

Cherokee Nation Environmental Protection Commission

Minutes of January 5, 2006, Regular Meeting

206 E. Allen Road, Tahlequah, OK 74464

Present for the Commission:

Ed Fite, Chairman
Marty Matlock, Commissioner

Staff and Guests:

Jeannine Hale, Acting Administrator Cherokee Nation Environmental Programs
Jerrid Diffie, Cherokee Nation Environmental Programs
Nancy John, Cherokee National Environmental Programs
Harold Langdon, Cherokee Nation Enterprises
Doug Bane, Cherokee Nation Landfill
Michael Lynn, Cherokee Nation Roads Program
Pat Gwin, Cherokee Nation Natural Resources
Leslie Matthews, Cherokee Nation Environmental Programs
Betty J. Wilson, Cherokee Nation Environmental Programs
Michael Padon, Real-estate Services

Agenda Items

1. Chairman Fite called the meeting to order at 9:00 am on January 5, 2006.
2. Chairman Fite acknowledged the meeting notice and distribution list and placed the Record of Public Notice into the official record.
3. Commissioner Matlock made a motion to accept the minutes of the previous meeting and Chairman Fite Seconded the motion.

Roll Call:

Commissioner Matlock: Yes
Chairman Fite: Yes

4. Reports
 - A. Harold Langdon, CNE reported that a target date for completion of the Tahlequah Casino is September. They will move into that new building with further anticipation of the larger casino at the Y property once that goes into trust. There is a small casino going in at the Sallisaw area at highway 59 and interstate 40. Target for opening is the first of June. Will Rogers Downs is now up and running for gaming. The horse racing will be starting in the month of February. There is a Memorandum of Understanding between the Cherokee Nation, Cherokee Nation Enterprises and the Cherokee Nation Historical -The marketing and the museum store functions of the Heritage

Center are now run by CNE employees. The details from that coordination are still being worked out but we're putting in a lot of infrastructure getting our own point of sale systems, computer systems, and telephone systems. The biggest project is the Roland Travel Plaza. The bids for contractors should be back January 10th. Harold intends to invite Bobby Short and Robert Largent of CNEP to participate in the process. We are still on schedule for the end of August in terms of opening that facility. We will shortly be going out for bid for a general contractor. There is a lot of road work to do at that intersection and Commissioner Green has been kept informed of all the drainage and flooding problems are going to be resolved. The City of Roland is very pleased that a major problem they have is being solved and it is going to enhance the casino and travel plaza business.

- B. Environmental Programs: Nancy John submitted a written report that was placed into the record.
- C. Natural Resources: Pat Gwin submitted a written report that was placed into the record.
- D. Roads Program: Michael Lynn submitted a written report that was placed into the record.

5. Legislation

- A. Environmental Permit Procedures Code:
 - 1. Jeannine Hale reported that since the last meeting the major changes were in Part V, Environmental Permit Fees. A few of the changes were given as examples.
 - 2. Comments or discussion- Jeannine Hale noted that she spoke with Commissioner Green before the meeting, that he has seen the code, knew the item was on the agenda and that he doesn't feel the changes are significant.
 - 3. Action taken: Commissioner Matlock made motion to approve the Environmental Permit Procedures Code and Chairman Fite seconded the motion.
Roll call:
Commissioner Matlock- yes
Chairman Fite- yes.
- B. EPC Rules Chapter 1 and Chapter 3:
 - 1. Jeannine Hale gave a summary of content.
 - 2. Discussion-these rules can wait until next meeting to allow more opportunity for review
 - 3. Action: None taken
- C. Transportation Bill Rider:
 - 1. Update given by Jeannine Hale: Paula Holder Ragsdale, Legislative Officer Liaison in Washington DC, is helping with the Rider. One of the strategies is ask Senator McCain to assist. The Osage Tribe arranged a meeting with one OIPA member to discuss the Rider. We would like to meet with the oil industry and provide accurate information about ongoing efforts of the Tribes to address their concerns about multiple standards.

Word was received from Region VI that the State on January 13th will submit an application to assume all the delegable programs for Indian Country in Oklahoma pursuant to that Rider, but no one has seen this. Paula and Nancy are coordinating meetings with the EPA Administrator and maybe the General Counsel.

2. Action taken: None

6. Cherokee Nation Landfill

A. Reports by Landfill Management

Doug Bane submitted a written report that was placed into the record.

B. Reports by Cherokee Nation - moved to next item

C. Landfill permit

1. Minor modification of permit to add Indian Country Investments (ICI)

Jeannine Hale We have been working with Gary Pitchlynn of ICI and will ask you to approve the addition of ICI as operator, which we believe is a minor modification to the existing permits. Both state and federal rules generally allow this type of change as a minor modification. A new plan is being proposed by the landfill. Jeannine was contacted by Sharon Swepston and asked to attend a meeting with Doug and Benny Dixon, who is with the CN Commerce Department. Later they met with the Chief. The proposal is for the landfill to continue complying with the existing permit, and ICI would be bound by that as well. The original plan was to submit a request a modification in about 12 months for the expanded landfill. Now the proposal is to proceed in two phases. The first phase would be to prepare the master plan and all the required documents for the existing footprint first. Later they would file an application to expand the landfill area.

2. Discussion and opportunity for comments

The Commission moved to the next agenda item to hear from Mr. Bane before voting on the minor modification of the permit

D. Proposal to Develop a Master Plan for Existing Footprint (Phase I) into Permit

1. Report on proposal - Doug Bane presented the landfill's proposal:

We have a Subtitle D plan which is now outdated. We want to quantify and update that Subtitle D plan prepared by Terracon, using the same floor. We're doing geo technical work right now. We hope to modify and go deeper and increase capacity, but that is not part of this proposal. We want to obtain a permit for the life of the existing footprint. Roughly 20 years are estimated for that Terracon footprint. Region VI feels it is a good way to proceed and it gives us something that is long term for financing/contracting purposes with customers. The client schedule that we have in our interim permit now would be part of the new regular permit for the life of the existing footprint..

2. Staff perspective - Jeannine Hale

During the contract negotiations with ICI she asked about how the state usually charges a fee based on tonnage and the Nation did not want to complicate the negotiations at that point and time. It was suggested that

.25 cents out of that royalty fee would be set aside in a different account and would be used to offset the expenses of those who go out and do the inspections; if we want to do split samples of laboratory analysis or whatever from the regulatory compliance assistance side. A rough estimate based on current tonnage would be about \$52,000.00 a year.

3. Discussion and opportunity for comment

Doug Bane stated it was proposed to set up an account for environmental programs using contract payments. Recommended action is an addendum to the existing permit which would add ICI's operator bound to comply with the permit and compliance schedule. It is suggested to do this because it is a minor modification, doesn't require public notice and we can send this out today, get it in there and get it obligated

4. Action by the Commission:

Commissioner Matlock made a motion to add ICI as operator, as a minor modification to the permit, and require that ICI acknowledge in writing. Chairman Fite seconded the Motion.

Roll call:

Commission Matlock: Yes

Chairman Fite: Yes

7. Gravel Mining by Delaware County Commissioners in Dry Creek Streambed

1. Application for permit – Jeannine Hale – no application has been filed. Item tabled.

2. Discussion: Chairman Fite acknowledged that CN staff took them to the Dry Creek area late part of 2005. Commissioner Matlock, CN Staff and Chairman Fite spent considerable amount of time looking at that issue. Since we did not have a permit application or anyone here to solicit that application to be moved forward or advanced it has been tabled until such time that we would hear something.

8. Presentation on the CN Environmental Programs Open Dump Program – Jerrid Diffie

Item no. 9 on the agenda will be discussed, then meeting will adjourn to the training room for a power point presentation.

9. Discussion to set schedule for EPC meetings, legislation and rules

Next EPC meeting will be February 2 and will come back to item no. 9 at that time to set a schedule.

