

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION SPECIAL MEETING
Cherokee Nation, W.W. Keeler Tribal Complex
Tribal Council Chambers
22361S. Bald Hill Rd. Tahlequah, Ok. 74464
March 25, 2008

PRESENT:

Commissioners: Ed Fite, Mark Green and Marty Matlock

STAFF AND GUESTS: Sign-In Sheet on file

1. Commissioner Green called the meeting to order at 1:38 p.m.
2. Commissioner Green acknowledged and placed into the record the Record of Public Notice and meeting agenda.
3. Public Comment

Monroe Galcatcher (Adair County) expressed opposition to accepting trash generated from outside the state of Oklahoma. Mr. Galcatcher also expressed concerns about the trash accepted at the landfill, screening methods at the landfill and impacts to surface water and human health.

Commissioner Green stated that the EPC is not meeting today to discuss the acceptance of trash from out of state sources. He re-iterated that the agenda item for this meeting's discussion are only related to the proposed solid waste permit modification.

Jack Crittenden (Adair County) provided a summary of items addressed previously through the issuance of previous Notices of Violation. Mr. Crittenden stated that he was speaking on behalf of over 300 individuals near the vicinity of the landfill and feels that the permit for the landfill should be terminated instead of modified.

Commissioner Green requested Mr. Crittenden to submit a copy of his comments to Tom Elkins for the record. (a copy has not been provided for the record to date)

Commissioner Green clarified that the EPC is not asking that the permit be modified, rather the Commission is being asked to review whether the permit should be issued or modified.

Mr. Crittenden inquired as to what entity would be responsible for determining whether the landfill could accept out of state trash.

Mr. Elkins responded that the Attorney General's office has determined that the Tribal Council would have the authority to address this concern.

Nathan Moton (Adair County) expressed concern about the landfill activities and requested the EPC to help area residents and ensure things are done right.

Commissioner Green responded to Mr. Moton's concerns stating that the EPC is trying to ensure that things are done properly.

Jodie Fishinghawk (Tribal Council, District 2) requested clarification on the proposed permit modification, Attachment A, the compliance schedule. Councilwoman Fishinghawk inquired whether this is the compliance schedule that CNB would follow if they took over the landfill operations.

Brad Carson (Cherokee Nation Businesses) responded by stating if the permit is granted, this is the compliance schedule that the EPC has requested and will be followed. If the compliance schedule is not followed a Notice of Violation could be issued to CNB.

4. Solid Waste Permit Modification – Cherokee Nation Sanitary Landfill

- A. Presentation of Permit Modification – Tom Elkins reported that the proposed permit modification and supporting documentation were made available for public review since the posting of the meeting and no comments were received. Specifically, the notice was posted on March 14, 2008 and an opportunity for review was provided for all documents from 8:00 a.m. – 5:00 p.m. at the Environmental Programs offices located at 206 E. Allen Road.

Mr. Elkins acknowledged that there are environmental issues existing with the landfill. Mr. Elkins stated that within the past week, heavy rainfall caused the leachate to spill over and left the perimeter of the landfill site. Mr. Elkins stated that a way to prevent this from happening is to have an operator take over responsibility for the landfill and fix these issues. This option before the Commission is viable in accordance with CN statutes and rules. The proposed modification has been reviewed by our engineers and environmental staff. All activities are in accordance with federal regulations and Cherokee Nation statutes and rules. The compliance schedule also lists concerns with reasonable timetables to achieve and fix existing issues.

Mr. Elkins informed the Commission that correspondence has been received from the current operator of record, Indian Country Investment. Copies of letters were provided to Commissioners and ICI expressed their desire to not be removed from the permit as the operator. Mr. Elkins replied by letter to ICI stating that they are not demonstrating attempts to perform as the operator and to provide evidence demonstrating that they are attempting to operate it.

Commissioner Matlock inquired about action related to the off site discharge of leachate. Mr. Elkins responded by stating a notice of violation was issued to ICI and CN Financial Resources. ICI objected to the NOV as well as being removed from the permit as the operator.

Commissioner Green inquired whether a system was in place to identify existing conditions under the ICI purview while their contract to operate was in place.

Tribal Councilman Joe Crittenden expressed support for an environmental audit or assessment of the current status of the landfill.

- B. Discussion by Environmental Staff –

Commissioner Matlock asked Mr. Elkins if he felt that he had the proper staff to adequately inspect, enforce and protect the interest of the Cherokee Nation for a landfill if serving as both and enforcement and compliance assistance service provider. Mr. Elkins responded by stating the rules are inadequate and currently looking at a mechanism to address this issue. Commissioner Matlock expressed concern to limitation or lack of resources for staff to continue adequate enforcement activities in the future.

- C. Presentation by Cherokee Nation Business -

Brad Carson acknowledged the public testimony of citizens concerned about the future of the landfill and stated that closure of the landfill is estimated to cost between 10-20 million dollars. He believes that the best option for the landfill is to allow CNB to operate it.

There are four areas that CNB will focus immediate attention on:

- (1) CNB will hire an outside party (Engineering Firm) to conduct an environmental assessment of the landfill,
- (2) CNB's plan is to replace the leachate pond within a matter of months through a state of the art landfill practice design. The berm surrounding the leachate pond will be raised as an interim measure as progress continues forward,
- (3) CNB will address the stormwater issues through various engineering design approaches,
- (4) Various measures will be put in place to address wind blown trash.

CNB is going to commit several millions dollars into this project with the first phase estimated to cost fifteen million dollars.

D. Vote to Modify Permit –

Commissioner Green asked Tom Elkins for his recommendation for or against the proposed modification. Mr. Elkins responded by stating he feels it would be most reasonable to modify the permit and get issues is the landfill addressed.

Commissioner Green asked whether there will be funds set aside for closure if operations continue. Brad Carson responded by saying there is a current Cherokee law that requires \$1.00 tipping fee per ton to be placed into the closure account. If CNB operates the landfill, they will pay the \$1.00 per ton fee and CN will be the custodian of that account. At the end of each year, an auditor will look at an engineering report with an estimation of closing costs. CNB will have to supplement the fund if an adjustment is determined. Cherokee Nation Financial Resources will be the custodian of this trust fund. Callie Catcher stated that the funds will be placed in a restricted fund setup for the closure of the landfill.

Commissioner Matlock made the motion to approve the proposed modification to the Solid Waste Permit. Commissioner Fite seconded the motion. Roll call was taken and the motion was approved unanimously.

5. New Business – Matters not known or not reasonably foreseen prior to posting the agenda

No items were presented for the Commissions consideration.

6. Announcement of upcoming meetings and events, if any

Commission set the EPC meeting schedule to occur on alternating months beginning on May 6, 2008 at 9:30 a.m. at the Tribal Council Chambers if this location is available.

7. Commissioner Fite made a motion to adjourn the meeting. Commissioner Matlock seconded the motion. All voted in favor of the motion.

The meeting was adjourned at 2:45 p.m.