

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
February 7, 2008

PRESENT:

Commissioners: Mark Green, Marty Matlock, and Ed Fite

STAFF AND GUESTS:

Harold Langdon, CNE
Roger Fields, CNE
Nathan Moton, Concerned Citizen of Adair County
Jack Crittenden, Concerned Citizen of Adair County
Pat Gwin, CN Natural Resources Department
Flossie Girty, CN Administration
Doug Bane, CN Landfill
Brad Carson, CNB
Dena Geib, CNB
Becky M. Johnson, EPC Attorney
Tom Elkins, CN Environmental Programs
Nancy John, CN Environmental Programs
Shaun West, CN Environmental Programs
John Freise, CN Environmental Programs
Wayne Isaacs, CN Environmental Programs
Karen Dye, CN Environmental Programs
Amber Armstrong, CN Environmental Programs

1. Commissioner Green called the meeting to order at 9:35 a.m.
2. Commissioner Green acknowledged and placed into the record the Record of Public Notice and meeting agenda.
3. Commissioner Fite made a motion to approve the minutes from the December 18, 2007 meeting. Commissioner Matlock seconded the motion. Roll was called, and the vote was:
Mark Green: aye
Marty Matlock: aye
Ed Fite: aye
The minutes were approved unanimously.

4. Reports

- A. Natural Resources Department – Pat Gwin reported he had nothing more to add to his written report but was willing to answer questions.

Commissioner Fite: How is the Shagbark going?

Pat Gwin: To early to tell. We are going to do a survival study probably about the middle of April. From last years planting it appears that the ones that were given the most care are doing very well. There was probably a 100% survival rate even with the week long freeze that we had last year.

Commissioner Matlock: Is the Strategic Land Plan available for public review?

Pat Gwin: Yes

Commissioner Matlock: Where is it available?

Pat Gwin: It is under review with the Group Leaders right now. We will make sure that Mr. Elkins gets a copy to each of you.

Commissioner Matlock: Is that something that the EPC would have an interest in reviewing at some point just to be aware and informed?

Pat Gwin: I would think so. It is basically a zoning type of endeavor for tribal lands which has a number of conservational zonings that can be applied to land. I am sure you would be very interested in those. The one thing that I will warn you about first is that we have about four hundred different tracks of land. The attribute table is somewhat voluminous so I will give you the actual plan. You may be interested in some of the conservation stuff and I would be happy to provide that for you.

Commissioner Matlock: Do you have a paperless form for that?

Pat Gwin: Yes, I do.

Commissioner Matlock: That might be better.

Pat Gwin: I will make sure that Mr. Elkins gets that.

- B. Environmental Programs – Nancy John reported that the CNEP staff had increased with two new staff members, Curry Blankenship and Terrel Mitchell. They will be under the supervision of Wayne Isaacs
- C. Cherokee Nation Enterprises – Roger Fields reported Catoosa and West Siloam had no environmental incidents for December and January. The leaking nurse tank at Outpost 2 has been replaced. Then new West Siloam Springs Smoke Shop opens tomorrow at 6 a.m.
- D. NEPA projects for Realty, IHS, NAHASDA, and Roads – Wayne Isaacs reported the Environmental Reviews for the Greer Church Waterline Extension has been completed as have the Dahlongah Road Project and Smith Hollow Road Project.

Commissioner Green: How many projects are going on at any one time?

Wayne Isaacs: Right now we are working on 32 individual housing projects. We are at 241 on housing to date. They are supposed to be sending over some new Roads projects. We haven't received those yet. Then we do Water and Sanitation as well.

Commissioner Fite: Is the SIP Warehouse over at Cherry Tree going to cause any issues with the existing lagoon over there?

Wayne Isaacs: No, this one is just right by the old gym. It is not associated with the lagoon. It is just a storage facility only. Other than electricity they won't have any other utilities.

- E. Tribally funded construction projects – Pat Gwin offered to relay questions to Todd Enlow. There were on questions.

F. EPC Administrator – Tom Elkins reported the Gaming Commission is meeting with the Environmental Health and us. The Department of Interior with the NIGRA is putting out some rules where the Nation would have to certify that all the gaming entities have adequate environmental safety and health codes to protect the customers and the environment. That is just in the preliminary stages right now. One other thing that wasn't in the report, Bobby Short doing our Brownfield's Program, he's got specific projects like right now he is working with the Saline Court House right at the edge of the Mayes and Delaware County borderline. It was one of Cherokee Nations nine original court houses. It is the last original building. That was designated a park through the Cherokee Nation and he is already working on that through the Brownfield's. He is also putting together a National Parks Service Grant to work on getting some remediation with that. He has also identified some of the buildings that we are going to work on, the Court House downtown, the prison and another building around here. We would like to work with some of the Cogs in the 14 counties and with some of the communities. If there are some Brownfield's Projects that we can partnership with the Nation we would really like to do that. The Nation is welcomed more so to work with communities and if we can do that get some of that revolving loan money through the Nation that is a win, win thing for the communities and for the Nation. It is just going to help a lot of the communities if we can do that. We don't want to just center on things that are just Cherokee Nation. Cherokee Nation works with all of the communities so we want to work with projects like that through out the 14 counties.