10. New Business – None

11. Miscellaneous discussion - none

***The Commission and attendees adjourned to the training room for agenda #8 and watched a presentation.

12. Meeting adjourned close to noon.

Cherokee Nation Environmental Protection Commission

Minutes of March 17, 2006, Regular Meeting

206 E. Allen Road, Tahlequah, OK 74464

Present for the Commission:

Mark Green, Commissioner

Marty Matlock, Commissioner

Absent: Ed Fite, Chairman

Staff and Guests:

Jeannine Hale, Acting Administrator Cherokee Nation Environmental Programs

Harold Langdon, Cherokee Nation Enterprises

Jack Crittenden, CN concerned citizen

John Parris, Cherokee Nation General Counsel

Betty J. Wilson, Cherokee Nation Environmental Programs

Pat Gwin, Cherokee Nation Natural Resources

Nancy John, Cherokee Nation Environmental Programs

Randy Gee, Cherokee Nation Environmental Programs

John Freise, Cherokee Nation Environmental Programs

Doug Bane, Cherokee Nation Landfill

Agenda Items

1. Commissioner Green called the meeting to order at 9:20 am on March 17, 2006.
2. Commissioner Green acknowledged for the minutes that the agenda had been posted at the CN Headquarters and emailed to the distribution list.
3. Commissioner Green made a motion to accept the minutes of the previous meeting and Commissioner Matlock Seconded the motion.

The vote to approve the minutes was unanimous.

4. Reports

A. Harold Landon, CNE, reported:

- Boydell of Tulsa has been selected as the fuel system contractor for the Roland Travel Plaza and he expressed appreciation for the assistance of the Cherokee Nation Environmental Program group. The decision was made to have a double wall fiberglass underground storage tank. AARK was selected as general contractor. Last part of August is expected completion date.
- On January 25, 2006, CNE contracted with Safety Clean to perform an assessment and to develop a plan for the proper removal and disposal of fertilizers and chemicals that were

stored for a number of years just south of the Sequoyah ball fields. The cleanup was completed on February 8, 2006, and again Cherokee Nation Environmental staff provided onsite assistance.

- Outpost One. An EPA inspection is upcoming April 24. The Cherokee Nation Environmental Group will also be present for the inspection. Three out of four of the underground storage tanks there have a lining done in 1996. The lining in the tanks must be internally inspected within ten years. Tank Tech will be performing the inspection and it should take 2 ½ days to complete. A six foot chain link fence will be installed around the area so the store will be able to remain operational.
- Completion of the Tahlequah Casino is now scheduled for the middle of September. The Sallisaw Casino is scheduled for opening on May the 26th. The Roland Casino remodel is completed but the work is continuing for the expansion of the facility to add food, beverage and retail operations which will be on the south side of that existing facility. The completion for the expansion is not expected to be completed until the end of the year. Live racing began at Will Rogers Downs on February 24 and a lot of work is still continuing.

- B. Environmental Programs: Nancy John submitted a written report that was placed into the record.
- C. Pat Gwin, Natural Resources reported they met with the Oklahoma Conservation Commission regarding a stream assessment required as part of the landfill permit. The logging project in Choctaw County was completed and about 200% of the initial estimate was made on the proceeds of the sale. Due to the continuing weather pattern it does not appear at this time that replants are going to be feasible this year. Dahlenegah Lake is going to require work – this is an NRCS facility that has reached the end of its fifty year life span and it will be re-engineered and revamped for another fifty years. All appropriate environmental requirements and compliances are being done by the NRCS and Cherokee Nation staff is being used for all the heavy equipment work. Also due to the weather pattern the extended fire duty continues, but due to reorganization in the Natural Resources Program Pat is no longer associated with that. The tribal lands lease process is underway. The resources management plan has now been put on fast track and the immediate plans for that are delineation and an initial zoning effort. This is a very important plan that will have very long range effects toward all future land use of tribes. Due to economics and general business trends within the timber industry, focus in the new forest management plan may be on cultural and recreational uses. Natural Resources and Cherokee Nation Enterprises met regarding a new, or continuation, Department of Energy Grant Wind Energy Feasibility study and CNE was provided with fee and trust statistics of the Chiloco area.

- D. Roads Programs: Michael Lynn submitted a written report that was placed into the record.
5. Legislation
- A. Environmental Protection Commission Rules Chapter 1 and Chapter 3
Ms. Hale explained that a meeting was held with CN Government Resources and General Counsel, where it was decided to place the uniform permit procedures and similar requirements in rules instead of legislation. Chapters 1 and 3 were amended to reflect that decision. CN still needs to get an APA in place to guide rulemaking, but we need to move forward with our codes and rules.
Commissioner Matlock made a motion that the rules be approved as presented and Commissioner Green seconded the motion. The vote to approve Chapter 1 and 3 was unanimous.
- B. The Hunting and Fishing Code will be put on the agenda for the next meeting or a later date for discussion.
- C. Transportation Bill Rider update and discussion
Jeannine Hale reported that EPA set up three meetings in Oklahoma to hear the concerns of tribes. There was a good turn out at the first two meetings. On March 21 there will be a meeting at Shawnee with EPA General Counsel Ann Klee. The Tribes would like to slow down the issuance of an interpretation of the Rider by EPA so they can meet with industry. A meeting with OIPA has been scheduled.
6. Cherokee Nation Landfill
- Report by Landfill Management: Doug Bane reported that the maximum tonnage for this reporting period is just over 900 ton. The significant drop is due to loss of a customer and tonnage is running 400-450 tons a day at the present time. A methane plan has been submitted to Environmental programs staff. A water monitoring plan will be submitted next week. A report has not yet been received on the bio assessment or invertebrate collection, which was done by Brooks Trammel in January on Jenkins Creek and some sites Pat Gwin helped select. The permit update package will be ready to submit next week. The landfill was successful in a bid submitted to the city of. That should go to the Fayetteville City Council on April 4. If approved by the council the contract will begin September 26. Cherokee Nation was the only company to bid. The annual cleanup date in Adair and Cherokee Counties is scheduled for Saturday, April 8. Free dumping will be provided for both cities of Stilwell, Tahlequah and individuals. 400-500 tons were taken in last year during the free dump.
 - Other Issues: Jack Crittenden, (PO Box 1511, Stilwell 74960) was present and the Commission allowed him to express some concerns. At one time

the leachate pond had a crevice dug in the bank and it ran into Jenkins Creek and his property is adjacent to that. He has been working thru Senator Coburn's office and with the EPA in Dallas, Texas. As of this date he hasn't received anything back from them but does want extensive testing done in the area. He would like to see action on any permit tabled until the testing is complete there.

- Jeannine noted she has spoken with Mr. Crittenden. Current issues are being logged in as complaints and will be investigated. It was recommended he submit his other issues/complaints in writing to Ms. Hale.
7. Gravel Mining by Delaware County Commissioners in Dry Creek streambed
This item will be placed on a later agenda. The County Commissioner has been very busy with the tornado cleanup and was unable to attend this meeting.
 8. Schedule for EPC meetings
Jeannine presented proposed schedule for future EPC meetings. Commissioner Matlock made a motion to approve the schedule presented and Commissioner Green seconded the motion. The vote to approve the schedule was unanimous.
 9. Complaint database and update on complaints received
Nancy John handed out copies of a complaint form and a sample of a report using the Complaint Database.
 10. Solid Waste Management Plan
Jeannine Hale handed out copies of the proposed CN Solid Waste Management Plan Phase I. Commissioner Green made a motion to approve the SWMP Phase I due to time limitations on the condition it be kept open for comment and placed on the next month's agenda.
 11. New Business
Announcement –Natural Resources Program will have its Arbor Day activities on the 31st.
 12. Miscellaneous Discussion
John Parris with the General Counsel Office introduced himself to the Commission and noted that he is working with Jeannine on developing the Administrative Procedures Act. He gave a brief overview of the Act and June is anticipated as the completion date.
 13. Meeting adjourned.

