



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
MUSKOGEE AREA OFFICE
MUSKOGEE, OKLAHOMA 74401

IN REPLY REFER TO:
Tribal Operations

NOV 9 1990

Mr. Lewis Ketchum
Delaware Tribal Office
108 South Seneca
Bartlesville, Oklahoma 74003

Dear Mr. Ketchum:

We are pleased to inform you that the trust document of the Delaware Tribe of Indians was approved on October 31, 1990, pursuant to the authority granted to the Secretary of the Interior by the Act of October 3, 1972 (86 Stat. 762), and delegated to the Deputy to the Assistant Secretary - Indian Affairs (Tribal Services) by 230 D.M. 2.4.

Please be advised that the first election will be conducted in accordance with Article II, Section D, Subsection 12. The election has to be held no later than ninety (90) days after approval of the trust document which was October 31, 1990. The election ordinance shall be adopted in accordance with Article IV, Section C, of the trust document. The Area Director, in lieu of the Agency Superintendent, will approve the voting regulations.

Please do not hesitate to contact this office if you need technical assistance in developing an election ordinance. You may call Ms. Rosella C. Garbow, Area Tribal Operations Officer, at (918) 687-2312.

Sincerely,

Acting Area Director

Attachment



TRUST DOCUMENT OF THE DELAWARE TRIBE OF INDIANS

WHEREAS, WE, THE DELAWARE TRIBE OF INDIANS, a/k/a LENNI LENAPE, associated with the Cherokee Nation in accordance with Article II of the Delaware Agreement, dated April 8, 1867, in order to preserve our Delaware identity, and;

WHEREAS, as it has become expedient and necessary for the release of the 10% Judgment Funds provided for in the Act of Congress dated October 3, 1972, P.L. 92-456, 86 Stat. 762, 25 U.S.C. § 1294(b), and;

WHEREAS, both the Cherokee Nation and the Secretary of the Interior have committed themselves to the fact that the Cherokee Nation will not interfere with or be called upon to approve, administer or oversee the administration, purpose, or use of such funds, and;

WHEREAS, the existence and factum of approval by the Secretary of the Interior will neither be considered as an indication of the existence or non-existence of the status of the Delaware Tribe of Indians as being that of a Federally recognized tribe possessing governmental powers,

THEREFORE, the following Trust Document of the Delaware Tribe of Indians is hereby declared to be the formal expression of the procedure to administer the judgment funds of the Delaware Tribe of Indians appropriated by the Act of December 26, 1969 (83 Stat. 447, 453) (unclassified), to pay a judgment in favor of the Delaware Tribe of Indians in Docket 298, and in Docket 72, together with any interest thereon in the above referenced Act of Congress, dated October 3, 1972.

ARTICLE I - MEMBERSHIP

Membership in the Delaware Tribe of Indians shall be limited to each person:

- A. whose name; or,
- B. whose lineal ancestor's name;
- C. appears on the per capita payment roll prepared by the Secretary of the Interior on April 20, 1906; and
- D. who are also members of (or eligible for membership with) the Cherokee Nation of Oklahoma through the Cherokee Dawes Commission Rolls.

ARTICLE II - AUTHORITY

The Authority of the Delaware Tribe of Indians is vested in the membership.

- A. VOTING. The right to vote shall be limited to persons who are:
 1. Members of the Delaware Tribe of Indians as defined in Article I hereof;

2. Age 18 years or older;
 3. Registered to vote pursuant to registration rules as are herein granted to the members, provided that such registration rules:
 - a. Are consistent with this document; and
 - b. Do not conflict with the Indian Civil Rights Act of 1968, 25 U.S.C. Section 1302.
- B. BUSINESS. The sole and only methods of conducting business under this document shall be limited to:
1. The members meeting in General Council,
 2. The members voting by referendum; and,
 3. The members delegating authority to the Trust Board as provided herein.
- C. GENERAL COUNCIL. General Council as herein used shall mean a meeting of all members of the Delaware Tribe of Indians who assemble in one geographic location, after due and proper notice has been given, to conduct the business of the membership under this Trust Document.
1. The General Council shall convene annually on any Saturday during the month of November of each year at which time the Chair of the Trust Board shall make a "Trust Status" address. Notice of the General Council meeting shall be given by the chair not less than thirty (30) days nor more than forty-five (45) days preceding the meeting through the United States Postal Service and by public notice. Such notice shall include an agenda which shall include a provision for "other business". During the conducting of the "other business" portion of the agenda, any member shall have the right to bring up any relevant matter.
 - a. If the matter's relevancy is questioned, the relevancy issue shall be decided upon by a majority of the voting membership present.
 - b. If the matter is found relevant the matter shall be considered. If found not relevant the matter shall not be considered.
 2. A quorum of not less than 100 voters shall be convened before any business of the General Council can be conducted. Procedures for the conducting of business of the General Council shall be consistent with Roberts Rules of Order Revised.

