indigenous Americans, however inaccurate.

"All of the treaties with my tribe refer to us as Chippewa, but we don't call ourselves Chippewa," says Bibeau. "We're usually called the Ojibwe, or we call ourselves the

Anishinaabe, but as far as Congress goes, they call all of the tribes collectively 'Indians.'"

Early in his career, Bibeau was encouraged by his friend [Winona LaDuke](#) and Rights of Nature attorney [Thomas Linzey](#) to fight for the rights of the Mississippi River against the [Line 3 pipeline](#) replacement project, but for all of his effort, Bibeau couldn't find a legal foothold to stop it.

"Sometimes you're on the wrong road," says Bibeau. "I was talking with Winona about it, and I told her this doesn't make sense to me, and she said, 'How about the rights of manoomin?' I said to her, 'I can do that easily.'"

[Manoomin](#), or wild rice, is a culturally and spiritually significant plant for the Anishinaabe and serves as a staple food source alongside fish and maple syrup.

Through an [1837 treaty](#) between Bibeau's ancestors and the U.S. government, the Indigenous people ceded large portions of their land to the nascent country but kept the right to hunt, fish, and gather wild rice there.

"Wild rice is reserved specifically in the 1837 Treaty," Bibeau says. "Article Five says that we reserve the right to hunt, fish, and gather wild rice on the lakes, rivers, and lands being ceded."

Wild rice then became the legal foothold that Bibeau was

searching for because as he learned in law school, treaties are recognized by the federal government as the [supreme law of the land](#).

“It made wild rice, to me, invincible, in terms of the Rights of Nature,” says Bibeau.

Bibeau and others were able to codify manoomin’s rights into law in December 2018, when the White Earth Band of Ojibwe adopted the [rights of manoomin tribal law](#), which recognized wild rice as having the right to exist, flourish, regenerate, and evolve, as well as establishing its inherent rights to restoration, recovery, and preservation.

Later in [August 2021](#), the Tribal Court of the White Earth Band of Ojibwe filed an action on behalf of wild rice, the White Earth Band of Ojibwe, and several tribal members, represented by Bibeau and Linzey, to stop the State of Minnesota from allowing Enbridge Inc. from using 5 billion gallons of water for the construction of the Line 3 pipeline.

The plaintiffs argued that the diversion of the water for the oil pipeline would interfere with the rights of manoomin, and the rights of tribal members to use the land covered in the treaty to hunt, fish, and gather wild rice.

“That threw everybody off,” says Bibeau. “What we were able to demonstrate is that the federal courts will hold off

and not dismiss our actions because we have a valid tribal court, we've made a law, and now it's time for the court to determine whether or not we have jurisdiction over the state and over the water."

Bibeau's legal strategy to use treaty law and tribal law to sue entities outside of tribal land in the name of a sacred plant or animal has little legal precedent, and ultimately the case was dismissed by the White Earth Tribal Court of Appeals. Bibeau filed for reconsideration of the case, but that was denied in the summer of 2022.

Bibeau and his colleagues are now back in the legal library, trying to dial in the Rights of Nature law and judicial procedure.

"It's almost like the pieces have been left here for me to find," says Bibeau. "Our elders put different protections into place that have lasted and come back in a strong way."

Rather than citing wild rice, Bibeau is devising ways to fight for nature's rights on behalf of animals, specifically fish, which are sacred to a number of Indigenous groups and more well known to the general public than manoomin. He says the public can expect to see a legal action filed on behalf of fish in the next year, against a yet-to-be-determined target.

“The thing that I like about fish is that almost everyone knows what a fish looks like, and everyone knows what a dead fish looks like, and everyone knows what 1,000 dead fish look like,” says Bibeau. “They are the canary in the mine, except they are the fish in the water. As long as we can protect the fish, we’ll have good water, and the animals and plants will have good water and resources, and we’ll have a better chance to survive on the planet.”

Although the manoomin case was dismissed, Bibeau feels that it has brought much-needed attention to him and other Indigenous people fighting for nature’s rights, such as the Tohono O’odham people of Arizona who gave the saguaro cactus [legal personhood](#) in their tribal court in May 2021.

He says that with the growing number and interest in these cases, the Rights of Nature movement will continue to exist, flourish, and evolve into the future.

“I think there’s a whole other wave that’s going to come,” Bibeau says. “We’re going to make a difference. It just takes time.”

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