**Cherokee Nation Environmental Protection Commission
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
May 18, 2006 at 9:00 am**

MINUTES

Present for the Commission:

Ed Fite, Chairman
Marty Matlock, Commissioner
Mark Green, Commissioner

Staff and Guests:

Jeannine Hale, Acting Administrator
Michael Lynn, Cherokee Nation Roads Program
Randy Gee, Cherokee Nations Environmental Programs
Doug Bane, Cherokee Nation Landfill
Pat Gwin, Cherokee Nation Natural Resources
Harold Langdon, Cherokee Nation Enterprises
Dave Kendricks, Delaware County Commissioner District 3
Shaun West, Cherokee Nation Environmental Programs
Woody Wilson, Cherokee Nation Natural Resources
Cathy Monholland, Cherokee Nation Communications
Evelyn Ridenhour, Cherokee Nation Environmental Programs
Roger Graham, CN Communications
Chad Smith, Principal Chief, Cherokee Nation

Agenda Items:

1. Chairman Fite called the meeting to order at 9:00 am on May 18, 2006.
2. Chairman Fite acknowledged the meeting notice and distribution list and placed the Record of Public Notice into the official records.
3. Commissioner Matlock made a motion to approve the minutes of the previous meeting and Commissioner Green seconded the motion.
Roll Call: Chairman Fite: Yes
Commissioner Green: Yes
Commissioner Matlock: Yes
4. Reports
 - A. Harold Langdon, CNE. Mr. Langdon reported as follows:
 - A general contractor for the Roland Travel Plaza has been mobilized and they are making preparations for the opening on September 1, 2006.
 - An inspection is required 10 years after UST tanks are lined. Three of four Outpost 1 tanks were lined in 1996 making them due for inspection by August. All three passed ultrasound tests but CNE determined that the liner was not in satisfactory condition and installed a new one. Mr. Langdon acknowledged CNEP for their assistance.
 - CNE attended a LUST Seminar in Catoosa.
 - Completion of the Tahlequah Casino is targeted for September, 2006.
 - Sallisaw Casino is targeted to open June 10, 2006.

- Other on-going projects include the purchase of the Super 8 Motel in Catoosa and the Days Inn adjacent to the Roland Casino (both re named Cherokee Casino Inn).
- CNE reported on several expansion projects. Every project will have a storm water retention plan.

B. Environmental Services –A written report submitted earlier was placed into the record. Randy Gee reported that Wayne Isaacs, Brad Asbill and the Housing Authority will be conducting a meth lab assessment training in Stroud, OK, next week. The ITEC Annual Conference will be in Oklahoma City, June 20-21. There will be an EPA RTOC meeting June 6-7 at the Citizens Potawatomi Tribal complex in Stroud.

C. Natural Resources: Pat Gwin submitted a written report that was placed into the record. Mr. Gwin also reported:

- The volume in the landfill’s leachate pond is getting high. The Engineering firm assured Pat that the two waters are not hydrologically connected.
- Environmental issues are being addressed in the Strategic Land Plan.
- The softball field borrow pit has its final grade and will be seeded this week.
- He attended a DOI Self Governance Annual Conference. There is a chance we will only have to ask DOI for final project approval if new legislation is enacted. This would shorten projects by 6 months to one year.

D. Roads activities: Michael Lynn reported there are 3 roads currently under construction: Maxwell Road in Adair county, Red Barn Road in Cherokee County, and the Bunch Henderson in Adair/Sequoyah County in the Marble City area. The status of other projects was updated:

- Saline Creek Bridge project has a contractor identified but no contract yet.
- Fairview Eucha Road will be the next project. It is in the utility relocation phase. After a waterline is moved, we will advertise for bids.
- Dry Creek Road in Delaware County is in the Right-of-Way Acquisition Phase.
- Honey Hill Project in Adair County is in the condemnation phase.
- Cedar Crest Bridge in Mayes County- environmental reviews have been received and it has been published in the Tahlequah Daily Press. Need archeological work and might need to re-route the road.

5. Integrated Resource Management Plan – Pat Gwin provided a document outlining the proposed land classification system. There will be a comprehensive delineation and zoning of tribal property. For the first 3 years, the focus will be to get a GIS database developed. Candy Mink, Rocky Ford and Chilocco areas have already been zoned and Kenwood is underway. The EPC agreed this was an important project and requested that they be involved. Mr. Gwin agreed to keep the EPC informed. Jerrid Diffie will be assisting Pat in this project.

6. Legislation: Tribal Water Quality Standards(TWQS)

- Jeannine provided a document entitled “Preliminary List of Differences between model TWQS and Oklahoma WQS”. About 28-29 tribes have been working together to develop model TWQS. For Appendix I Waters (streams with cultural, traditional, ceremonial, religious or other special uses), each tribe has to come up with a list of stream segments that tribe wants to protect. There is a provision in the model standards to require that tribal

water quality standards be implemented to protect surface water that recharges groundwater and to protect groundwater that recharges surface water.

- There was a meeting with OIPA that included Cherokee Nation, Osage Nation, Creek Nation and Pawnee Nation.
- There is a meeting with the State Secretary of Environment and others on June 26th to discuss water quality standards issues.

B. Updates: Jeannine reported that one major code has not been submitted to the EPC for approval- the Tribal Environmental Policy Act (TEPA). It looks the existing CN Environmental Code's language can be revised slightly for the TEPA. John Parrish has a draft of the APA ready to submit to Council. Chairman Fite tabled discussion of the Wildlife code to the next meeting or whenever there are new developments to report.

7. Cherokee Nation Landfill:

A. Mr. Bane submitted a written report that was placed into the record. He has been working with CNEP on a problem with the leachate pond and they will need to work on a plan for alternate leachate management. He met with Jeannine and Shaun and went over the compliance schedule. Ms. Hale reported she has received lab results from the storm water and leachate samples. Shaun West has been working to make sure all documentation on the compliance schedule has been taken care of.

Mr. Jack Crittenden presented pictures and complaints. Ms. Hale said there needs to be samples taken of storm water runoff from the landfill to Mr. Crittenden's property and also some springs need to be sampled. Chairman Fite said the EPC is dedicated to take care of Landfill issues so the landfill can provide a safe and reasonable place for the Cherokee people to dispose of waste. Jeannine stated an application to modify ("update") the landfill permit has been submitted. She thinks it is appropriate to have a public meeting to get comments on the proposal, once it has been reviewed by the Engineers CNEP has hired. Commissioner Matlock preferred to have the public meeting before action by the EPC on the application, in order to develop understanding in the community. Chairman Fite agreed. After a 5 minute break at Doug Bane's request, Mr. Bane asked that item 7C (liner variance) be tabled. Chairman Fite tabled agenda item 7B.

8. Dry Creek Restoration: Delaware County Commissioner Kendrick reported that the county commissioners have used about one mile of Dry Creek in the past 3 years for gravel. They had wanted to obtain gravel again and met with CNEP staff to discuss. It was suggested that a streambed restoration project might yield excess gravel that could be used by the County Commissioners. Commissioner Kendrick reported that he met with NRCS and walked out the streambed. The engineers recommended to fence off the stream beds and plant trees and that no more gravel be taken from this area. Moving the stream bed we would require permits and a lengthy process. They decided to wait to see if the stream might recover with minimal intervention in about 5 years. Chairman Fite said the state and USDA will partner on a Conservation Reserve Enhancement Program in two areas, Eucha/Spavinaw and the Illinois River. The program is targeted for October 1, 2006, and USDA will provide some money for projects. This area may qualify. County Commissioner Kendrick stated they still need a place to get gravel for road construction. Suggestions included Flint creek and possible Housing Authority land. Pat Gwin reported he has applied for a 48K grant that could be used for tree replanting and fencing projects. If awarded, the funding will be available October 1.

9. Complaints/Inquiries Report: Randy reported a written report was submitted for the record.

10. Solid Waste Management Plan: Randy reported the Commission had approved the Solid Waste Management Plan in March and it has not been changed since. CNEP is waiting to receive a new national template from EPA to evaluate whether all required elements have been included in the SWMP. EPA is working on a central reporting system. Jeannine mentioned one of the Nation's strategic goals is to work more with Cherokee communities. The Principal Chief has also mentioned using preventive measures opposed to spending dollars trying to fix things. The Commission pointed out a need for the Nation to get information about good work the Nation is doing, such as work for the environment, out to the public. The Commission suggested that CNEP pursue working with the Marshall Service on environmental code requirements and violations.
11. New Business: There was no new business
12. Miscellaneous discussion: none
13. Meeting adjourned: The meeting was adjourned at 11:30 a.m.