D. TRUST BOARD

1. There is created by this Document a representative body which shall be known as the Delaware Trust Board, hereinafter referred to as "Trust Board".
2. The Trust Board shall consist of one (1) Chair and six (6) members, all of whom must be registered voters within the Delaware Tribe. Three (3) of the six (6) members shall be designated as the following officers: Vice-Chair, Secretary, Treasurer.
3. Managerial functions, including the employment of workers and the execution of routine business functions, shall be delegated to the Trust Board.
4. The Trust Board shall meet the first Monday of each month at a time and place designated by the majority vote of said Board at the previous meeting. All meetings of the Trust Board shall be held in accordance with Roberts Rules of Order Revised.
5. All meetings of the Trust Board shall be public, except: (a) when matters of personnel and their employment are discussed; (b) when the question of moral turpitude of any tribal member is discussed; or (c) when the decorum of the audience shall prejudice orderly administration of business. Such exceptions above will allow the Board to go into Executive Session. In the event that consideration of a subject shall take place in Executive Session, the vote shall take place in an open meeting.
6. No action shall be taken at any Trust Board meeting unless there is present a quorum, which shall be four (4) voting members of such Board.
7. The Chair of the Trust Board shall call and conduct all regular and special meetings of the said Board. The Chair of the Trust Board shall exercise his/her voting right only when it will affect the outcome (i.e., break tie votes of the Trust Board).
8. The Vice-Chair, in the absence of the Chair, shall perform the duties of the Chair, assuming all the duties, privileges, and responsibilities of the Chair.
9. The Secretary of the Trust Board shall correctly record and maintain all proceedings of the meetings of the said Board and shall upon request, make records available to members of the said Board for inspection during regular business hours, and send a copy of each to the Superintendent of the Tahlequah Agency of the Department of the Interior, Bureau of Indian Affairs.

10. The Treasurer shall keep all monies entrusted in his/her care in a special account and all disbursements therefrom shall be made by a check. All checks so issued shall be signed and properly countersigned by the properly designated trust officials before distribution. The Treasurer shall establish and maintain a formal accounting system for trust funds, which shall include the accurate accounting of receipts and disbursements of said funds and shall make reports to the Trust Board. The Treasurer shall make reports at all meetings of the General Council. The Treasurer shall make all Trust accounts and records available to the Superintendent at all times for inspection and/or audit. The Treasurer shall file a surety bond satisfactory to the Superintendent and the Trust Board. The costs of such bond shall be paid from Trust funds.
11. The Trust Board shall prepare the annual budget and supplements thereto administering the judgment funds. Annual budgets and supplements thereto shall be consistent with the Plan as set forth in Article III of this Trust Document. The annual budget shall be submitted to the General Council for its approval and/or amendment. Upon approval by the General Council, the Chair of the Trust Board shall submit the annual budget to the Secretary of the Interior for the Secretary's approval and/or amendment.
12. The members of the Trust Board shall consist of those persons elected to the Office of Chair or member of the Trust Board in a duly called initial election conducted by the Area Director of the Bureau of Indians not later than ninety (90) days after approval of this document by the Secretary of the Interior. Subsequent elections shall be held in accordance with Article IV - Elections of Trust Board.

E. TRIBAL RECORDS. All expenditures of Judgment Trust Funds shall be a matter of public record open to all tribal members at all reasonable times. Official minutes and reports of the General Council, the Trust Board and any of their committees shall also be available to all tribal members at all reasonable times.

1. Any reports, minutes or other information pertaining to matters of personnel shall remain confidential to the extent necessary to protect the individual rights of the person or persons involved. However, the personnel decision of the Tribal entity shall be a public record available to review by all tribal members at all reasonable times.
2. Tribal members shall be allowed reasonable arrangements to copy open Tribal records, subject to appropriate Federal law. The cost of such reproduction shall be born by the tribal member requesting reproduction, unless waived. Such cost shall not exceed that charged by local photocopying companies.

ARTICLE III - PLAN

Within ninety (90) days after the election of the Trust Board, as herein provided, such Trust Board shall promulgate and formulate a plan for the use of the judgment funds which shall, in its view, carry out the spirit and intention of P.L. 92-456 as specified in 25 U.S.C. § 1294(b), provided that the approval of such plan shall be given by a majority of those members of the Delaware Tribe of Indians who vote on such plan and provided further that the rules providing for Referendum Voting (Article VI, Section C) be followed. Any initial master plan for the use of the judgment funds must be voted upon by secret mailed ballot. In the event that a plan does not obtain the required voter approval, the Trust Board shall have the authority and obligation to formulate a new plan meeting the requirements set forth in this Article. No judgment funds shall be expended without prior Plan approval as set forth herein.

