

Cherokee Nation Environmental Protection Commission

**Minutes of the May 5, 2005 Meeting
206 E. Allen Road, Tahlequah OK 74464**

Present for the Commission:

Ed Fite, Chairman
Cheryl Cohenour, Commissioner

Staff and Guests:

Jeannine Hale, Administrator, Environmental Programs
Harold Langdon, CNE
Angela Drewes, Acting Director, Natural Resources
Pat Gwin, Natural Resources
Michael Lynn, Community Services/Environmental Health
Billy Hix, Community Services/Environmental Health
Bobby Short, OES
Nancy John, Director, Office of Environmental Service OES
Doug Bane, Tribal Resources/ CN Landfill Operations
Tom Elkins, Director Office of Environmental Programs OEP
Randy Gee, OES
Jerrid Diffie, OES
Sharon Swepston, Finical Resources
Michael Stephens Community Services/Environmental Health
Laura Murray-Hofschulte, Paralegal for Environmental Programs

Agenda Items:

1. Chairman Fite called the meeting to order at 9:15 a.m.
2. Chairman Fite acknowledged the meeting notice and distribution list as indicated in the Record of Public Notice, and placed the Record of Public Notice and Agenda for the May meeting into the official record.
3. Commission Cohenour made a Motion to approve the minutes from the April 7, 2005 meeting. Chairman Fite seconded the motion. The vote was:
Chairman Fite- yes
Commission Cohenour- yes
4. Reports:
 - A. Office of Environmental Protection - Director Tom Elkins provided a written report that was placed into the record.
 - B. Environmental Services - Director Nancy John provided a written report that was placed into the record. Randy Gee gave the oral report SWANA conference in Catoosa went well.
 - C. Natural Resources - Pat Gwin provided a written report that was placed into the record. Mr. Gwin noted that Natural Resource was still working on the

conservation easement for the bat caves. Natural Resources and Environmental Programs jointly applied for a wildlife habitat grant to inventory caves on tribal lands. The Nature Conservancy has stepped in to buy the specific land where caves were recently discovered.

D. Community Service Roads Program - Michael Lynn provided a written report that was placed into the record.

E. CNE - Harold Langdon gave an oral report regarding Cherokee Nation Enterprises. CNE is negotiating with Arkansas Valley regarding the Roland truck stop. It will remain a fuel dispensing facility. Environmental Assessments have been completed for Will Rogers Downs, Roland and Siloam Springs.

F. Sewer and Sanitation- Billy Hix presented the Green Country Testing lab results for water samples received on March 31, 2005 for samples taken from the Cherokee Nation Solid Waste Landfill. The test results met all the NELAC requirements.

5. Cherokee Nation Hazardous Waste Code

A. Jeannine Hale stated that the legislation now contains the CN Hazardous Waste Code and the CN Underground Injection Control Code. New language was added to address injection wells.

B. The Commission discussed changes as follows:

- 1) page 3 - include the definition of hazardous waste
- 2) page 4 - incineration should be defined as disposal or destruction of waste, not as treatment of waste.
- 3) require use of the Uniform Hazardous Waste Manifest using the federal requirements.

C. Commissioner Cohenour made a Motion to Recommend, with the changes listed, the Cherokee Nation Hazardous Waste Code and Underground Injection Control Code for Approval by the Tribal Council. Chairman Fite seconded. The vote was:

Chairman Fite- yes

Commissioner Cohenour - yes.

6. Cherokee Nation Landfill

A. Reports by staff and questions by Commission.

B. Request for approval of liner plan and/or permit for interim operation

- 1) Variance: Doug Bane presented the Commission with a report from A&M Engineering and Environmental Services.
- 2) Permit: Ms. Hale presented the Commission with copies of a draft permit that had been reviewed by Environmental Programs staff, Mr. Bane, Pat Gwin and Billy Hix.

C. Commission discussion and opportunity for comments:

1) Permit issues:

a) General discussion:

- A compliance schedule should be placed into the permit. The landfill will maintain compliance with the compliance schedule.