Cherokee Nation Environmental Protection Commission
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
June 15, 2006 9:00 am

MINUTES

Present for the Commission:

Ed Fite, Chairman
Marty Matlock, Commissioner
Mark Green, Commissioner

Staff and Guests:

Jeannine Hale, Administrator
Michael Lynn, Cherokee Nation Roads Program
Randy Gee, Cherokee Nations Environmental Programs
Doug Bane, Cherokee Nation Landfill
Pat Gwin, Cherokee Nation Natural Resources
Harold Langdon, Cherokee Nation Enterprises
John Freise, Cherokee Nation Environmental Programs
Shaun West, Cherokee Nation Environmental Programs
John Parrish, General Counsel
Bobby Short, Cherokee Nation Environmental Programs
Clint Carroll, Cherokee Nation Environmental Programs
Evelyn Ridenhour, Cherokee Nation Environmental Programs

Agenda Items:

1. Chairman Fite called the meeting to order at approximately 9:00 am on June 15, 2006.
2. Chairman Fite acknowledged the meeting notice and distribution list and placed the Record of Public Notice into the official records.
3. Commissioner Matlock made a motion to approve the minutes of the previous meeting and Commissioner Green seconded the motion.

Roll Call:

Chairman Fite: Yes
Commissioner Green: Yes
Commissioner Matlock: Yes

4. Reports

A. Harold Langdon, CNE reported:

- Roland Casino is on schedule, the underground storage tanks will be delivered in about one week. The Environmental Programs staff will be invited to participate in the installation. Roger Graham of

communications will be invited to film any part of the project he would like.

- Sallisaw is on schedule and targeted to open June 21, 2006.
- Tahlequah Casino is still under construction and on schedule for opening September 1, 2006.
- Other projects are in the design stage or are being redesigned.

B. Environmental Programs – Nancy John submitted a written report that was placed into the records.

C. Natural Resources: Pat Gwin submitted a written report that was placed into the record. Pat mentioned that he received a request from the BIA for an official of the CNEP contact them about starting dialogue on water rights initiatives. The BIA has jurisdiction over the Nation because they are our funding agent.

D. Roads activities: Michael reported construction on Saline Creek Bridge began on June 5, 2006. Red Barn Road, Maxwell Mountain and Bunch Henderson are still under construction. Cedar Crest Bridge environmental review has been prepared and signed by the BIA; no written comments have been received, and have been published. In the process of scheduling an America Beetle survey with a consultant for University of Oklahoma.

5. Legislation: John Parrish commented on the APA draft that was submitted in packet. He reported there will be minor changes to draft. It should be filed today with the Rules Committee. The motion to approve the APA was made by Chairman Fite and second by Commissioner Matlock. Commissioner Green was not present. Chairman Fite tables the Hunting and Fishing codes until next meeting.

6. Cherokee Nation Landfill:

A. Reports- Doug reported he submitted a written report to be placed in the records. He reported on the Compliance Schedule activities there have been no change on some items and some have been completed. There was a change to item #7 which has been pending and not complete at this time. He had a discussion with Mike Smolen of Oklahoma State and also with a lady with Painter & Associations in Oklahoma City and they have made a proposal to complete this annalices. This proposal has been forward to Jeannine for review and comments. We hope are close to resolution on this. The east slope was reseeded after the rains plus the area that wasn't seeded to the beginning. We are still working on outstanding issue Jeannine has brought to our attention. One of the items is the water that is ponded on the tie-end cell. Doug reported it had been pumped down and last week we got about two inches of rain and it filled back up again.

B. Cherokee Nation Environmental Programs and Natural Resources: Jeannine reported that John Freise and Shaun West with the environmental programs are now working on the landfill project. There were about a 30 minute slides presentation of the visits to the landfill by Shaun, John and Pat. They were slides

of the working phase which was large at the time pictures were taken; however, on the next visit it had been corrected. Slides showed lots of blown litter which has to be picked up by hand. There were slides of the leachate pond. Slides of sandbags were shown because they were used for the purpose of keeping anything from breaching until the pumping operations began. Jeannine said we need to get a plan in place before we had situations again. Doug said it has proposed in the permit updated to convert the tanks and ultimately do away with the pond and go to the tank system. To shut off the inflow of the pond, convert to tanks and the leachate management recirculation and possibly irrigate on line cells. The original terracon sub-title D design was to be an evaporation basin and it will not evaporate enough water. Commissioner Matlock asked the design capacity of the evaporation pond in which there was no answer. He concluded it has been grossly under design for leachate exclusively and obviously with inadequate storm water collection capacity. Chairman Fite asked if there have been any regress with Terracon? No. There was a slide showing a French drain from under the trash on the transitional area the designer put in as part of the tie-end cell. The purpose is to relief any leachate that might accumulate under the liner in the trash. Doug said when the leachate pond is gone the toe of dike on the east side of the cell comes out into where the existing pond is. At that point is shaped and will be grassed. There was a slide showing a stream that has popped up on side of the cell and has currently been tested and results received by Pat, in which he handed out a copy of the results. The stream appears to be a French drain that A&M put under cell 3 and it is draining into the storm water pond. There was a slide showing a tie-end cell with ponded water. Doug said the problem it is at the lowest point of the leachate collection pipe and overhead water and everything drains here. It doesn't pump down fast because it is being recirculated and it is not pumped back over the dike to the storm water pond. Once trash is place on this then it can be shaped to remove the storm water just like any cell. But until then there is no place for the water to go. Pat mentioned that the Sub-Title "D" regulations mandate you can't have more that 12 inch head of piped liner and the thickness of the liner is 60 ml. Doug stated we would have to get A&M to come out and look at it and give us a letter to stating the liner was not adversely impact. There were discussions concerning the options when we run out of room and the only one offered is to truck it to Stilwell. Pat is in the process of redoing the inspection sheet to be more accurate and update. Pat has a concern of trash being put in top cell 1 which is the unlined portion of the landfill. In 1994 when the regulations were first propagated it was permissible to place trash upon recompacted clay liners. This situation needs to be looked at. Jeannine commented that it is not unheard of for a landfill to do a vertical expansion on an old unlined cell if it was previously permitted and so once again we have an odd situation where we didn't have a permit. She is still doing researching on the regulations and is not for certain exactly how plays out. Her main concern at this point is that it is not allowed on under the permit, which specifically did not allow them to put trash in cell 1 or cell 2. It stated, "No new waste disposal shall occur in cell number 1 or cell number 2 as indicated in the attachment without prior written approval by the EPC. Application to dispose of waste in cell1 & 2 shall

require permit and modification and shall include engineering designs plans prepared by a qualified licenses engineer”. So any trash being placed on cells 1 & 2 is in violation of the permit. There has been no “Notice of Violation” issued at the present time but will accept guidance and a consent agreement from the commission on handling this situation. Doug said he made the call without referring to the permit to place the trash on cell 2. The entire top of Cell 2 drains towards the tie-end cell and we were getting tons of headwater when it did rain. Our goal was to reshaping the top of the cell and use trash to reshape it to get it draining other directions, plus give us space while trying to get the water pumped off and something done about the tie-end cell.

There has been significant amount of work on done to the water monitoring network. He has plotted all of the groundwater monitoring well locations, methane monitoring probes and the passive ? monitoring vats and will be getting this information to Doug. Doug stated he has had several groundwater monitoring wells and gas monitoring locations including around cell 1. Pat is rewriting ? and when finished he will give the Shaun and John to edit. Commissioner Green commented that since a violation has been committed the commission needs to document someway by writing a letter, but can’t ignore the fact.

Commissioner Matlock agreed, however, he stated the landfill manager’s decision could be justified because there was a greater risk having not made that decision. The forcing function behind all these problems is inadequate hydrologic management of the site, inadequate design, inadequate infrastructure, and inadequate management of water at the site. Until these issues are rectified these problems will cascade, so a rectification has got to be done. That is an actionable point. Based on an e-mail from Ms. Hale regarding the owner /operator, seems to there is a bit of reluctance to accept responsibility at that level. He feels that reluctance should be address with absolute clarity that there is absolute responsibility, liability and accountability for these failings.