ARTICLE IV - ELECTION OF TRUST BOARD

A. OFFICERS AND TERMS OF OFFICE

1. Elections shall be held every second year the first Saturday of November. For purposes of the first election, Article II, Section D, Subsection 12, shall be followed. The Chair, so elected and three (3) Trust Board members receiving the highest number of votes cast by the installed officers of the Trust Board to serve as Vice-Chair, Secretary, and Treasurer, shall hold office for four (4) years; the remaining three (3) Trust Board members shall hold office for two (2) years. Thereafter, each elected Chair or Trust Board member shall serve terms of four (4) years. The first election conducted pursuant to this Article shall be held in the second calendar year following the election conducted pursuant to Article II, Section d, Subsection 12.
2. Elections to the Trust Board shall be by secret ballot. Absentee balloting shall be allowed.
3. All members, eighteen (18) years of age or older, who are registered to vote, can vote in all elections and sign petitions.
4. Public notice of the date of election and designation of polling places shall be given at least thirty (30) days and not more than forty-five (45) days prior to the date of elections. Notice shall be given through the United States Postal Service to all members of the Delaware Tribe of Indians eligible to vote and by public notice.
5. Declaration of Trust Board candidacy shall be for either of the following positions: (a) Chair of Trust Board; or (b) member of the Trust Board.

6. Members election to the Trust Board shall take office at the meeting which shall take place the first Saturday after an election at which time they shall take an oath administered by the Chair. In absence of the chair, the Vice-Chair, or Chair Pro-Tem elected by a majority of the General Council shall administer the oath of office.
 7. The Trust Board, after being installed in office, shall elect by majority vote of it's members, a Vice Chair, Secretary and Treasurer.
 8. Vacancies of elected positions shall remain vacant until the next regular meeting of the Trust Board. The Trust Board shall then appoint a tribal member receiving the majority of the votes of the Trust Board then assembled, to the vacant post. The member chosen in this manner shall serve out the unexpired term of the office.
 9. If the Trust Board shall fail to give proper notice of the election or in case a regular election has not been held, the Election Board or Muskogee Area Director, upon receipt of a petition signed by at least 100 registered voters shall call such election and shall give thirty (30) days notice, setting the time and place of the election.
- B. ELECTION BOARD. An Election Board shall be chosen by the Trust Board. The Election Board shall consist of five (5) tribal members who shall not be members of the Trust Board, nor candidates for any elective positions within the Delaware Tribe of Indians. The Election Board shall have the responsibility for overseeing elections and shall serve for a term of one (1) year or until their successors are duly chosen and installed.
- C. ELECTION REGULATIONS. The Election Board, first selected in accordance with this Trust Document, shall present for approval to the next following Trust Board meeting, proposed election regulations which shall provide for, among other things, mail-out secret balloting, voter registration, absentee voter requirements, and procedures for settling election disputes. Upon adoption by the Trust Board, and approval by the Superintendent of the Tahlequah Agency, the election regulations shall remain in effect until amended by the Trust Board and approved by the Superintendent of the Tahlequah Agency.

ARTICLE V - REMOVAL FROM OFFICE

Any member of the Trust Board shall be subject to removal from office for willful neglect of duty, corruption in office, habitual substance abuse, incompetency, prior or current conviction of a felony or convictions involving moral turpitude, provided, such offenses occurred while the member is in office. Any member of the Trust Board not in attendance two consecutive times (unexcused absences) at regularly scheduled Board meetings shall be subject to removal from office. The Trust Board shall make rules as are necessary for carrying into effect the provisions of this article, insuring therein that due process is afforded the accused.

ARTICLE VI - INITIATIVE, REFERENDUM AND AMENDMENT

A. RESERVED POWER

Notwithstanding the provisions of Article II, the members of the Delaware Tribe of Indians reserve to themselves the power to propose resolutions, regulations, or Trust Document amendments and to enact or reject the same at the polls, and also reserve power at their own option to amend or reject any act of the Trust Board. The power of initiative, referendum and amendment shall be exercised by petition. The Trust Board shall make suitable provisions for carrying into effect the provisions of this Article.