- Baseline information regarding streams near the landfill should be recorded for future reference. No new discharge points will be created.
 - Tonnage for the interim permit is 1500. In the final permit tonnage should be re-evaluated and adjusted according to feasible growth estimates.
 - A small amount of municipal sludge from Stilwell, Siloam Springs and Jay are already being disposed of in the landfill; at the rate of 100 tons a month. The permit should acknowledge the existing contracts and sludge that is being placed there now.
 - Chairman Fite stated that the Cherokee Nation has three issues of concern regarding the landfill: a) first, the landfill's integrity- it must be safe to the environment, b) second, the landfill was built to service Cherokee citizens and c) third, the landfill should pay its own way. Chairman Fite also pointed out environmental issues concerning Northwest Arkansas were relevant to the landfill. Cherokee Nation is the only entity that has a proper place for a landfill at this time. We must also be mindful of the protections required for our scenic rivers, creeks and streams.
 - Ms. Hale reaffirmed the Commission's direction on sludge: No new sludge to be accepted without prior written approval by the EPC. The final permit may have different standards regarding the disposal of municipal sludge.
- b) Public Notice. Chairman Fite stated that public notice should be given to property owners near the landfill, users of the landfill, the Tribal Council, EPA Region 6, DEQ, and Fenton Road. The notice should also be published in the following newspapers of general circulation Stilwell, Siloam Springs, Jay, and Tahlequah and placed on the Cherokee Nation web site.
- 2) Request for Liner Variance.
- a) Mr. Bane presented highpoints of the A & M report.
- The portion of the pre-Subtitle D cell with no clay liner (2.5 acres) has been a concern to the Cherokee Nation. The leachate sampling from the landfill show minimal environmental potential to impact either the surface or groundwater at the site. The groundwater monitoring shows no organics and very low concentration levels of a few metals.
 - The pre-Subtitle D cell area with no clay liner has a hydraulic conductivity less than 1.0×10^{-7} cm/sec. This is the design requirement for reconstructed clay liners. The thickness of the shale bedrock is more than 15 feet

thick. This exceeds the three-foot recompacted clay thickness requirement for pre-subtitle D landfill liners.

- A & M recommends CNSL should install a liner over the waste to prevent the leachate from leaking. To assure early detection of any impact to the groundwater two monitoring wells should be installed-one north of the stormwater pond and just east of the area with no clay liner; the second well should be located between the stormwater pond and the leachate pond. These ponds would be monitored quarterly.
 - Mr. Bane requested that the Commission order the recommendations be followed. This would give the landfill a long-term management plan and the cost would run around a million dollars the construction could start in about a week.
- b) Ms. Hale voiced concerns about the lack of all sampling data necessary to make the findings required by federal regulations in 40 CFR 258.40 for approval of the variance: For example, 258.40 (a) (1) states that "...the design must ensure that the concentration values listed in Table 1 will not be exceeded in the uppermost aquifer at the relevant point of compliance...", however, the sample analyses included in the A & M report do not include all of the constituents in Table 1. Ms. Hale was concerned that the EPC could not make a finding without this data or some other way to make a finding that those constituents could not reach the uppermost aquifer.
- c) After additional discussion, Chairman Fite made a Motion to allow the variance provided that all the issues and requirements that are in question have been resolved to the satisfaction of Administrator Hale. Commission Cohenour seconded the motion. Roll call vote:
Chairman Fite- yes
Commission Cohenour- yes

7. Complaints, Permits and Enforcement

A. Cherry Tree Wastewater System

1. Status of repairs and related issues -- Tom Elkins reported that the bentonite has been placed and 10 more tons of bentonite have been ordered.
2. Schedule/permit for land application -- Michael Stephens
There has been no application for a permit to land apply and no permit is being recommended at this time.
3. Discussion by Commission and opportunity for comments:
Staff informed the Commission that there may be an opportunity to seal off groundwater seepage into the sewer lines. If this happens, a land application permit may not be needed right away. Money from Community Services and the Housing Authority may be available to do this. All testing equipment necessary to locate leaks has been ordered.

Public notice to all the customers must be provided before doing the necessary testing. The construction of an additional lagoon would cost around 1/4 to 1/2 million dollars.

8. Kenwood
 - A. Report by Jeannine Hale:
 - ODEQ has informed CN they will issue a notice of violation for a sewage bypass. Kenwood drinking water system also has issues. The UKB has filed a complaint about bacteria in Saline Creek. The Cherokee Nation is already sampling Saline Creek. Environmental Programs will try to address all issues.
9. New Business -- none
10. Miscellaneous discussion -- none
11. Commissioner Cohenour made a Motion to Adjourn and it was seconded by Chairman Fite. The vote was unanimous and the meeting adjourned