Pat reported Clean Water issue is the storm water runoff and it is on the compliance schedule to redo the SWP-3. The other is the Clean Air Act issue and it also is in the compliance schedule to check the maximum design capacity. Doug said an updated SWPPP and the Clean Air Act Gas Management Plan is part of the permit update that has been submitted. Chairman Fite stated it behooves us as a Nation to start from step one and go back and remediate. Pat said that is not practical at this time, it will require major deconstruction and reconstruction to remove the trash that are on the cells. Chairman Fite asked what are the future ratifications by not doing that? Pat said that was someone higher than him to make that call. Chairman Fite said we need to get on a train to where we can see progress being made to what we can be operating on a solution to our crisis. The commission has a responsibility to protect Cherokee Nation and its people and if the landfill is not meeting the environmental criteria then he is not interested in making money for the tribe until the landfill is sound.

Jeannine said the waste on the liner was addressed by the commission and what was presented to them was permeability information that indicated that even though there was no liner, the soil underneath the trash was permeability that it

was comparable to a liner. Pat stated in actuality according to regulations you don't have to have a liner. You just have to meet a certain design criteria, but due to the limbo status the Indian nations are required to install a liner. The commissioners agreed that the Cherokee Nation needs to be beyond reproach in the landfill situation, if not they don't want to be part of it. Commissioner Matlock said the liabilities far outweigh any benefits in the event of catastrophic failure of cells. Chairman Fite said we have to do everything we can to protect Lee Creek because it is a state scenic river, is on Cherokee Nation and is a public water supply for Arkansas in order to prevent a lawsuit. Doug stated total retention plan is included in the update permit. This will give an operating plan to start building for total retention and that hopefully will settle a lot of the issues. Chairman Fite said the image of the CNSL is not good at this time and we need to get a handle on the small things. Commissioner Matlock commented on the hydrology issue. Chairman Fite asked if the Cherokee Nation has done anything outside of what was original recommended to us that would compromise the design of the landfill? Doug reported the original design was a Sub-Title D and there were total segregation of cell 2 and sub-title D cells. Since that time the regulations have been changed/interpreted to allow the tie-end. Commissioner Matlock asked if we modify our operations without an unmodified design? Doug said the design was modified through construction design with A&M Engineering. According to Commissioner Matlock, the liabilities shifted then to A&M. Any modifications should be stamped by a certified PE and they should have made sure they had explicit operational criteria. As long as the landfill is operating within the criteria of the design it should be serviceable. If that design is not functioning then the engineer improperly designed it or we are working outside the boundaries of it. Either way there is a reconciliation. There's a way to correct, either we operate within the design or we redesign. If the design was incorrect to begin with, that needs to be rectified immediately. We need to determine which of those two conditions exist. What the EPC concerns are is that someday someone will look at the operations of the landfill and then file a lawsuit against the Cherokee Nation.

C. Application for Liner Variance:

1. Presentation of Application - Doug Bang reported an application for Variance toward the liner, all required testing have been completed and Shaun has got the final result last week. As opposed to the 2 feet of clay, with the 60 ml, HDPE liner, we are requesting to go with 1 foot of compacted clay with a benonite mat liner, which is equivalent to an additional foot of clay then the 60 mi on top of that. This has been designed by A&M Engineering. The reason for design is the slope is steep and there is not a real practical way to address it, and this kind of liner system will work the steeper slope. Once trash is placed on the liner this will, to a certain degree, dealivate some of the overhead water problems on the tie-end. Pat said as long as we have a PE approval on the modification he has no problem with it. Jeannine commented that originally when Doug had submitted something it was for the variance on the slope, and that's what the engineers prepared. But the regulations that

we are charged with enforcing to deal with a design for the liner, and her understanding is the engineers doesn't have anything to do with that. That is why this information was submitted to direct that regulation. The engineers has not put their stamp on this modification. It is not known if the original permitting for the liner has been approved by the engineers. Doug reported there are no drawn design because of cost factors. Once approved this will give LF something to work with. Commissioner Matlock motioned to act on approving requested variance with contingent upon PE certifications.

2. Recommendation: Jeannine reported she is fully in support of the memo that was submitted for the records. She is disappointed with the engineers because the package wasn't put together appropriately. She is comfortable with the groundwater contamination with Shaun's recommendation.
3. Discussion by Commission and Opportunity for Comments: None
4. Vote the approve or disapprove application for variance: Chairman Fite made the motion to approve the application for variance subject to certification by PE, seconded by Commissioner Matlock. The vote to approve the motion was unanimous.

D. Request to Allow Fayetteville Sludge under Interim Permit:

1. Presentation of Request - Doug reported he did not want to bring this proposal forward at this time. The city of Fayetteville has been given notice Porter Landfill will no longer be able to accept their sludge due to the lack of volume of trash to co-dispose the sludge with. OMI the operators of the city of Fayetteville, AR sewage treatment facility contacted us to bring their sludge to our facility. The proposed volume is of sludge is 80 tons per day Monday through Friday and 60 tons on Saturday for a total of 460 tons per week. We don't have the conclusive on this, will be looking at other options.
2. Recommendations: - Jeannine Hale commented on the proposal stated the sludge will be placed on an area with a synthetic liner system. This is pertaining to cell 3 and there are issues right now with water ponding in that area. The liner variance will have to be granted and the cell completely lined, the leachate situation needs to be addresses. The current interim permit does not allow any additional sludge without EPC approval. Since we do not have any regulations we do not know if this is a minor or major modification of the permit. If it were a major modification there needs to be some kind of public meeting and public notice giving them an opportunity to comment. From EPC prespective it is advisable to allow public pact input. Because we already have the permit application before us to modify the permit, it will be confusion to go to the public and say we want to modify the permit to bring sludge in and then in the next month have another public meeting any say, "we want to modify the permit to do all these other things". Our recommendation is best to have one permit modification and one public meeting that would address all the issues. We can not say storm water is not under control. We have operational issues and a recent issue with Arkansas investigation

into the hazardous waste transportation by roll off. We had a conference call in they gave us some waste manifest and basically there is lack of evidence as to what is being transferred to the landfill. But the manifest stated it was municipal waste however it wasn't completely filled out and didn't say what the source of it was. Yet that was accepted into the landfill. That would have been an industrial waste to have a big load of cans coming in and under our permit it stated no new industrial waste, all we can take is construction waste. This is a concern as to whether the waste screening processes are adequate and if they bringing in sludge those need to be in place, in fact they need to be amended to permit sampling and that sort of thing taking place. There were no lab analyses that indicated the level of bacteria. John did find documentation that stated there is a limit on acceptable levels of bacteria even in class B sludge and we don't know if it meets the criteria. Previously there had been concerns presented to commissioner by the CDC about workers precautions, making sure they were trained to handle sludge properly. Our final concern is the high liquid content. Some questions have been raised but it did pass the tank filter test. Chairman Fite said 80 tons a day will amount to 4 truck loads. We will be safe in assuming it will be about 75% water which amounts to about 16 thousand gallons a day. Commissioner Green commented if we can't handle the water how are we going to take on any more? Jeannine is check with Mayor Putty of Fayetteville to find out if they had crisis and he was not aware of one. He will check to see if they changed haulers but we haven't heard from him. Jeannine recommended not to approve the request at this time.

_____ made a motion, to not accept the proposal of the Wastewater Treatment Sludge for the City of Fayetteville. It was seconded by Commissioner Green. The vote to denied the motion was unanimous. It was clarified their rational is the concern of the water. Chairman Fite stated that once the storm water runoff and the leachate issues have been address then it can be brought back to the commission and it is likely it will be approved at that time. Both commissioners concurred. OMI requested to deliver one load to see how the route went and if the truck will be able to get to the landfill without any trouble. This request dies for lack of second.

