

Cherokee Nation Environmental Protection Commission

Minutes of the July 7, 2005 Meeting 206 E. Allen Road, Tahlequah OK 74464

Present for the Commission: Ed Fite, Chairman
Mark Green, Commissioner

Staff and Guests:

Jeannine Hale, Administrator, Environmental Programs
Tom Elkins, Director of Environmental Protection
Harold Langdon, CNE, Director of Non-Gaming Operations
Angela Drewes, CN Natural Resources
Pat Gwin, CN Natural Resources
Nancy John, Director of Office of Environmental Services
Barry Hood, Roads
Doug Bane, CN Solid Waste Landfill
Mitch Fram, OSU Extension Services
Laura Murray-Hofschulte
Richard Keck, Environmental Programs
Gary Pitchlynn, Indian Country Investments

Agenda Items:

1. Chairman Fite called the meeting to order at 9:25 am on July 7, 2005.
2. Chairman Fite acknowledged the meeting notice and distribution list and placed the Record of Public Notice into the official record.
3. The staff and the Chairman welcomed the new Commissioner, Mark Green.
4. Minutes of the previous meeting - Because Commissioner Cohenour was not present, item #4 was passed until the next meeting.

Chairman Fite moved item number 8 to the beginning of the agenda to accommodate Mr. Pitchlynn, attorney and sole member of Indian Country Investments (ICI).

8. Cherokee Nation Landfill
 - A. Reports by Staff
 - Mr. Bane provided the Commission with a written report.
 - B. Application for Permit Indian Country Investment LLC
 - Ms. Hale gave an oral report as follows: We had a meeting with ICI and Doug Bane to clarify the compliance schedule. ICI applied for a permit but staff was not given enough time to review the necessary documentation and write a permit.
 - Mr. Pitchlynn: I am the sole owner of ICI. Cherokee Nation staff will remain at the landfill. I also have an engineering consultant named Robert Murray from Texarkana and Imre

Szekelyhidi from Austin, Texas with Landfill Marketing Consultants, Inc., will assist with the marketing of the landfill.

- Chairman Fite: there will be no action by the Commission at this time on ICI's permit application. If the Commission is expected to take action, they must have ample time to review the information and disseminate the information to the agencies, the Cherokee Nation at large and local residents.

C. Fayetteville sludge contract -- Doug Bane

- Mr. Bane: I am requesting approval to add class B sludge from Fayetteville to the landfill permit. It would be about 70 tons a day and we would be landfilling it.
- Commissioner Green: I do not at this time have enough information to make a knowledgeable and responsible motion for or against the sludge contract.
- Ms. Hale: I cannot recommend approval of this request for the following reasons:
 - There are a number of compliance issues at the landfill, the most serious of which concern storm water control, discharge issues and the landfill being located in the watershed of a science river means there are special protections.
 - Municipal sludge probably includes the worst waste components out of the wastewater stream. Industrial discharges do go into the POTW (publicly owned treatment works) along with human sewage.
 - When the Commission considered issuing the permit during the pervious months the stated goal was to maintain the status quo. The general principal was to get through part of the compliance schedule before adding any new pollutants.
- Commissioner Green: are you saying that we should not consider this contract at all or we should wait until the compliance schedule is met?
- Ms. Hale: I am suggesting we should wait until we get the stormwater issues under control. At 90 days the landfill should submit information about runoff, sediment load and all the other pollutants. It will take some time to analyze all this data. The final surface water is due at 12 months.
- Mr. Gwin: We would require that the waste being accepted for landfilling is congruent with the regulations. I would require documentation of a paint filter test and TCLPS on the metals.
- Ms. Hale: Another thing that is not in place at the landifll is a waste characteristic and acceptance plan.
- Chairman Fite: is OMI (operational management incorporated) supplying the information to you from Fayetteville? Mr. Bane: yes

- Mr. Gwin: if Mr. Bane would send Fayetteville my contact information they could send me the data. They probably have a characterization on this sludge a hundred pages long. I would be interested in the sub-title D liners, the TCLPS and the 13 metals.
- Mr. Bane: the material is currently going to the BFI landfill in Porter.
- Commissioner Green: I think if it is alright to take the sludge one place then it is probably alright to take it to our landfill. But, the Commission can not just assume that without having the information before us.
- Chairman Fite: It is important that there is surface water run off right now going into a tributary of a designated scenic river that is the water supply to the City of Fort Smith Arkansas. If you can get us all the necessary information in two weeks, then we could have a special meeting.
- Commissioner Green: until we have all the information we need regarding the storm water run-off and the compliance issues; I cannot see making any kind of decision.
- Chairman Fite: We will table this item until the requested documentation is provided to the Administrator and the Commission.

