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Ada E. Deer, Assistant Secretary for Indian Affairs signed a final decision recognizing a separate government-to-government relationship between the Delaware Tribe of Eastern Oklahoma and the federal government.

A notice of a proposed decision to reconsider a 1979 determination that the Department of the Interior would engage in government-to-government relations with the Delaware Tribe only through the Cherokee Nation was published on June 27, 1996 (61 FR 33534). A comprehensive legal review conducted by the Division of Indian Affairs, Office of the Solicitor, concludes that the 1979 determination did not consider the entire relevant legal record and did not construe accurately the provisions of the 1866 Treaty with the Delaware and the 1867 Agreement between the Delaware and Cherokee.

Historically, the Delawares became divided into five groups: the Munsee Delaware; the Kansas Delaware; the Absentee Delaware; the main body of the Tribe which moved to the Indian Territory, now eastern Oklahoma, on lands belonging to the Cherokee Nation, Oklahoma, and later those who left Indian Territory and settled eventually in Idaho. The reconsideration of the 1979 determination deals with the main body of the Tribe -- the Delaware who moved to and remained in Indian Territory, Oklahoma.

In 1866, the United States entered into a treaty with the Cherokee and a separate treaty with the Delaware. The treaty with the Delaware, ratified July 26, 1866, (14 Stat. 793), provided for the sale of lands in Kansas in exchange for removal to a reservation of their own in Indian Country. They were guaranteed rights to participate in any general council or territorial government "that may be established for the nations and tribes residing in said Indian Country," and guaranteed peaceable possession. The United States then entered into a treaty with the Cherokee, ratified July 27, 1866 (14 Stat. 799). Article 15 of this Treaty allowed for two payments; one for preservation of their tribal laws, customs and usages not inconsistent with those of the Cherokee, and a second payment to settle within the Cherokee territory and become native Cherokees. The Delaware made these two payments and by this means preserved a right to be a separate tribal government entity.

The administrative practice of the Department of the Interior from 1866 - 1979 was to treat the Delaware as a separate tribe. The decision made in 1979 by the Acting Deputy Commissioner was a departure from this administrative practice and was made apparently without the knowledge that the Delaware had made payments in accordance with the 1866 Treaty to preserve their independent tribal government rights.

The decision to retract the 1979 determination is based on a comprehensive legal analysis of the pertinent treaties and agreements as well as a review of the Department of the Interior's administrative practice. In retracting the 1979 determination, the Delaware Tribe of Eastern Oklahoma, within the restraints imposed by federal law, will be considered a sovereign tribe and will have the same rights to demand consultation and contracting as other tribes. As a separate sovereign nation, the Delaware Tribe of Indians will have the same legal rights and responsibilities as other tribes, both in jurisdiction

and as to its right to define its membership. This decision clarifies the government-to government relationship between the United States and the Delaware Tribe of Indians which was understood to exist before the 1979 determination. This decision is final for the Department and is effective immediately.

The Cherokee Delaware Tribe's address is, Cherokee Delaware Business Committee, 108 South Seneca, Bartlesville, Oklahoma 74003.