7. Complaints/Inquire Report: Randy reported a written report was submitted for the records
8. New Business: None
9. Miscellaneous discussion - none
10. Meeting adjourned – Meeting was adjourned at 11:25 am

MINUTES OF THE CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION (EPC) MEETING HELD THURSDAY, 09/07/06 AT 9:00 AM IN THE CHEROKEE NATION ENVIRONMENTAL PROGRAMS (CNEP) CONFERENCE ROOM ON ALLEN ROAD

ATTENDANCE: Jan Butcher, Greg Butcher, Brad Cooper, Annette Stinnett, Administrator Jeannine Hale, Harold Langdon, Pat Gwin, Angela Drewes, John Freise, Tabatha Revas, Nancy John, Ryan Callison, Mark Dunham, Doug Bane, Shaun West, Commissioner Marty Matlock, Commissioner Mark Green, and Commissioner Ed Fite

Commissioner Fite welcomed meeting attendees and introduced EPC commissioners. Reading of the previous meeting minutes was omitted.

REPORTS:

Cherokee Nation Enterprises (CNE) / Harold Langdon – Mr. Langdon provided a report on CNE. Highlights of the report included:

- An update on the completion of the Roland Travel Plaza. Utilities need to be relocated at the plaza; however, the grand opening is expected to be in late December. Handouts were provided to the commissioners on the project.
- An update at the Cherokee Casino Resort in Catoosa. CNE purchased the Mayberry's Truck Stop and Speedy's Truck Stop in Catoosa; currently there are no plans to operate the facilities. The previous owners of the properties have assumed environmental liability with regards to the underground storage tanks at the properties. A five-story parking garage will be built on the West side of the Casino in Catoosa and will be operational in June 2007.
- Phase II of Cherokee Casino Tahlequah is operational
- CNE is planning for the future with expansion projects at the West Siloam Springs Casino
- Mr. Langdon commented on the excellent relationship between CNE and CNEP

Cherokee Nation Environmental Programs (CNEP) / Nancy John – Ms. John provided a report on CNEP. Highlights of the report included:

- CNEP has increased the size of its staff to 34 members
- The Environmental Protection Agency (EPA) Office of Inspector General came for a meeting to review Cherokee Nation major accomplishments involving the EPA and/or the Department of the Interior. Pat Gwin and Harley Buzzard were also at this meeting. Commissioner Matlock inquired about the motivation for this visit. Ms. John stated the EPA wanted to focus on success stories of tribes and this was a positive experience for us.
- CNEP is completing ongoing grants and apply for new funding
- The Environmental Complaints (EC) report was provided in the Commissioners' packet. Commissioner Green inquired about an Indian Child Welfare (ICW) issue in the EC report about open dumping near a home. Administrator Hale replied that they (Cherokee Nation Human Services)

withdrew their complaint. The open dumping occurred near the home, but the home was not located on trust or restricted land. The problem was resolved by Cherokee Nation Human Services. Jan Butcher of Kenwood Rural Water District (RWD) inquired about the complaint reported on Saline Creek. Administrator Hale replied the United Keetoowah Band of Cherokees (UKB) conducted sampling in Saline Creek and reported high bacteria levels. CNEP investigated the issue and didn't see any evidence of a spill and provided CNEP data to the UKB and have been working with them. The story did hit the news media; however, it was the opinion of Administrator Hale that the problem associated with Saline Creek is the same problem that affects all of our creeks/streams.

Kenwood Issues and Projects / Jeannine Hale - Administrator Hale gave a PowerPoint presentation on the Kenwood Watershed Control Program. Administrator Hale said one of the main problems with the drinking water at Kenwood is the flow of Saline Creek into the wells. The State of Oklahoma has tried to get Cherokee Nation to pay for permits for the use of the wells but since they are on about 25,000 acres of trust land, the state has no jurisdiction. Cherokee Nation has worked on economic development and smart growth but we need to take a stand on water rights. The upgrades necessary for the water treatment plant are approximately \$165K and the upgrades necessary for the wastewater treatment upgrades are approximately \$40K. There are financial issues like the rate structure of Kenwood RWD and the financial audit issue that still need to be addressed. Under the Cherokee Nation Environmental Code, there needs to be a permit to operate this water system.

Commissioner Matlock asked if this water system served tribal members. Michael Stephens from Cherokee Nation Water and Sanitation stated it serves approximately 150 families with approximately 90% of those family members being Native American. Administrator Hale stated that Cherokee Nation was not sure who is applying for funding for the water system but Cherokee Nation may have some money to contribute. Cherokee Nation needs to evaluate those lagoons because of the liners. Cherokee Nation needs to evaluate who has the authority and who is going to do what at the Kenwood water system. Mr. Stephens also mentioned the lift station has to be manually turned on for the lagoons.

Commissioner Matlock inquired about the consideration that the EPC would operate both the Kenwood drinking water and wastewater systems. Administrator Hale stated the Cherokee Nation will have to play a role and we need to consult with the Kenwood RWD as well. This situation gives us a reason to get out there and evaluate the problems and has the potential to assert our sovereignty concerning water rights. That is why we need this Watershed Control Program to stay in compliance. Commissioner Matlock asked if the septic systems had been inventoried. Administrator Hale replied that CNEP is in process of making a written request to all the state agencies to get all the copies of the permits that have been issued. CNEP will have the most problems with the off-site contamination sources. Greg Butcher of Kenwood RWD stated that the Kenwood

community as a whole, not just the water and waste water components, eventually could become a model for small, rural communities for not only the state but for the country.

Cherokee Nation Natural Resources Department / Pat Gwin – Mr. Gwin provided a report on Natural Resources. Highlights of the report included:

- Natural Resources and CNEP met with CNE and were assisting them with their wind farm environmental assessments
- Natural Resources conducted an Environmental Assessment including a beetle study for the Rocky Mt. School
- The Integrated Resources Management Plan is still a work in progress
- Current environmental policies may be affected by the self-governance legislation that may be passed
- The hog farm in Adair County needs the concrete buried on site. There are about 500 cubic yards of concrete that we would like to put top soil over the top of; the county does not need the concrete and it would be too hard to move. Commissioner Fite asked if a permit was needed; Administrator Hale replied no because it didn't sound like a pollution problem. Commissioner Fite recommended placing this item on the next agenda.

Cherokee Nation Community Services Dept.-Roads Program / Michael Lynn – Mr. Lynn provided a report on the Roads Program. Highlights of the report included:

- In Mayes County on the Cedar Crest Road and Bridge Project, the Engineer is re-designing the road to miss the wetlands. The environmental work on the bridge is 100% complete. There have been no beetles detected.
- On the Daytown-Dry Creek Road Project in Delaware County the utilities are in process of being relocated
- Also in Delaware County on the Twin Oaks-Bull Hollow Road Project, we are looking into some design issues
- On the Fairview-Eucha Road Project, it is being advertised and going out for bids
- On the NE Ft. Gibson Road in Cherokee County, the preliminary design work is being done

Landfill / Doug Bane – Mr. Bane stated that he was working to schedule a meeting with Aqua-Terra, the CNEP review engineering firm, to get some issues settled. Administrator Hale stated that Callie Catcher, the CEO of CN Business, has talked about moving the landfill under CNB because of it being a profit-making business.

Landfill / Shaun West: Mr. West said CNEP conducts landfill inspections every quarter and the landfill still has some permit issues. Cell B probably does need to be covered. The methane monitoring wells exceeded their limits in July. The landfill personnel notified us and a plan of action needs to be done. We have good communications so far and we're looking forward to meeting with Doug, Aqua-Terra, and others around September 19th to come to a consensus on these issues. Mr. Bane stated that landfill personnel were filling a low area with dirt but were concerned about trash floating in

water. Administrator Hale mentioned that Callie Catcher wants to come to the October meeting to discuss time frames and public participation regarding the landfill.

Commissioner Green inquired about the status on the limited access issue with the landfill neighbor. Angela Drewes from Cherokee Nation Natural Resources replied that the neighbor wants to sell this property and the involved parties were meeting next week to discuss the property price. The owner is asking approximately \$2,500 per acre. Mr. Bane encouraged the acquisition and noted the neighbor would lose landfill access to his property on October 6th. Commissioner Matlock stressed the need to settle this issue quickly and amicably. Commissioner Fite asked if an appraisal of the property had been done; Mr. Gwin replied no.