B. PETITIONS

A valid petition signed by one hundred (100) voting members of the Delaware Tribe shall be required to propose resolutions, regulations or amendments. The petition shall, at the beginning, contain a statement of purpose in clear and concise language. Petitions shall be typed and clearly set forth the proposal. A copy of the petition shall be filed with the Trust Board Secretary and addressed to the Trust Board Chair, prior to obtaining signatures. Petitions not filed will be invalid. Persons signing the petition must print their full legal name, address, and affix their signature. In determining whether the signatures are valid (those of registered voters), only those names which appear on the same page as the "Statement of Purpose" with the text of the proposal, shall be counted. The Trust Board Secretary shall verify the voting status of all persons signing any petition.

C. REFERENDUM

From time to time certain issues may require a mandate of the registered voters. A referendum petition meeting the requirements of Article VI, Section B, and signed by at least one hundred (100) voting members shall require the Trust Board Chair to institute a special election within forty-five (45) days, provided:

1. Voting shall be by secret mailed ballots prepared by the Election Committee;
2. The issue or question is clearly and concisely stated;
3. Notice and mailing of such ballots be accomplished not less than thirty (30) days and no more than forty-five (45) days before the deadline for submission of such ballots; and
4. Due process requirements are met, as provided by the Indian Civil Rights Act of 1968, 25 U.S.C., Section 1302.

D. AMENDMENT

This organizational Trust Document of the Delaware Tribe of Indians may be amended by 2/3 majority vote of the registered voters participating in a duly conducted referendum election. If two or more amendments are proposed they shall be submitted in such a manner that electors may vote for or against them separately. No proposal for the amendment of this document which is submitted to the voters shall embrace more than one general subject and the voters shall vote separately for or against each proposal submitted; provided, however, that in the submission of proposals for the amendment of this document by articles, which embrace a general subject, each proposed article shall be deemed a single proposal or proposition. Amendments so approved will be submitted to the Secretary of the Interior for approval.

ADOPTION OF AMENDMENTS FOR APPROVAL. Adoption of amendments is contingent upon approval by the Secretary of the Interior. Approval or cause for disapproval by the Secretary must be rendered in writing within 45 days of submission of the amendment to the Secretary of the Interior.

ARTICLE VII - RATIFICATION

This Trust Document shall become effective upon date of ratification, when ratified by:

- A. Those eligible to vote herein defined as:
1. Those persons whose name; or
 2. Whose lineal ancestor's name; and
 3. Appear on the per capita roll prepared by the Secretary of the Interior on April 20, 1906; and
 4. Who are also members of (the eligible for membership with) the Cherokee Nation of Oklahoma through the Cherokee Dawes Commission Rolls; and
 5. Who are eighteen (18) years of age or older; and
 6. Who are registered to vote.

A majority of registered voters who vote in this Trust Document Ratification Election of the Delaware Tribe of Indians provided that at least thirty per cent (30%) of those registered voters shall vote.

- C. Voter registration, notice of this ratification election and the calling of election will be conducted by the Area Director of the Bureau of Indian Affairs within a reasonable amount of time from the date this document is signed, not to exceed one hundred and twenty (120) days from that date.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the Delaware Tribe of Indians to be affixed. This Trust Document of the Delaware Tribe of Indians are passed by a majority vote of the membership of the Delaware Tribe of Indians this 21st day of September, 1990, at Bartlesville, Oklahoma.

Lewis B. Hutchum
Chief of the Delaware Tribe

Sally Fooley
Secretary of the Delaware Tribal
Council



United States Department of the Interior

IN REPLY REFER TO:

BUREAU OF INDIAN AFFAIRS

Tahlequah Agency

P.O. Box 828

Tahlequah, Oklahoma 74465-0828

Certificate of Results of Election

Pursuant to a Secretarial election authorized by the Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), on June 6, 1990, the attached Trust Document of the Delaware Tribe of Indians was submitted to the qualified voters of the tribe and on September 21, 1990, was duly adopted by a vote of 1,780 for and 211 against and 27 cast ballots found spoiled or mutilated in an election in which at least 30 percent of the 2,565 members entitled to vote, cast their ballot in accordance with 25 CFR 81.

Signed:

Dennis Wickliffe, Election Board Chairman

Curtis Zunigha, Election Board Member

Sally Farley, Election Board Member

Date: September 21, 1990

Attachment

CERTIFICATE OF APPROVAL

I, Ronal Eden, Deputy to the Assistant Secretary - Indian Affairs (Tribal Services), by virtue of the authority granted to the Secretary of the Interior by the Act of October 3, 1972, (86 Stat. 762) and delegated to me by 230 D.M. 2.4, do hereby approve the Trust Document of the Delaware Tribe of Indians, PROVIDED, that nothing contained in this approval shall be construed as authorizing any action under the Trust Document that would be contrary to Federal law.



Deputy to the Assistant Secretary -
Indian Affairs (Tribal Services)

Washington, D.C.

Date:

10/31/90

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