

# **CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION**

## **MINUTES**

**SPECIAL MEETING AUGUST 21, 2003, 10:00 A.M.  
206 E. ALLEN ROAD, TAHLEQUAH, OK**

PRESENT:

COMMISSIONERS FITE, HENSHAW AND

STAFF AND GUESTS:

Bobby Short, OES

Nancy John, OES

Jeannine Hale, Asst Gen Counsel

Tom Elkins, OEP

Robert Largent, OES

Pat Gwin, CN Nat Resources

Mike Miller, CN Communications

Dwayne Beavers, OES

Jim Wilcoxon, attorney for CNE

Harold Langdon, CNE

Jim McSpadden, CNE

Bud McIntyre, Petroleum Marketers, consultants for CNE

Casey Thompson, CNE

Jerry Hammons, Cherokee County Emergency Response

Agenda Items

1 & 2 - Chairman Fite called the meeting to order and recognized that the meeting notice had been distributed as required by the Cherokee Nation Code. Chairman Fite had guests introduce themselves and welcomed them to the meeting.

3. Update on Outpost #1 and Response by CNE to Administrative Compliance Order  
– Ms. Hale gave a synopsis of what had occurred to date regarding a gasoline leak at the Outpost #1 facility, the issuance of an Administrative Compliance Order by the EPC on August 7, 2003, service of the Order on CNE, and delivery of documents by CNE to CN in the manner and time as specified in the Order. Ms. Hale pointed out that she and Mr. Wilcoxon, attorney for CNE, had agreed to waive formal administrative hearing procedures in regard to this matter. Ms. Hale provided copies of a letter from David Stewart to Chairman Fite that accompanied documents on Weds, copies of information provided by Petroleum Marketers and a response by CN to the letter of David Stewart for the record.

Chairman Fite recognized Mr. Wilcoxon who made a statement on behalf of CNE and assured the Commission that CNE wished to do what was in the best interest of the Nation and the environment. Mr. Wilcoxon stated that March records for premium had about 150-200 gallons of gasoline unaccounted for. For April, there

were about 700 gallons unaccounted for. CNE had Petroleum Marketers do additional testing and discovered a small leak in premium dispenser; this was fixed and the amount of unaccounted for gasoline dropped off. Gasoline was found when workers looking at electrical conduit, and CNE reported this the next day. Events of August 2 were reviewed as to interactions with Cherokee County Emergency Response, and Mr. Wilcoxon apologized for any perception that CNE was not cooperative. Petroleum Marketers investigation says gasoline appears to be 'old', electrical inspection revealed no problems, had meeting with EPC and providing them with records. Petroleum Marketers was recommending surfactant flush with Biosolve, EPA did not disagree. Mr. Wilcoxon pointed out that they felt that they were working with CN Environmental Programs and want to do so. August 2 episode resulted from a big rain but the surfactant flush should help remove this problem. CNE does not feel that there is a safety problem and would like to open the store. CNE basically proposes a surfactant flush, electrical inspection, need to replace gauge with one certified for use on manifolded tanks.

Chairman Fite inquired about expertise of those inspecting the electrical system and a discussion ensued with Jerry Hammons and others regarding the rerouting of the electrical system and materials used.

Mr. Bud McIntyre of Petroleum Marketers reported that, in the past, repairs were made and P M had done follow-up tests, then later in response to problems they had retested. Tests had shown only a little water in tanks, so he felt tanks were secure. PM installed wells and Mr. McIntyre reported on findings in wells. Predominantly dark, weathered fuel found. Native soils were tested and results are in his report. PM believes gas migrated along conduit and that levels of contamination found were not of concern considering EPA and state action levels. Mr. McIntyre used a board to draw a schematic to discuss findings, topography, likely groundwater flow and the path he believes the gas had taken. He had found evidence of only a few hundred gallons at the most. PM did not have as-built plans.