Commissioner Matlock asked about the hydrological capacity of the landfill leachate pond. Mr. West replied that there was very little free board space left in the leachate pond. Commissioner Matlock asked if the leachate pond was designed for a 10-year or 25-year event. Administrator Hale answered that the CNEP landfill review engineers had not renewed a contract yet. Commissioner Matlock requested to see the hydrological analysis of the landfill leachate pond by the next meeting. Commissioner Fite concluded by stating that CNEP provide information to Commissioner Matlock regardless of the status of the CNEP landfill review engineering contract.

CNEP Air Quality Monitoring / Ryan Callison – Mr. Callison gave a Power Point presentation concerning Cherokee Nation air monitoring sites. CNEP is involved locally, regionally, and nationally in air quality monitoring. EPA approached CNEP about eleven years ago and established a program for CNEP to take a look at sources of air pollution not only for Cherokee Nation but for participating tribes with ITEC. Some tribes have lost funding and have quit monitoring air quality. CNEP travels every eleven days to New Mexico for air sampling. CNEP has established sites at Tahlequah, Stilwell, Pryor, Newkirk, and Marble City. The Marble City site has been operational for six months and has an independent auditor that reviews our data for quality. CNEP also helps the Quapaw Nation monitor at Tar Creek at the Superfund site. Commissioner Matlock was very impressed with the presentation and stated this is how we should be conducting our water quality programs.

Commissioner Fite reminded meeting attendees that the Illinois River Clean-Up Day was the next day. Commissioner Matlock requested a meeting with the Cherokee Nation Administration later in September. Commissioner Fite concurred with the meeting request. Administrator Hale stated that the OK Water Conference 2006 is the same day as the EPC Meeting in October. Commissioner Matlock stated that he will be in New Mexico in November so this meeting date will need to be changed.

ADJOURN

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
November 16, 2006 at 9:20 am

PRESENT:

Commissioners: Ed Fite, Mark Green and Marty Matlock

STAFF AND GUESTS:

Sheila Sevenstar-Horn, CN Environmental Programs

Amber Armstrong, CN Environmental Programs

John Freise, CN Environmental Programs

Shaun West, CN Environmental Programs

Ashley Wagnon, CN Environmental Programs

Mark Dunham, CN Environmental Programs

Doug Bane, CN Landfill

Tabbatha Revas, CN Environmental Programs

Angela Drewes, CN Natural Resources

Nancy John, CN Environmental Programs

1. Chairman Fite called the meeting to order at 9:25 am.
2. Chairman Fite acknowledged and placed into the record the Record of Notice and meeting agenda.
3. Commissioner Green made a motion to approve the minutes from the September 7, 2006 meeting. Commissioner Matlock seconded the motion. The vote to approve the minutes was unanimous.
4. Reports
 - A. Cherokee Nation Enterprises - Harold Langdon provided his report for review and was unable to stay due to a meeting scheduled in Roland. He requested that any questions be addressed to him at the next meeting.
 - B. Environmental Programs
 1. Monthly Report

Nancy John introduced Ashley Wagnon as newly hired Environmental Specialist I. She reported that Jeannine Hale was awarded the Jan Stevens award at the EPA Region 6 Tribal Summit held in Albuquerque, NM. Environmental Programs will also be recognized by EPA in December at a ceremony in Washington, DC for effort on the Information Exchange projects.

Chairman Fite inquired if the State had raised any concerns regarding water quality standards. Nancy reported that the last meeting with the state resulted with a plan for Tribes and the state to meet again and review the technical aspects of the draft model. EPA had provided comments that were considered minor with a focus on formatting. Chairman Fite recommended that a copy be provided to Arkansas – ADEQ.

Commissioner Matlock inquired of the status of the Dewar Welding/Radiator Shop listed on the Pre-Cerclis summary of the report. Nancy reported that this is the first step in the Superfund process and regarded as an initial screening assessment.

Commissioner Green inquired of the locations of the monthly water samples collected in the Sallisaw area. Staff identified sampling locations and explained that all attempts were made to sample at the same locations each month.

2. Complaints/Inquiry Report

No questions or comments on the report.

C. Natural Resources – Angela Drewes reported that Natural Resources was working with the Child Development Center to extend the Konrad Holmes Walking Trail up to the CDC for a Nature Trail for the children. CNNR hosted the IRMP Conference and had 80 people from 39 tribes participating. The first draft of the IRMP is scheduled to be completed by the end of '07 including time for public comments and meetings.

D. Roads Program – Michael Lynn was unable to attend the meeting but submitted his report for review.

5. Cherokee Nation Landfill

A. Report by Landfill Management – Doug Bane reported there is an additional capacity for 1,100 to 1,200 tons per day. 184 tons of special waste includes sludge from Siloam Springs, waste Styrofoam, and dead animals from the sale barns.

B. Report by Natural Resources - Angela Drewes reported that Pat Gwin sent out reports November 6th and any questions can be directed to Mr. Gwin at the next meeting.

C. Report by CNEP Staff

1. John Freise and Shaun West reported that there are some compliance issues pending. The two big issues are pollutant loading and Jenkins Creek. They need to complete these before any more permitting

actions can take place. We also want to make sure that there are no more new impoundments for storm water.

2. Doug Bane reported there is a cell for storm water for the west side of the property. This cell divides the East and West side. Shaun West stated that the recommendation would be to re-direct that storm water drainage to an existing storm water pond because it has potential to drain into someone's pond. Doug Bane stated that storm water has never drained into that pond. The storm water evaporates and percs out. This storm water has no contact with the trash. This has been there for 10 years and was there when the first permits were issued but it's dry for most of the time.

Shaun West stated this second impoundment is not permitted. This should meet federal guidelines and a Notice of Violation should be enforced. Angela Drewes stated that she corresponded to Pat Gwin by e-mail and asked if the pond has always been there and his response was no it has not always been there and it cannot be re-routed to the East.

3. Commissioner Matlock stated that there's no debate that the pond needs to be there and there's no debate that the pond needs to be permitted. Right now we're operating out of the boundaries of regulations and the law and that's not an acceptable and it puts the Cherokee Nation into a position of liability and it's our job to prevent that.

Chairman Fite stated that a Notice of Violations has been prepared and the first one is failure to provide a pollutant load study. Doug is working with the staff of OSU and that work is still pending. The second is failure to submit to the EPC a complete application for closure of outfalls. The third is failure to submit a study on Jenkins Creek and tributaries. The fourth is failure to provide adequate cover which has been achieved according to Doug's memo of this morning and lastly failure to have a permit for an impoundment pond. The landfill has posed a number of questions for a number of years and our job is to protect the Cherokee Nation and to protect the environment. I think a good starting place is to consider action on these proposed Notices of Violation.

Commissioner Green – The problem I see with these compliance issues is that we never see anything completed. These incomplete projects look bad on the Cherokee Nation and reflect poorly on this Commission and it looks like we're not doing our jobs. At any rate, I agree we should issue these Notices of Violations, omitting #4, because it has been addressed.

4. Motion made by Commissioner Matlock and seconded by Commissioner Green to issue the Cherokee Nation Environmental Protection Commission Notice of Violations (NOV-01-06). The motion was approved by unanimous vote.

6. Rules

- A. Rules Development – Jeannine Hale will summarize the status of the rules development at the next meeting.
- B. Rules for Non-Industrial Surface Impoundments
 1. Summary of proposed content provided.
 2. Opportunity for comments provided.
 3. Motion made by Commissioner Matlock and seconded by Commissioner Greene to approve the rules for Non-Industrial Surface Impoundments. Motion passed by unanimous vote.
- C. Rules for Public Water Supplies
 1. Rules for Public Water Supplies have been drafted and provided for comments.
 2. Commissioners will consider for approval at the next meeting.

7. New Business

None

8. Miscellaneous Discussion

The next EPC meeting will be scheduled for Thursday, December 14, 2006 at 9:30 am.

9. Adjournment

Meeting adjourned at 10:25 am.