D. Request to approve Yaffe Metal shredder fluff as alternate daily cover and/or land filling-

Doug Bane. Mr. Bane: I requested this on the agenda, but at this time we are not going to propose to use the material as daily cover because it is subject to wind blowing,. We may come back and request approval to take it for disposal. The fluff is residual leftover from crushing and grinding cars- upholstery, plastic, dashboards and anything nonmetallic.

- Chairman Fite: we will take no action on item number 8 E today.

4. Approval of the minutes from the last meeting. Vote to amend, approve or take other action.

Chairman Fite: Commissioner Cohenour is not here today so we will table this item.

5. Reports

A. Harold Langdon - CNE is working with Arkansas Valley and Valero to acquire the former truck stop at Roland. The intent would be to expand the Casino, upgrade it and also have a truck stop. The 1st of October would be the target for us actually acquiring the property and the project would be completed by June of next year. Valero's environmental consultants are StanTech out of Oklahoma City. They recently (June 22, 2005) submitted a risk-based corrective action report to the OCC that deals with removal of the underground storage tanks at Roland. An unregistered storage tank was also found and removed. We had a limited Phase II study done to see if we had other problems.

B. Environmental Protection - Director Tom Elkins provided a written report that was placed into the record. He also noted that OEP did a meth lab assessment on a house near Keys. Discussion about the meth assessment program followed.

C. Environmental Services - Director Nancy John provided a written report that was placed into the record. Ms. John also provided information about ITEC and a recent conference. She noted that OES has 3 new employees. Mitch Fram requested that Clint Carroll take a look at the riparian area along Saline Creek.

D. Natural Resources Department - Pat Gwin provided a written report that was placed into the record. Mr. Gwin discussed funding from BIA to redo the forest management plan. The fish for the fishing derby will be delivered on Friday the day before the event. Ms. Drewes added that an internal work group will meet to discuss the fish and wildlife code before we meet Vyril Keeter and his associates. Vyril Keeter, a former member of the Oklahoma Department of Wildlife Commission, brought Joe Hutchinson and Joe Adair to the Tribal Council Resources Committee meeting and wanted to know what the tribe was doing regarding natural resources.

E. Water, sewer and road and NEPA activities -- Billy Hix and Michael Lynn provided a written report which was placed in the record.

6. Discussion regarding request for Rock Quarry Development on Tribal Land -- Unit CMS 49, Adair County, Section 4, Township 14, North, Range 22, East -- Pat Gwin -- Discussion only

- Mr. Gwin: this is an existing or old quarry. A company called Tiger Stone approached us wanting permission to develop a fairly large permanent rock quarry on the unit. We are trying to get this project relocated to the landfill. BIA will probably require an environmental impact statement if there is lease. BIA regulations address mining. NPDES and the EPC's discharge permit requirements would also be involved.

7. Water Quality Standards and related issues:

A. Tribal Water Quality Standards -- Jeannine Hale

- Ms. Hale presented draft tribal water quality standards and explained the history of how these were developed with an informal group of other tribes. The group discussed just adopting the state's standards but they do not take into consideration the special needs of Indian tribes. The group decided to use the state standards as the basic model and make revisions to address the tribes' special issues.
 - Add a new Appendix to list culturally significant waters and have specific criteria protecting those waters. We need to decide how to develop the appendix list and what criteria we are going to use.
 - The bacteria standard should be imposed all year round.

- Add new criteria for pollutants in water and fish flesh that would be more protective of native children based on increased consumption rates.
 - Address hydrologic modification, minimum instream flow
 - reconsider state standards for public water supplies are not adequate because a discharger can relocate on a tributary and avoid the state standards.
 - Specify that no new discharge permits can be issued if the effluent contains pollutants for which the stream is already impaired
- Chairman Fite: Why don't we in Indian Country work out what we want here among the participating tribes, then take this to Dwayne Smith and the Water Board and ask them to evaluate the standards and have them report back to the tribes. We can have a subsequent meeting working through the issues and afterwards present the standards to the Secretary of Environment. If the state still does not want to cooperate we can just go forward from there. Communication, coordination is important. That is my recommendation
 - Ms. Hale: For the Cherokee Nation to present a set of proposed standards to the state without the group would undermine the group
 - Ms. John: We are not the only state that has to deal with the checker board statues of Indian country and reservations, so what takes place in Oklahoma could eventually impact tribes all over the county.
 - Chairman Fite: I cannot vote on this issue for the state, but I can tell you if this was presented to me as a member of the Water Board the list of revisions are all reasonable.

9. Complaints, Enforcement and Issues Update

A. Update on Cherry Tree -- Tom Elkins

- The Lagoons are fixed and not leaking.

B. Kenwood/Saline Creek -- Jeannine Hale - Item was tabled

10. Administrator's Report -- Jeannine Hale

Staff are working on ANA grant documentation and will be hiring a new special projects officer. A draft Economic Development Plan for the Nation is being prepared by th CN Strategy Group.

11. New Business -- None.

12. Miscellaneous Discussion -- None

13. Adjournment