5. Cherokee Nation Landfill

A. Regular report by landfill – Doug Bane reported there are three items to point out. A reconstructed modified design of the gage is being installed in the leachate pond. This was worked on with the Environmental Staff. They have not been able to get the level down as far as they had anticipated but they are still hauling and working on other options to speed that along. The gas remediation is still running high in the three probes. There has not been any final decision made on what direction the landfill is going to go. Either way that area where that remediation goes will be worked on. We fill that it would be best to do that in conjunction with whatever construction work is done. It doesn't pose a great risk right at the moment and we would like to accomplish that as a part of the construction project out there as apposed to installing something that may or may not fit into the long range plans and actions that we have to take at the landfill.

B. Compliance Issues

(1) NOV issued to ICI by Administrator

a. Brief summary by Tom Elkins – One of the issues that I would like to say is that since ICI has left the Nations has been handling that. We are a government entity. We are not a business. Our turn around time for things like this does not happen immediately. Everything has to go through a process and we do that because we have accountability at the Nation. The citizens demand that we do that. They want to know where our money goes so there is a process for everything. We are not a business. That is what the Cherokee Nation Landfill needs to be a business. We are working with Doug to say we have issues here. You are going to identify these, and we are going to work on these. He has been doing that to the best of his ability right now. There are issues that we are still going to have to work on but we are getting there. There is a lawsuit with ICI right now so the status of that right now we don't know. The Cherokee Nation is taking responsibility for this. We are working with what we've got. We are looking at these issues and they are being addressed.

b. Discussion by the Commission

Commissioner Matlock: Are you also monitoring for compliance to insure that any violations are duly recorded.

Tom Elkins: Yes, sir. In fact we just receive the fourth quarter from '07 report. There are definite methane issues out there and they are going to be addressed. They already have a bid to look at that but as Doug says any remediation on that is going to have to entail whether that landfill is closed. It is going to have to be addressed in that manner. If it is opened again it is going to have to be addressed.

Commissioner Matlock: So your organization is now playing role in compliance assistance as well as enforcement?

Tom Elkins: Not so much compliance assistance but we are working with them directly to ensure that it is going that direction.

Commissioner Matlock: Our role then is very clearly then defined as enforcement.

Tom Elkins: Very much so.

Commissioner Matlock: So violations will be addressed and we will enforce the regulations, rules and laws of the Cherokee Nation period. All other extenuating circumstances notwithstanding we are enforcing those regulations. To the extent there are violations the remedies under the law will be enforced through this commission. That is the extent of what we can do all other managerial processes are discoursed.

Commissioner Fite: In Shaun's report a memo back in December there were six employees at the landfill and the manager. Is anyone paying attention to the leachate pond on weekends and holidays after hours when the rain fall might come?

Doug Bane: If there is a major rain fall event we are working out a monitoring plan right now that we have drafted and submitted to Environmental that in the event of a significant rain fall event we will monitor it otherwise it is not monitored on Saturday and Sunday.

Tom Elkins: In that effort Callie and Doug have presented that to us and we have some issues with the wording of it for clarity but that is all. They have made an effort toward that.

Commissioner Fite: I think that would be another opportunity there of keeping track on that staff gage. I am comfortable with that if it is being checked. The other issue is we received a memorandum from the Board of County Commissioners in Adair County related to the closing of the landfill. Has Cherokee Nation staff seen any indications of increased wildcat dumping around the landfill itself?

John Freise: It is interesting to note that the access road into the landfill. The road off of Hwy. 59 there is just as much trash or more trash there now that the dump is

closed than when the dump was open. There is evidence there of improper trash disposal now.

Commissioner Fite: When I saw that memorandum I was just curious of how valid that is of how some of these areas that we have worked hard in other areas of Cherokee Nation to clean up are being complicated now.

Tom Elkins: We have cleaned up dumps in those areas and they have been dumped at again at different times and cleaned up again. Is that attributable to the closure of the dump this time, I don't know myself. We can speculate on that. I have noticed that when there are places to dump like in Delaware County, at the green boxes a measure of people dump those. There are always going to be people that don't do that. Is there a direct correlation between the closing of the dump? I don't know.

Commissioner Green: Are we logging or documenting what we are seeing.

Doug Bane: It is logged everyday and I submit that to the Environmental staff.

Commissioner Green: If there is a significant rainfall especially if it is on the weekend and that thing starts to overflow what are we going to do?

Doug Bane: We have to try to get trucks in or possible do some kind of emergency re-circulation to get the level down.

Commissioner Green: Is there a plan in place to facilitate it.

Doug Bane: That is part of the plan that we have submitted to Environmental. The clay burns are still in existence around the pond. In the event of an emergency we wouldn't see an overflow. Those clay burns are being maintained we measure them monthly as part of the consent agreement.

c. Opportunity for Public Comment, to extent allowed by Commission

d. Vote by the Commission to issue Compliance Order/Penalty Assessment, to take other appropriate action, and/or to take no action at this time

Commissioner Green: Are there any new notices of violation?

Tom Elkins: No, sir not at the moment.

Commissioner Green: I take it from your comments that there are no issues that you are asking us to vote on.

Commissioner Fite: Whenever we are moving that leachate I think we left it kind of open ended that we don't care how it is move as long as it is moved. I think it is important that it be moved according to precedent by standards and laws. I want to make sure that is asserted here today that no one cares how that leachate is moved. I want to make sure that everyone understands that it needs to follow whatever guidelines that prescribes to the federal level.

6. New Business – No new business.
7. The next meeting will be held March 6th at 9:30 a.m.
8. Commissioner Green moved to adjourn. The meeting was adjourned at 10:19 a.m.