CHEROKEE NATION ENVIRONMENTAL PROTECTION COMMISSION
Cherokee Nation Environmental Protection Office
206 E. Allen Road, Tahlequah, OK
December 14, 2006

PRESENT:

Commissioners: Ed Fite, Mark Green, and Marty Matlock

STAFF AND GUESTS:

Annette Stinnett, CN Environmental Programs
John Freise, CN Environmental Programs
Mark Dunham, CN Environmental Programs
Jeannine Hale, CN Environmental Programs
Ryan Callison, CN Environmental Programs
Nancy John, CN Environmental Programs
Doug Bane, CN Landfill
Michael Lynn, CN Roads Program
Angela Drewes, CN Natural Resources
Pat Gwin, CN Natural Resources
Roger Fields, CNE
Harold Langdon, CNE
S. Joe Crittenden, Tribal Council Member, District #2 (Adair County)
Jack Crittenden, Concerned Citizen of Adair County
Dr. John Weddle, Sequoyah County Clean Air Coalition (SCCAC)
Darryl Phillips, SCCAC
Darlay Edwards, SCCAC
Pat Phillips, SCCAC
Mary Adair, SCCAC

1. Chairman Fite called the meeting to order at 9:30 am.
2. Chairman Fite acknowledged and placed into the record the Record of Public Notice and meeting agenda.
3. Commissioner Matlock made a motion to approve the minutes from the November 16, 2006 meeting. Commissioner Green seconded the motion. The vote to approve the minutes was unanimous.
4. Reports
 - A. Cherokee Nation Enterprises - Harold Langdon reported the CNE Board of Directors of CNE will be expanding the management team by creating new positions. He introduced Roger Fields, new employee of CNE, who will address safety and environmental issues. Construction is behind schedule on the Roland Travel Plaza. A new smoke shop will be built in Roland and it will contain gaming machines. The Catoosa parking garage is under construction and expansion planned for the West Siloam Springs casino.

Jeannine Hale inquired whether the town of West Siloam Springs was going to deed a new water treatment plant over to CNE? Mr. Langdon stated he was only familiar with the need for a water tower and was not familiar with the wastewater issue.

Chairman Fite suggested contacting David Cameron about wastewater issues in Siloam Springs, AR.

B. Environmental Programs

1. Monthly Report

Nancy John reported the hiring of Sabrina Washington, Budget Analyst II.

Ryan Callison provided a summary of the ongoing air monitoring activities related to mercury. Monitoring at the Stillwell site is included as part of the Mercury Deposition. The Stilwell site is located in an area identified as having the second highest level of mercury concentration in the U.S. Mr. Callison noted that future monitoring may include a continuous mercury monitor.

Pat Gwin stated fish have good tissue to sample but they have a high tolerance for mercury. He suggested sampling activities with amphibians because they have no tolerance for mercury.

2. Complaints/Inquiry Report

Jeannine Hale reported that one item had not been included. This was an inquiry about a proposed coal fired generating plant in Sallisaw.

There were no other questions or comments on the report.

C. Natural Resources - Pat Gwin presented photos of caves in Delaware and Adair Counties. These caves were confirmed to contain Ozark Blind salamanders. The Tribe has purchased Shagbark Hickory trees to be planted in commercial, semi-commercial and natural settings based upon the request of Tribal artisans. This will be the first time shagbark hickory will be planted commercially. Mr. Gwin reported the following: (1) NR assisted CNE on a wind energy application by developing a preliminary biological opinion on the site, (2) the American Burying Beetle permit has been approved, and (3) members of the NR staff are now certified to sample for avian flu.

The Forest Management Plan is currently be drafted and should be ready to submit to the EPC within the next 2 meetings.

Pat Gwin stated that attended a meeting between Environmental Programs and Landfill staff. He was instructed to prepare a report on comments received from Acqua-Terra and focused on NPDES requirements.

D. Roads Program – Michael Lynn reported Redbarn Road, Saline Creek Bridge, and Fairview-Eucha Phase II are under construction. Right-of Way acquisition currently in process for Cedar Crest Road Bridge and Honey Hill projects. Chairman Fite inquired if Best Management Practices were being implemented on roads projects. Mr. Lynn stated that when possible the standard right-of-way is 50 feet each side from the center line. Another standard is to install sod on the right-of-way for erosion control.

Chairman Fite inquired about concerns that Charles Drury had on the Cedar Crest Road project. Mr. Lynn stated that Mr. Drury was to provide a list of concerns in writing and have not been received to date. Chairman Fite requested Jeannine Hale to forward a letter to Mr. Drury notifying him that his concerns were brought to the EPC's attention and would like to request his comments in writing.

- Chairman Fite suspended the agenda at this point to provide an opportunity for representatives from the Sequoyah County Clean Air Coalition (SCCAC) to address the EPC concerning a complaint.

Dr. John Weddle introduced 4 members of the SCCAC. Dr. Weddle presented concerns held by members of the SCCAC regarding a proposed coal-fired power plant located at Sallisaw. Some of the SCCAC concerns include the following:

- The power generated will not be sold or used locally,
- There was not proper notification since there was only one public notice in the newspaper to inform the public.
- This plant would release 500 pounds of mercury per year out in the environment.
- The mercury causes birth defects such as autism and they want the opportunity to make the public aware of issues associated with these types of plants,
- This plant would also impact the Arkansas River with mercury emissions and acid rain,
- Tanasca has built about a dozen natural gas power plants across the U.S. that are definitely cleaner and are the most efficient but they can operate a dirtier, cheaper plant in Oklahoma because of the lack of environmental requirements in Oklahoma.
- This plant in Sallisaw is supposed to be active 60 – 70 years so this will be 60 – 70 years of them poisoning our environment and our people.

Dr. Weddle provided the EPC with a map of the proposed facility location and information on the gasification technology. Ms. Hale stated that she would contact the Group Leader for the Health Division and make her aware of these concerns.

Chairman Fite requested that Ms. Hale contact Craig Kennamer with ODEQ General Counsel's office and inquire on the status of this plant. Chairman Fite suggested contacting the Tribal Council member for Sequoyah County, who could then discuss the plant with the Mayor of Sallisaw. Chairman Fite requested a status report at the next EPC meeting.

5. Cherokee Nation Landfill

- A. Report by Landfill Management - Doug Bane reported a contract with the City of Siloam Springs had been secured. Mr. Bane also noted a news article was printed by the Sequoyah County Times 25 years ago stating that there would be a landfill built on Cherokee Tribal land.

Commissioner Green inquired as to whether maximum daily tonnage was continually increasing. Mr. Bane stated the 1,534 tons was the average level and had increased on an average of 200-250 tons after adding on Fayetteville.

Jack Crittenden, Concerned Citizen expressed concern about the increase in traffic and trucks that come into the landfill at all hours. He also stated that there concerns about the noise from trash being covered up after midnight.

Mr. Bane responded by saying the landfill was closed to the public at 4:00 pm. We are running 4 tractors and 6 trailers. Sometimes there are trucks that come in late from Fayetteville. When the trucks come in that late, we do cover up trash late at night but we are required to do so.

- B. The Natural Resources Department did not report on the landfill.
 - C. Report by CNEP staff
 - 1) Update on compliance issues and NOV - Jeannine Hale reported that she had met with Callie Catcher, who has been assigned to assist with landfill issues. Ms. Hale presented a copy of a memo from Ms. Catcher. Some outstanding issues related to the NOV were then discussed:
 - a. Bioassessment: Ms. Hale contacted the Conservation Commission inquiring the status of the bioassessment and was informed that the report would be ready by the end of the month.
 - b. Pollutant loading study – Landfill representatives have indicated that a final report for the pollutant loading study will be provided by January 31st.
 - 2) Landfill and CNEP comments – none at this time
 - 3) Discussion by Commission and opportunity for public comment - Chairman Fite stated that the EPC is giving 60 days from this date for compliance with the NOV. The EPC will address landfill NOV issues two meetings from now.

Chairman Fite inquired whether Councilman Crittenden has heard any concerns from his constituents in Adair county: Councilman Crittenden responded that he had heard concerns such as their wells and springs have gone bad, there is lots of trash blowing off the trucks and the run-off by the fence and the discharge into the creek has been a big problem.
 - 4) Issuance of ACOor other action by Commission – no action taken.
- 6. Rules – this agenda item was stricken until a future date.
 - 7. New business - None
 - 8. Miscellaneous discussion – None
 - 9. The meeting was adjourned at approximately 11:15 am.